

DISTRICT OF COLUMBIA
OFFICIAL CODE

TITLE 2.
GOVERNMENT ADMINISTRATION.

CHAPTER 2.
CONTRACTS.

2001 Edition

DISTRICT OF COLUMBIA OFFICIAL CODE

CHAPTER 2. CONTRACTS.

TABLE OF CONTENTS

Subchapter I. Bonding Requirement.

- Part A. General.
 - § 2-201.01. Bonds required from public contractors; amount; waiver.
 - § 2-201.02. Rights of laborers and materialmen to sue on payment bonds; prior notice of claim required in certain cases; time limitations; suit to be brought in name of District.
 - § 2-201.03. Certified copy of bond and contract to be furnished on application of laborers and materialmen; copy prima facie evidence of original.
- Part B. Contracts Less Than a Certain Amount.
 - § 2-201.11. Bond not required for contracts less than \$25,000.

Subchapter II. Retents.

- § 2-203.01. Retents.

Subchapter III. Government Insurance.

- § 2-205.01. Insurance of District property.
- § 2-205.02. Payment of fire insurance.

Subchapter IV. Sewerage Agreements.

- § 2-207.01. Sewerage agreement with Maryland.
- § 2-207.02. Sewerage agreement with Virginia.

Subchapter V. Reciprocal Police Mutual Aid Agreements.

- § 2-209.01. Reciprocal police mutual aid agreements--Authorized.
- § 2-209.02. Reciprocal police mutual aid agreements--Required provisions.
- § 2-209.03. Reciprocal police mutual aid agreements--Personnel benefits.
- § 2-209.04. Reciprocal police mutual aid agreements--Supervision of non-District police in District; enforcement of District laws by non-District police.

Subchapter VI. [Reserved]

- § 2-211.01. [Reserved]

Subchapter VII. Automated Data Processing.

- § 2-213.01. Automatic data processing--Definitions.
- § 2-213.02. Automatic data processing--Duties of Mayor.
- § 2-213.03. Automatic data processing--Delegation of certain Mayoral authority.[Repealed]

Subchapter VII-A. Minority and Women-Owned Business Assessment.

- § 2-214.01. Establishment of the Minority and Women-Owned Business Assessment Program.
- § 2-214.02. Rules.

Subchapter VIII. Local Business Opportunity.[Repealed]

- § 2-215.01. Findings.[Repealed]

- § 2-215.02. Definitions.[Repealed]
- § 2-215.03. District of Columbia Local Business Opportunity Commission-- Established; composition; appointment; term of office; qualifications; vacancies; removal; oath of office; compensation.[Repealed]
- § 2-215.04. District of Columbia Local Business Opportunity Commission-- Regulations; disclosure of interest in pending measure; meetings; quorum; voting; appointment of Chairperson; staff; records.[Repealed]
- § 2-215.05. Minority Business Opportunity Commission; Reports.[Repealed]
- § 2-215.06. Allocation of agency contracts to local minority enterprises; quarterly agency reports on contracts; Council review of goals.[Repealed]
- § 2-215.07. Assistance programs for minority contractors.[Repealed]
- § 2-215.08. Certificates of registration.[Repealed]
- § 2-215.09. Functions of the Commission.[Repealed]
- § 2-215.09a. Advance, partial, or progress payments.[Repealed]
- § 2-215.10. Rules proposed by Commission.[Repealed]
- § 2-215.11. Severability.[Repealed]

Subchapter IX. Equal Opportunity for Local, Small, and Disadvantaged Business Enterprises.[Repealed]

- § 2-217.01. Definitions.[Repealed]
- § 2-217.02. District government contracting with local business enterprises; quarterly agency reports on contracts; Council review of goals.[Repealed]
- § 2-217.03. Assistance programs for local business enterprise contractors, disadvantaged business enterprise contractors, and small business enterprise contractors.[Repealed]
- § 2-217.04. Certificate of registration.[Repealed]
- § 2-217.05. Functions of the Commission.[Repealed]
- § 2-217.06. Rules.[Repealed]
- § 2-217.07. Applicability date.[Repealed]

Subchapter IX-A. Small, Local, and Disadvantaged Business Enterprise Development and Assistance.

- Part A. Short Title and Definitions.
 - § 2-218.01. Short title.
 - § 2-218.02. Definitions.
- Part B. Department of Small and Local Business Development.
 - § 2-218.11. Establishment of the Department of Small and Local Business Development.
 - § 2-218.12. Director of the Department of Small and Local Business Development.
 - § 2-218.13. Organization and functions of the Department.
 - § 2-218.14. Transfers from the Office of Local Business Development to the Department of Small and Local Business Development.
- Part C. District of Columbia Small and Local Business Opportunity Commission.
 - § 2-218.21. District of Columbia Small and Local Business Opportunity Commission Establishment; composition; appointment; term of office; qualifications; vacancies; removal; compensation.
 - § 2-218.22. Functions of the Commission.
 - § 2-218.24. Record keeping.
 - § 2-218.23. Additional functions of the Commission.[Repealed]
 - § 2-218.25. By-laws and internal rules.
- Part D. Programs for Certified Business Enterprises.
 - Subpart 1. Certified Business Enterprises.
 - § 2-218.31. Local business enterprises.
 - § 2-218.32. Small business enterprises.
 - § 2-218.33. Disadvantaged business enterprises.
 - § 2-218.34. Qualified metropolitan area business enterprises.[Repealed]
 - § 2-218.35. Resident-owned businesses.

- § 2-218.36. Longtime resident businesses.
- § 2-218.37. Local business enterprises with principal offices located in an enterprise zone.
- § 2-218.38. Veteran-owned business enterprises.
- § 2-218.39. Local manufacturing business enterprises.
- § 2-218.39a. Joint venture business enterprises.
- Subpart 2. Requirements of Programs.
 - § 2-218.41. Goals for District agencies with respect to contracting and procurement with small business enterprises.
 - § 2-218.42. Required programs, procedures, and policies to achieve contracting and procurement goals.
 - § 2-218.43. Bid and proposal preferences.
 - § 2-218.44. Mandatory set-asides of small contracts for small business enterprises.
 - § 2-218.45. Mandatory set-asides of contracts in the District of Columbia Supply Schedule for small business enterprises.
 - § 2-218.46. Performance and subcontracting requirements for construction and non-construction contracts; subcontracting plans.
 - § 2-218.47. Unbundling requirement.
 - § 2-218.48. Enforcement and penalties for willful breach of subcontracting plan.
 - § 2-218.49. Other procedures and programs.
 - § 2-218.49a. Equity and development participation.
 - § 2-218.50. Special requirements for government corporations.
 - § 2-218.51. Waiver of subcontracting requirements.
 - § 2-218.52. Enforcement mechanism against an agency.
 - § 2-218.53. Agency reporting requirements.
 - § 2-218.54. Department reporting requirements.
 - § 2-218.55. Regional governmental entities.
- Subpart 3. Certification.
 - § 2-218.61. Certificate of registration.
 - § 2-218.62. Provisional certification; self-certification prohibited.
 - § 2-218.63. Revocation of registration; challenges to registration; penalties.
 - § 2-218.64. Identification of certified business enterprises in bids or proposals; false statements on certification; penalties.
 - § 2-218.65. Certification audits.
- Subpart 3A. Stabilization and Job Creation Strategy.
 - § 2-218.66. Services to certified business enterprises.
 - § 2-218.67. Establishment of the Volunteer Corp of Executives and Entrepreneurs.
 - § 2-218.68. Management and direction.
 - § 2-218.69. Procurement training and assistance.
- Subpart 4. Triennial Review and Rulemaking.
 - § 2-218.71. Triennial review of program and subchapter.
 - § 2-218.72. Rulemaking authority.
- Subpart 5. Financial Assistance.
 - § 2-218.75. Small Business Micro Loan Fund.
 - § 2-218.76. Commercial Revitalization Assistance Fund.
- Part E. Repealers.
 - § 2-218.81. [Reserved]
 - § 2-218.82. Repealers.

Subchapter X. First Source Employment.

- Part A. General.
 - § 2-219.01. Definitions.

- § 2-219.02. First Source Register created.
- § 2-219.03. Employment agreements required.
- § 2-219.03a. Special hiring agreements.
- § 2-219.04. Reports.
- § 2-219.04a. Modernization of First Source recordkeeping.
- § 2-219.04b. Establishment of a workforce intermediary pilot program.
- § 2-219.04c. Establishment of the District of Columbia Jobs Trust Fund.
- § 2-219.05. Rules.
- Part B. First Source Compliance.
 - § 2-219.31. Short title.
 - § 2-219.32. Definitions.
 - § 2-219.33. Establishment of the Office of First Source Compliance.
 - § 2-219.34. Functions and duties.
 - § 2-219.35. Executive Director.
- Part C. Stimulus Accountability.
 - § 2-219.51. Reporting requirements for entities receiving grants under the federal recovery act.
 - § 2-219.52. Requirements of the Mayor.

Subchapter X-A. Living Wage Requirements.

- § 2-220.01. Short title.
- § 2-220.02. Definitions.
- § 2-220.03. Living wage payment.
- § 2-220.04. Contents of contract; notice to subcontractors.
- § 2-220.05. Exemptions.
- § 2-220.06. Notice.
- § 2-220.07. Records.
- § 2-220.08. Enforcement.
- § 2-220.09. Waiver.
- § 2-220.10. Rules.
- § 2-220.11. Applicability.

Subchapter XI. Quick Payment Provisions.

- § 2-221.01. Definitions.
- § 2-221.02. Rules and regulations governing interest penalty payments by District agencies; computation and payment of penalties.
- § 2-221.03. Interest penalty for failure to pay discounted price within specified period.
- § 2-221.04. Filing of claims; disputed payments.
- § 2-221.05. Required reports.
- § 2-221.06. Determination of receipt and payment dates; construction of rental contracts.

Subchapter XII. Employees of District Contractors and Instrumentality Whistleblower Protection.

- § 2-223.01. Definitions.
- § 2-223.02. Prohibitions.
- § 2-223.03. Enforcement.
- § 2-223.04. Disciplinary action; fine.
- § 2-223.05. Election of remedies.
- § 2-223.06. Posting of notice.
- § 2-223.07. Applicability.

Subchapter XIII. Repealed and Expired Provisions.

- Part A. General.
 - § 2-225.01. Right of Mayor to contract.[Repealed]
 - § 2-225.02. Contracts in which Mayor personally interested to be void.[Repealed]
 - § 2-225.03. Contract requirements.[Repealed]
 - § 2-225.04. Formal contracts with bond not required for contracts less than \$2,000.[Repealed]
 - § 2-225.05. Advertisement for purchases and contracts required; exceptions.[Repealed]
 - § 2-225.06. Cost of advertising.[Repealed]
 - § 2-225.07. Appropriations for advertising and publication of notices.[Repealed]
 - § 2-225.08. Separate contracts for material and labor.[Repealed]
 - § 2-225.09. Operation of District Quarry.[Repealed]
 - § 2-225.10. Purchasing sites for schools and public buildings; use of agents; enlargement of school buildings.[Repealed]
 - § 2-225.11. Testing of building materials by Bureau of Standards.[Repealed]
 - § 2-225.12. Authorization to test materials in laboratory of Department of Transportation.[Repealed]
 - § 2-225.13. Sludge removal.[Repealed]
 - § 2-225.14. Auction of property unfit for service; proceeds.[Repealed]
 - § 2-225.15. Exchange of equipment in payment for new equipment.[Repealed]
 - § 2-225.16. Contracts for inspection, maintenance and repair of fixed equipment.[Repealed]
- Part B. Equal Opportunity for Local, Small, and Disadvantaged Business Enterprises.[Expired]
 - §§ 2-225.21 to 2-225.27. Findings; Definitions; District government contracting with local business enterprises; quarterly agency reports on contracts; Council review of goals; Assistance Programs for local business enterprise contractors, disadvantaged business enterprise contractors, and small business enterprise contractors; Certificate of registration; functions of the Commission; rules and regulations by Mayor.[Expired]

CHAPTER 2. CONTRACTS.

SUBCHAPTER I. BONDING REQUIREMENT.

PART A. GENERAL.

§ 2-201.01. BONDS REQUIRED FROM PUBLIC CONTRACTORS; AMOUNT; WAIVER.

(a) Before any contract, exceeding \$25,000 in amount, for the construction, alteration, or repair of any public building or public work of the District of Columbia is awarded to any person, such person shall furnish to the District of Columbia the following bonds, which shall become binding upon the award of the contract to such person, who is hereinafter designated as "contractor": (1) A performance bond with a surety or sureties satisfactory to the Mayor of the District of Columbia, and in such amount as he shall deem adequate, for the protection of the District of Columbia; (2) a payment bond with a surety or sureties satisfactory to the Mayor for the protection of all persons supplying labor and material in the prosecution of the work provided for in said contract for the use of each such person. Whenever the total amount payable by the terms of the contract shall be not more than \$1,000,000, the payment bond shall be in a sum equal to one-half the total amount payable by the terms of the contract. Whenever the total amount payable by the terms of the contract shall be more than \$1,000,000 and not more than \$5,000,000, the said payment bond shall be in a sum equal to 40 per centum of the total amount payable by the terms of the contract. Whenever the total amount payable by the terms of the contract shall be more than \$5,000,000 the payment bond shall be in the sum of \$2,500,000.

(b) Nothing in this section shall be construed to limit the authority of the Mayor to require a performance bond or other security in addition to those, or in cases other than the cases specified in subsection (a) of this section, or the authority of the Mayor to waive the requirement for performance and payment bonds in such cases as he shall determine.

(c) Any surety bond required by this section shall be executed by a surety certified by the U.S. Department of Treasury to do business pursuant to § 9305 of Title 31, United States Code, or a surety company licensed in the District of Columbia which meets the statutory capital and surplus requirements or as otherwise determined by the Mayor to be appropriate and necessary in the amount for underwriting such bonds.

(Aug. 3, 1968, 82 Stat. 628, Pub. L. 90-455, § 1; Aug. 14, 1973, 87 Stat. 305, Pub. L. 93-89, title V, § 501; Mar. 29, 1977, D.C. Law 1-95, § 11(a), 23 DCR 9532b; July 23, 1994, D.C. Law 10-140, § 3, 41 DCR 3053; Apr. 12, 2000, D.C. Law 13-91, § 115, 47 DCR 520; Oct. 4, 2000, D.C. Law 13-169, § 5, 47 DCR 5846.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1104.

1973 Ed., § 1-804a.

Effect of Amendments

D.C. Law 13-91, in subsec. (b), substituted "Local Business Opportunity Commission" for "Minority Business Opportunity Commission".

D.C. Law 13-169, in subsec. (b), substituted "the authority of the Mayor to" for "he, through the District of Columbia Local Business Opportunity Commission, may".

Temporary Amendments of Section

For temporary (225 day) amendment of section, see § 5 of Equal Opportunity for Local, Small, or Disadvantaged Business Enterprises Temporary Amendment Act of 2000 (D.C. Law 13-216, Apr. 3, 2001, law notification 48 DCR 3458).

Emergency Act Amendments

For temporary (90-day) amendment of section, see § 5 of the Equal Opportunity for Local, Small, or Disadvantaged Business Enterprises Emergency Amendment Act of 2000 (D.C. Act 13-415, August 14, 2000, 47 DCR 7296).

Legislative History of Laws

For legislative history of D.C. Law 1-95, see Historical and Statutory Notes following § 2-215.01.

Law 10-140, the "Bond Surety Amendment Act of 1994," was introduced in Council and assigned Bill No. 10-358, which was referred to the Committee on Economic Development. The Bill was adopted on first and second readings on April 12, 1994, and May 3, 1994, respectively. Signed by the Mayor on May 18, 1994, it was assigned Act No. 10-245 and transmitted to both Houses of Congress for its review. D.C. Law 10-140 became effective on July 23, 1994.

Law 13-91, the "Technical Amendments Act of 1999," was introduced in Council and assigned Bill No. 13-435, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 2, 1999, and December 7, 1999, respectively. Signed by the Mayor on December 29, 1999, it was assigned Act No. 13-234 and transmitted to both Houses of Congress for its review. D.C. Law 13-91 became effective on April 12, 2000.

Law 13-169, the "Equal Opportunity for Local, Small, or Disadvantaged Business Enterprises Amendment Act of 2000," was introduced in Council and assigned Bill No. 13-241, which was referred to the Committee on Economic Development. The Bill was adopted on first and second readings on April 4, 2000, and June 6, 2000, respectively. Signed by the Mayor on June 26, 2000, it was assigned Act No. 13-373 and transmitted to both Houses of Congress for its review. D.C. Law 13-169 became effective on October 4, 2000.

Change in Government

This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

Miscellaneous Notes

Definitions applicable: Section 6 of the Act of August 3, 1968, Pub. L. 90-445, provided that, as used in that Act, the term "person" and the masculine pronoun would include all persons whether individuals, associations, copartnerships, or corporations.

§ 2-201.02. RIGHTS OF LABORERS AND MATERIALMEN TO SUE ON PAYMENT BONDS; PRIOR NOTICE OF CLAIM REQUIRED IN CERTAIN CASES; TIME LIMITATIONS; SUIT TO BE BROUGHT IN NAME OF DISTRICT.

(a) Every person who has furnished labor or material in the prosecution of the work provided for in such contract, in respect of which a payment bond is furnished under this subchapter and who has not been paid in full therefor before the expiration of a period of 90 days after the day on which the last of the labor was done or performed by him or material was furnished or supplied by him for which such claim is made, shall have the right to sue on such payment bond for the amount, or the balance thereof, unpaid at the time of institution of such suit and to prosecute said action to final judgment and execution for the sum or sums justly due him: Provided, that any person having direct contractual relationship with a subcontractor but no contractual relationship, express or implied, with the contractor furnishing the payment bond, shall have a right of action upon the payment bond upon giving written notice to the contractor within 90 days from the date on which such person did or performed the last of the labor, or furnished or supplied the last of the material for which such claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the material was furnished or supplied or for whom the labor was done or performed. Such notice shall be served by mailing the same by registered mail, postage prepaid, in an envelope addressed to the contractor at any place he maintains an office or conducts his business, or his residence, or in any manner in which the United States Marshal for the District of Columbia is authorized by law to serve summons.

(b) Every suit instituted under this section shall be brought in the name of the District of Columbia for the use of the person suing, in the Superior Court of the District of Columbia, irrespective of the amount in controversy in such suit, but no such suit shall be commenced after the expiration of 1 year after the day on which the last of the labor was performed or material was supplied by him. The District of Columbia shall

not be liable for the payment of any costs or expenses of any such suit.

(Aug. 3, 1968, 82 Stat. 628, Pub. L. 90-455, § 2; July 29, 1970, 84 Stat. 570, Pub. L. 91-358, title I, § 155(c)(3).)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1105.

1973 Ed., § 1-804b.

Miscellaneous Notes

Definitions applicable: See Historical and Statutory Notes following § 2- 201.01.

§ 2-201.03. CERTIFIED COPY OF BOND AND CONTRACT TO BE FURNISHED ON APPLICATION OF LABORERS AND MATERIALMEN; COPY PRIMA FACIE EVIDENCE OF ORIGINAL.

The Mayor is authorized and directed to furnish, to any person making application therefor who submits an affidavit that he has supplied labor or materials for such work and payment therefor has not been made or that he is being sued on any such bond, a certified copy of such bond and the contract for which it was given, which copy shall be prima facie evidence of the contents, execution, and delivery of the original. Applicants shall pay for such certified copies such fees as the Mayor fixes to cover the cost of preparation thereof.

(Aug. 3, 1968, 82 Stat. 628, Pub. L. 90-455, § 3.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1106.

1973 Ed., § 1-804c.

Change in Government

This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

Miscellaneous Notes

Definitions applicable: See Historical and Statutory Notes following § 2- 201.01.

PART B. CONTRACTS LESS THAN A CERTAIN AMOUNT.

§ 2-201.11. BOND NOT REQUIRED FOR CONTRACTS LESS THAN \$25,000.

In all cases where the Mayor of the District of Columbia contracts for work or material involving a sum not exceeding \$25,000 it shall not be necessary for said Mayor to require a bond with said contract.

(June 28, 1906, 34 Stat. 546, ch. 3575; June 26, 1912, 37 Stat. 168, ch. 182; Aug. 3, 1968, 82 Stat. 629, Pub. L. 90-455, § 4; Aug. 14, 1973, 87 Stat. 305, Pub. L. 93-89, title V, § 501; Mar. 29, 1977, D.C. Law 1-95, § 11(b), 23 DCR 9532b.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1107.

1973 Ed., § 1-805.

Legislative History of Laws

For legislative history of D.C. Law 1-95, see Historical and Statutory Notes following § 2-215.01.

Change in Government

This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

Miscellaneous Notes

Definitions applicable: See Historical and Statutory Notes following § 2- 201.01.

SUBCHAPTER II. RETENTS.

§ 2-203.01. RETENTS.

On all contracts made by the District of Columbia for construction work there shall be withheld, until completion and acceptance of the work, a retent of 10 per centum of the total amount of any payments made thereunder as a guaranty fund that the terms of such contracts shall be strictly and faithfully performed: Provided, however, that whenever 50 per centum of the work required under a contract for construction work has been completed and payments therefor have been made, the Mayor of the District of Columbia, in his sole discretion, may authorize subsequent payments to be made to the contractor without withholding from such subsequent payments 10 per centum thereof as required by this section, or the said Mayor may authorize retention from such subsequent payments of less than 10 per centum thereof, and whenever the work is substantially complete, the Mayor, if he considers the amount retained to be in excess of the amount adequate for the protection of the District of Columbia, at his discretion may release to the contractor all or a portion of such excess amount; and the said Mayor in his sole discretion, may further authorize payment in full, including retained percentages, for each separate building or public work on which the price is stated separately in the contract upon completion and acceptance of such building or work.

(Mar. 3, 1887, 24 Stat. 501, ch. 355; Mar. 31, 1906, 34 Stat. 94, ch. 1356, § 1; Aug. 3, 1949, 63 Stat. 493, ch. 386; Aug. 3, 1968, 82 Stat. 629, Pub. L. 90-455, § 5.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1109.

1973 Ed., § 1-807.

Change in Government

This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

Miscellaneous Notes

Definitions applicable: See Historical and Statutory Notes following § 2- 201.01.

SUBCHAPTER III. GOVERNMENT INSURANCE.

§ 2-205.01. INSURANCE OF DISTRICT PROPERTY.

After February 25, 1885, property belonging to the District of Columbia may be insured in advance for periods of 5 years or less.

(Feb. 25, 1885, 23 Stat. 313, ch. 145.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1118.

1973 Ed., § 1-816.

§ 2-205.02. PAYMENT OF FIRE INSURANCE.

No District of Columbia appropriation shall be used for the payment of premiums or other cost of fire insurance.

(June 28, 1944, 58 Stat. 533, ch. 300, § 12.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1119.

1973 Ed., § 1-816a.

SUBCHAPTER IV. SEWERAGE AGREEMENTS.

§ 2-207.01. SEWERAGE AGREEMENT WITH MARYLAND.

For the protection of streams flowing through United States government parks and reservations in the District of Columbia from pollution by sewage discharged therein from sewerage systems of Maryland towns and villages bordering said District, the Mayor is authorized to enter into an agreement with the proper authorities of the State of Maryland for the drainage of such sewerage systems into and through the sewerage system of the District of Columbia; and the said Mayor is further authorized to permit connections of Maryland sewers with the District of Columbia sewerage system at or near the District line whenever, in his judgment, the sanitary conditions of streams flowing into and through such United States government parks and reservations in the District of Columbia are such as to demand the elimination of such pollution: Provided, that all cost of construction of such sewers to and connection with the sewerage system of the District of Columbia shall be paid by the proper authorities of the State of Maryland, and that said State shall enter into such agreement with the Mayor and shall guarantee the protection of the District of Columbia sewerage system from unauthorized connections thereto, and shall reimburse the District of Columbia for the actual cost of pumping and handling such sewerage by annual payments for such service as determined by the Mayor in such agreement; all such sums collected therefor to be paid into the Treasury of the United States through the Director of the Department of Finance and Revenue to the credit of the District of Columbia.

(Sept. 1, 1916, 39 Stat. 717, ch. 433, § 9.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1120.

1973 Ed., § 1-817.

References in Text

Pursuant to the Office of the Chief Financial Officer's "Notice of Public Interest" published in the April 18, 1997, issue of the District of Columbia Register (44 DCR 2345) the Office of Tax and Revenue assumed all of the duties and functions previously performed by the Department of Finance and Revenue, as set forth in Commissioner's Order 69-96, dated March 7, 1969. This action was made effective January 22, 1997, *nunc pro tunc*.

Change in Government

This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of

Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

Miscellaneous Notes

Office of Collector of Taxes abolished: The Office of the Collector of Taxes was abolished and the functions thereof transferred to the Board of Commissioners of the District of Columbia by Reorganization Plan No. 5 of 1952. All functions of the Office of the Collector of Taxes including the functions of all officers, employees and subordinate agencies were transferred to the Director, Department of General Administration by Reorganization Order No. 3, dated August 28, 1952. Reorganization Order No. 20, dated November 10, 1952, transferred the functions of the Collector of Taxes to the Finance Office. The same Order provided for the Office of the Collector of Taxes headed by a Collector in the Finance Office, and abolished the previously existing Office of the Collector of Taxes. Reorganization Order No. 20 was superseded and replaced by Organization Order No. 121, dated December 12, 1957, which provided that the Finance Office (consisting of the Office of the Finance Officer, Property Tax Division, Revenue Division, Treasury Division, Accounting Division, and Data Processing Division) would continue under the direction and control of the Director of General Administration, and that the Treasury Division would perform the function of collecting revenues of the District of Columbia and depositing the same with the Treasurer of the United States. Organization Order No. 121 was revoked by Organization Order No. 3, dated December 13, 1967, Part IVC of which prescribed the functions of the Finance Office within a newly established Department of General Administration. The executive functions of the Board of Commissioners were transferred to the Commissioner of the District of Columbia by § 401 of Reorganization Plan No. 3 of 1967. Functions of the Finance Office as stated in Part IVC of Organization Order No. 3 were transferred to the Director of the Department of Finance and Revenue by Commissioner's Order No. 69-96, dated March 7, 1969. The collection functions of the Director of the Department of Finance and Revenue were transferred to the District of Columbia Treasurer by § 47-316 on March 5, 1981.

§ 2-207.02. SEWERAGE AGREEMENT WITH VIRGINIA.

(a) For the protection of the Potomac River and its tributary streams within the metropolitan area of the District of Columbia from pollution by sewage or other liquid wastes originating in Virginia, and for the protection of the health of the residents of the District of Columbia and of the employees of the United States government residing in such metropolitan area, the Mayor of the District of Columbia is authorized in his discretion, from time to time, to enter into and renew agreements, for such periods as he deems advisable, with the proper authorities of the Commonwealth of Virginia, including county, municipal, and other governmental units thereof, for the drainage of such sewage or other liquid wastes into the sewerage system of the District of Columbia for treatment and disposal: Provided, that to the extent and in the manner determined by such agreements, the proper authorities of such Commonwealth, county, municipal, or other governmental units shall pay part or all of the costs of construction, expansion, relocation, replacement, repair, maintenance, and operation (including administrative expenses, interest, and amortization) of such sewers and other facilities as may be necessary or appropriate to convey and treat such sewage or other liquid wastes either separately or with sewage or other liquid wastes originating in said District or elsewhere. All payments or reimbursements made to the District of Columbia pursuant to this section and the agreements entered into hereunder shall be made to the Mayor and shall be deposited in the Treasury of the United States to the credit of the District of Columbia Sewage Works Fund.

(b) As used in this section, the terms "Mayor of the District of Columbia" and "Mayor" mean the Mayor of the District of Columbia or his designated agents.

(Aug. 21, 1958, 72 Stat. 702, Pub. L. 85-703, §§ 1, 2.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1122.

1973 Ed., § 1-817c.

Change in Government

This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and

Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

SUBCHAPTER V. RECIPROCAL POLICE MUTUAL AID AGREEMENTS.

§ 2-209.01. RECIPROCAL POLICE MUTUAL AID AGREEMENTS--AUTHORIZED.

The Mayor of the District of Columbia is hereby authorized in his discretion to enter into and renew reciprocal agreements, for such period as he deems advisable, with any county, municipality, or other governmental unit in the States of Maryland and Virginia, in order to establish and carry into effect a plan to provide mutual aid, through the furnishing of policemen and other agents and employees, together with all necessary equipment.

(Oct. 17, 1968, 82 Stat. 1150, Pub. L. 90-587, § 1; July 29, 1970, 84 Stat. 667, Pub. L. 91-358, title VIII, § 801.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1125.

1973 Ed., § 1-820.

Change in Government

This section originated at a time when local government powers were delegated to the District of Columbia Council and to a Commissioner of the District of Columbia. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

§ 2-209.02. RECIPROCAL POLICE MUTUAL AID AGREEMENTS--REQUIRED PROVISIONS.

The District of Columbia shall not enter into any such agreement unless the agreement provides that each of the parties to such agreement shall:

- (1) Waive any and all claims against all the other parties thereto which may arise out of their activities outside their respective jurisdictions under such agreement;
- (2) Indemnify and save harmless the other parties to such agreement from all claims by third parties for property damage or personal injury which may arise out of the activities of the other parties to such agreement outside their respective jurisdictions under such agreement.

(Oct. 17, 1968, 82 Stat. 1150, Pub. L. 90-587, § 2.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1126.

1973 Ed., § 1-821.

§ 2-209.03. RECIPROCAL POLICE MUTUAL AID AGREEMENTS--PERSONNEL BENEFITS.

The policemen and other officers, agents, and employees of the District, when acting hereunder or under other lawful authority beyond the territorial limits of the District, shall have all of the pension, relief, disability, workmen's compensation, and other benefits enjoyed by them while performing their respective duties within the District of Columbia.

(Oct. 17, 1968, 82 Stat. 1150, Pub. L. 90-587, § 3.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1127.

1973 Ed., § 1-822.

**§ 2-209.04. RECIPROCAL POLICE MUTUAL AID AGREEMENTS--
SUPERVISION OF NON-DISTRICT POLICE IN DISTRICT; ENFORCEMENT
OF DISTRICT LAWS BY NON-DISTRICT POLICE.**

The Mayor of the District of Columbia shall be responsible for directing the activities of all policemen and other officers and agents coming into the District pursuant to any such reciprocal agreement, and the Mayor is empowered to authorize all policemen and other officers and agents from outside the District to enforce the laws applicable in the District to the same extent as if they were duly authorized officers and members of the Metropolitan Police force of the District of Columbia.

(Oct. 17, 1968, 82 Stat. 1150, Pub. L. 90-587, § 4.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1128.

1973 Ed., § 1-823.

Change in Government

This section originated at a time when local government powers were delegated to the District of Columbia Council and to a Commissioner of the District of Columbia. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

SUBCHAPTER VI. [RESERVED]

§ 2-211.01. [RESERVED]

SUBCHAPTER VII. AUTOMATED DATA PROCESSING.

§ 2-213.01. AUTOMATIC DATA PROCESSING--DEFINITIONS.

For the purposes of this subchapter, the term:

- (1) "Automatic data processing" means the use of computers for the dissemination, storage, retrieval, and reporting of information associated with an administrative or managerial function.
- (2) "Automated data system" means a set of logically related computer programs designed to accomplish specific objectives or functions.
- (3) "Computer" means an electromechanical device capable of accepting information and data, performing logical and arithmetical operations, and reporting the results.
- (4) "Hardware" means input and output devices, arithmetic and control circuits, and memory devices.
- (5) "Information systems" means a single network or networks of steps for processing information that is associated with a particular operation or a set of related operations.
- (6) "Information systems technology" means the applied science associated with the development of networks for the processing of information.
- (7) "Software" means the procedures, instructions, code sets, assemblers, compilers, and all other associated supporting processes required to run a computer program on the equipment itself.

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1134.

Emergency Act Amendments

For temporary establishment of an Office of the Chief Technology Officer, see § 1412 of the Fiscal Year 1999 Budget Support Emergency Act of 1998 (D.C. Act 12- 401, July 13, 1998, 45 DCR 4794), and see § 1412 of the Fiscal Year 1999 Budget Support Congressional Review Emergency Act of 1998 (D.C. Act 12-564, January 12, 1999, 46 DCR 669).

Section 2101 of D.C. Act 12-564 provides for the application of the act.

Legislative History of Laws

Law 5-168, the "District of Columbia Automatic Data Processing Act of 1984," was introduced in Council and assigned Bill No. 5-330, which was referred to the Committee on Government Operations. The Bill was adopted on first and second readings on December 4, 1984 and December 18, 1984, respectively. Signed by the Mayor on January 11, 1985, it was assigned Act No. 5-233 and transmitted to both Houses of Congress for its review.

Miscellaneous Notes

Establishment of Office of the Chief Technology Officer: Section 1812 of D.C. Law 12-175 established, in the Executive Branch of the government of the District of Columbia, an Office of the Chief Technology Officer under the supervision of a Chief Technology Officer, who shall carry out the functions and authorities assigned to that office.

§ 2-213.02. AUTOMATIC DATA PROCESSING--DUTIES OF MAYOR.

(a) The Mayor shall:

- (1) Provide direction and coordination for the District's automated data systems, information systems, automated data and word processing resources, and telecommunications systems;
- (2) Reduce the duplication of data collection, storage, and reporting;
- (3) Ensure, to the maximum extent possible, compatibility of all new acquisitions of automatic data processing related, word processing, and telecommunications equipment with existing equipment and information systems;
- (4) Remain abreast of new developments in automatic data processing, word processing, telecommunications, and information systems technology, and the extent to which these developments can benefit the needs of the District;
- (5) Perform evaluations and feasibility studies prior to the District's adoption of new information systems technology to ascertain the costs and benefits that will accrue to the District; and
- (6) Establish and maintain an inventory of all data and word processing and telecommunications equipment, including hardware, software, and appropriate documentation for all major information systems.

(b) The Mayor shall establish, maintain, and provide to all departments and agencies under the Mayor:

- (1) Consistent policies, principles, standards, and guidelines for the acquisition, utilization, operation, and maintenance of automatic data processing, word processing, and telecommunications equipment and related information systems technology;
- (2) Consistent policies, principles, standards, and guidelines for data and information collection, storage and reporting that facilitate the sharing of information among agencies and reduce duplicative efforts;
- (3) Scientific and technical advisory services relating to automatic data processing, word processing, telecommunications, automatic data systems, and information systems, including the development of specifications for and the selection of all hardware, software, and the types and configurations of computers and related equipment that are needed;
- (4) Consistent policies, principles, standards, and guidelines for the recruitment, classification, and training of persons in positions associated with automatic data processing and information systems technology;
- (5) A multiyear comprehensive plan for meeting the needs of the District government regarding automatic data processing and information systems technology;

(6) Consistent policies, principles, standards, and guidelines for the security, protection, and preservation of automated data systems, automatic data processing equipment, and information systems, including contingency or backup plans for disaster and emergency recovery;

(7) Consistent policies, principles, standards, and guidelines for ensuring compatibility in the acquisition of automatic data processing related resources with existing resources and data systems and information systems; and

(8) Consistent standards and requirements for agency audits of all major automated data systems and information systems.

(c) Repealed by D.C. Law 11-259, Title III, § 305(a)(2) (44 DCR 1423), eff. April 15, 1997.

(Mar. 15, 1985, D.C. Law 5-168, § 4, 32 DCR 721; Apr. 12, 1997, D.C. Law 11-259, § 305(a), 44 DCR 1423.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1135.

Legislative History of Laws

For legislative history of D.C. Law 5-168, see Historical and Statutory Notes following § 2-213.01.

Law 11-259, the "Procurement Reform Amendment Act of 1996," was introduced in Council and assigned Bill No. 11-705, which was referred to the Committee on Government Operation. The Bill was adopted on first and second readings on November 7, 1996, and December 3, 1996, respectively. Signed by the Mayor on January 3, 1997, it was assigned Act No. 11-526 and transmitted to both Houses of Congress for its review. D.C. Law 11-259 became effective on April 9, 1997.

Delegation of Authority

Delegation of authority pursuant to Law 5-168, see Mayor's Order 86-150, September 1, 1986.

§ 2-213.03. AUTOMATIC DATA PROCESSING--DELEGATION OF CERTAIN MAYORAL AUTHORITY.[REPEALED]

(Mar. 15, 1985, D.C. Law 5-168, § 4, 32 DCR 721; Apr. 12, 1997, D.C. Law 11-259, § 305(b), 44 DCR 1423.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For legislative history of D.C. Law 11-259, see Historical and Statutory Notes following § 2-213.02.

SUBCHAPTER VII-A. MINORITY AND WOMEN-OWNED BUSINESS ASSESSMENT.

§ 2-214.01. ESTABLISHMENT OF THE MINORITY AND WOMEN-OWNED BUSINESS ASSESSMENT PROGRAM.

(a) There is established the Minority and Women-Owned Business Assessment Program ("Program") within the Department of Small and Local Business Development ("Department"). The Program shall:

(1) Analyze the current state of businesses owned or controlled by minorities or women qualifying as Certified Business Enterprises ("CBE") as that term is defined in subchapter IX-A of this chapter including counting the number of businesses that have applied for CBE certification and the number that have been certified as CBEs since the inception of the CBE program;

(2) Record and track the number of businesses owned or controlled by minorities or women that have been awarded government contracts under the procurement process utilized by the District; and

(3) Assess the findings and investigate and recommend ways to encourage businesses owned or controlled by minorities or women to compete in the procurement process utilized by the District.

(b) The Department shall submit the findings and recommendations of the Program to the Chairman of the Council's Committee on Economic Development in the form of a report or reports. Specific steps for implementing the recommendations shall accompany the report or reports.

(c) For the purposes of this subchapter, the term "minority" shall include Asian, Pacific Islander, African American or Black, Native American or Native Hawaiian, and Hispanic or Latino.

(Mar. 26, 2008, D.C. Law 17-136, § 2, 55 DCR 1685.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

Law 17-136, the "Minority and Women-Owned Business Assessment Act of 2008", was introduced in Council and assigned Bill No. 17-518 which was referred to the Committee on Economic Development. The Bill was adopted on first and second readings on December 11, 2007, and January 8, 2008, respectively. Signed by the Mayor on February 5, 2008, it was assigned Act No. 17-287 and transmitted to both Houses of Congress for its review. D.C. Law 17-136 became effective on March 26, 2008.

Miscellaneous Notes

Short title: Section 2101 of D.C. Law 19-168 provided that subtitle K of title II of the act may be cited as "Women-Owned Business Expenditure Reporting Act of 2012".

Section 2102 of D.C. Law 19-168 provides:

"Sec. 2102. Women-owned business expenditure reports.

"(a) By May 1, 2013, the Mayor shall provide to the Council a report of obligations and expenditures made by the District to woman-owned businesses through the first 2 quarters of fiscal year 2013, delineated by the funding source for the expenditure or obligation (local, federal, capital, or other).

"(b) For the purposes of this section, the term "woman-owned business" means a business:

"(1) That meets the definition of a local business enterprise as described in section 2331 of the Small, Local, and Disadvantaged Business Enterprise Development and Assistance Act of 2005, effective October 20, 2005 (D.C. Law 16-33; D.C. Official Code § 2-218.31) ("SLDBE act"), and a small business enterprise as described in section 2332 of the SLDBE act;

"(2) That is at least 51% owned by one or more women, or, in the case of any publicly owned business, at least 51% of the stock of the business is owned by one or more women; and

"(3) Whose management and daily business operations are controlled by one or more women."

§ 2-214.02. RULES.

Within 90 days of March 26, 2008, the Mayor, pursuant to subchapter I of Chapter 5 of this title, shall issue rules to implement the provisions of this subchapter. The proposed rules shall be submitted by the Mayor to the Council for a 45-day period of review, excluding weekends, holidays, and days of Council recess. If the Council does not approve or disapprove the rules within the 45-day review period, in whole or in part, by resolution, the rules shall be deemed approved.

(Mar. 26, 2008, D.C. Law 17-136, § 3, 55 DCR 1685.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 17-136, see notes following § 2-214.01.

SUBCHAPTER VIII. LOCAL BUSINESS OPPORTUNITY.[REPEALED]

§ 2-215.01. FINDINGS.[REPEALED]

(Mar. 29, 1977, D.C. Law 1-95, § 2, 23 DCR 9532b; Apr. 12, 2000, D.C. Law 13-91, § 117(c), 47 DCR 520.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1141.

1973 Ed., § 1-851.

Legislative History of Laws

Law 1-95 was introduced in Council and assigned Bill No. 1-323, which was referred to the Committee on Employment and Economic Development. The Bill was adopted on first and second readings on September 15, 1976 and October 12, 1976, respectively. Signed by the Mayor on November 15, 1976, it was assigned Act No. 1-174 and transmitted to both Houses of Congress for its review.

For Law 13-91, see notes following § 2-201.01.

Miscellaneous Notes

Establishment of Department of Human Rights and Minority Business Development: See Mayor's Order 89-247, November 1, 1989.

Redesignation of the Minority Business Opportunity Commission, the Department of Human Rights and Minority Business Development, and the Minority Business Development Administration: See Mayor's Order 97-169, September 25, 1997 (44 DCR 5863).

§ 2-215.02. DEFINITIONS.[REPEALED]

(Mar. 29, 1977, D.C. Law 1-95, § 3, 23 DCR 9532b; Sept. 13, 1980, D.C. Law 3-91, § 2, 27 DCR 3280; Mar. 9, 1983, D.C. Law 4-167, § 2(a), 29 DCR 4983; Apr. 12, 2000, D.C. Law 13-91, § 117(c), 47 DCR 520.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1142.

1973 Ed., § 1-852.

Legislative History of Laws

For legislative history of D.C. Law 1-95, see Historical and Statutory Notes following § 2-215.01.

Law 3-91 was introduced in Council and assigned Bill No. 3-252, which was referred to the Committee on Housing and Economic Development. The Bill was adopted on first and second readings on June 3, 1980 and June 17, 1980, respectively. Signed by the Mayor on July 9, 1980, it was assigned Act No. 3-213 and transmitted to both Houses of Congress for its review.

For legislative history of D.C. Law 4-167, see Historical and Statutory Notes following § 2-215.10.

For Law 13-91, see notes following § 2-201.01.

§ 2-215.03. DISTRICT OF COLUMBIA LOCAL BUSINESS OPPORTUNITY COMMISSION-- ESTABLISHED; COMPOSITION; APPOINTMENT; TERM OF OFFICE; QUALIFICATIONS; VACANCIES; REMOVAL; OATH OF OFFICE; COMPENSATION.[REPEALED]

(Mar. 29, 1977, D.C. Law 1-95, § 4, 23 DCR 9532b; Sept. 13, 1980, D.C. Law 3-91, § 3, 27 DCR 3280; Aug. 1, 1985, D.C. Law 6-15, § 3(a), 32 DCR 3570; Apr. 12, 2000, D.C. Law 13-91, § 117(a), 47 DCR 520; Oct. 19, 2002, D.C. Law 14-213, § 6, 49 DCR 8140; Oct. 20, 2005, D.C. Law 16-33, § 2382(a), 52 DCR 7503.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1143.

1973 Ed., § 1-853.

Emergency Act Amendments

For temporary (90 day) repeal of section, see § 2382(a), (c) of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

Legislative History of Laws

For legislative history of D.C. Law 1-95, see Historical and Statutory Notes following § 2-215.01.

For legislative history of D.C. Law 3-91, see Historical and Statutory Notes following § 2-215.02.

Law 6-15 was introduced in Council and assigned Bill No. 6-141, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 14, 1985 and May 28, 1985, respectively. Signed by the Mayor on June 7, 1985, it was assigned Act No. 6-30 and transmitted to both Houses of Congress for its review.

For Law 13-91, see notes following § 2-201.01.

Law 14-213, the "Technical Amendments Act of 2002", was introduced in Council and assigned Bill No. 14-671, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 4, 2002, and July 2, 2002, respectively. Signed by the Mayor on July 26, 2002, it was assigned Act No. 14-459 and transmitted to both Houses of Congress for its review. D.C. Law 14-213 became effective on

October 19, 2002.

For Law 16-33, see notes following § 2-307.01.

Miscellaneous Notes

Section 2382(c) of D.C. Law 16-33 provides:

"(c) An order, rule, or regulation in effect under a law repealed by this section shall remain in effect under the corresponding provision enacted by this subtitle [subtitle N of title II, §§ 2301 to 2391, of D.C. Law 16-33] until repealed, amended, or superseded."

§ 2-215.04. DISTRICT OF COLUMBIA LOCAL BUSINESS OPPORTUNITY COMMISSION-- REGULATIONS; DISCLOSURE OF INTEREST IN PENDING MEASURE; MEETINGS; QUORUM; VOTING; APPOINTMENT OF CHAIRPERSON; STAFF; RECORDS.[REPEALED]

(Mar. 29, 1977, D.C. Law 1-95, § 5, 23 DCR 9532b; Sept. 13, 1980, D.C. Law 3-91, § 4, 27 DCR 3280; Apr. 27, 1999, D.C. Law 12-268, § 8, 46 DCR 969; Apr. 12, 2000, D.C. Law 13-91, § 117(b), 47 DCR 520; Oct. 20, 2005, D.C. Law 16-33, § 2382(a), 52 DCR 7503.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1144.

1973 Ed., § 1-854.

Temporary Amendments of Section

For temporary (225 day) amendment of section, see § 9 of the Equal Opportunity for Local, Small, and Disadvantaged Business Enterprises Temporary Act of 1996 (D.C. Law 11-267, May 8, 1997, law notification 44 DCR 2986).

For temporary (225 day) amendment of section, see § 9 of the Equal Opportunity for Local, Small, and Disadvantaged Business Enterprises Temporary Act of 1998 (D.C. Law 12-102, April 30, 1998, law notification 45 DCR 2793).

Emergency Act Amendments

For temporary amendment of section, see § 9 of the Equal Opportunity for Local, Small, and Disadvantaged Business Enterprises Congressional Review Emergency Amendment Act of 1997 (D.C. Act 12-65, April 3, 1997, 44 DCR 2437), and see § 9 of the Equal Opportunity for Local, Small, and Disadvantaged Business Enterprises Congressional Review Emergency Act of 1998 (D.C. Act 12-347, May 6, 1998, 45 DCR 2988).

For temporary (90-day) amendment of section, see § 8 of the Equal Opportunity for Local, Small, and Disadvantaged Business Enterprises Congressional Review Emergency Act of 1999 (D.C. Act 13-39, March 22, 1999, 46 DCR 3019).

For temporary (90 day) repeal of section, see § 2382(a), (c) of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

Legislative History of Laws

For legislative history of D.C. Law 1-95, see Historical and Statutory Notes following § 2-215.01.

For legislative history of D.C. Law 3-91, see Historical and Statutory Notes following § 2-215.02.

Law 12-268, the "Equal Opportunity for Local, Small, and Disadvantaged Business Enterprises Act of 1998," was introduced in Council and assigned Bill No. 12- 616, which was referred to the Committee on Economic Development. The Bill was adopted on first and second readings on December 1, 1998, and December 15, 1998, respectively. Signed by the Mayor on December 24, 1998, it was assigned Act No. 12-580 and transmitted to both Houses of Congress for its review. D.C. Law 12-268 became effective on April 27, 1999.

For Law 13-91, see notes following § 2-201.01.

For Law 16-33, see notes following § 2-307.01.

Miscellaneous Notes

Section 2382(c) of D.C. Law 16-33 provides:

"(c) An order, rule, or regulation in effect under a law repealed by this section shall remain in effect under the corresponding provision enacted by this subtitle [subtitle N of title II, §§ 2301 to 2391, of D.C. Law 16-33] until repealed, amended, or superseded."

§ 2-215.05. MINORITY BUSINESS OPPORTUNITY COMMISSION; REPORTS.[REPEALED]

(Mar. 29, 1977, D.C. Law 1-95, § 6, 23 DCR 9532b; Sept. 13, 1980, D.C. Law 3-91, § 5(a), (b), 27 DCR 3280; Apr. 12, 2000, D.C. Law 13-91, § 117(c), 47 DCR 520.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1145.

1973 Ed., § 1-855.

Legislative History of Laws

For legislative history of D.C. Law 1-95, see Historical and Statutory Notes following § 2-215.01.

For legislative history of D.C. Law 3-91, see Historical and Statutory Notes following § 2-215.02.

For Law 13-91, see notes following § 2-201.01.

§ 2-215.06. ALLOCATION OF AGENCY CONTRACTS TO LOCAL MINORITY ENTERPRISES; QUARTERLY AGENCY REPORTS ON CONTRACTS; COUNCIL REVIEW OF GOALS.[REPEALED]

(Mar. 29, 1977, D.C. Law 1-95, § 7, 23 DCR 9532b; Mar. 9, 1983, D.C. Law 4-167, § 2(b), 29 DCR 4983; Apr. 12, 2000, D.C. Law 13-91, § 117(c), 47 DCR 520.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1146.

1973 Ed., § 1-856.

Legislative History of Laws

For legislative history of D.C. Law 1-95, see Historical and Statutory Notes following § 2-215.01.

For legislative history of D.C. Law 4-167, see Historical and Statutory Notes following § 2-215.10.

For Law 13-91, see notes following § 1-1104.

Transfer of Functions

The functions of the Department of General Services were transferred, in part, to the Department of Public Works by Reorganization Plan No. 4 of 1983, effective March 1, 1984, and transferred, in part, to the Department of Administrative Services by Reorganization Plan No. 5 of 1983, effective March 1, 1984.

§ 2-215.07. ASSISTANCE PROGRAMS FOR MINORITY CONTRACTORS.[REPEALED]

(Mar. 29, 1977, D.C. Law 1-95, § 8, 23 DCR 9532b; Sept. 13, 1980, D.C. Law 3-91, § 5(c), 27 DCR 3280; Apr. 12, 2000, D.C. Law 13-91, § 117(c), 47 DCR 520.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1147.

1973 Ed., § 1-857.

Legislative History of Laws

For legislative history of D.C. Law 1-95, see Historical and Statutory Notes following § 2-215.01.

For legislative history of D.C. Law 3-91, see Historical and Statutory Notes following § 2-215.02.

For Law 13-91, see notes following § 1-1104.

§ 2-215.08. CERTIFICATES OF REGISTRATION.[REPEALED]

(Mar. 29, 1977, D.C. Law 1-95, § 9, 23 DCR 9532b; Sept. 13, 1980, D.C. Law 3-91, § 5(d), (e), (f), 27 DCR

3280; Apr. 12, 2000, D.C. Law 13-91, § 117(c), 47 DCR 520.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1148.

1973 Ed., § 1-858.

Legislative History of Laws

For legislative history of D.C. Law 1-95, see Historical and Statutory Notes following § 2-215.01.

For legislative history of D.C. Law 3-91, see Historical and Statutory Notes following § 2-215.02.

For Law 13-91, see notes following § 1-1104.

§ 2-215.09. FUNCTIONS OF THE COMMISSION.[REPEALED]

(Mar. 29, 1977, D.C. Law 1-95, § 10, 23 DCR 9532b; Sept. 13, 1980, D.C. Law 3-91, § 5(g), 27 DCR 3280; Mar. 9, 1983, D.C. Law 4-167, § 2(c), (d), 29 DCR 4983; Mar. 14, 1985, D.C. Law 5-159, § 11, 32 DCR 30; Apr. 12, 2000, D.C. Law 13-91, § 117(c), 47 DCR 520.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1149.

1973 Ed., § 1-859.

Legislative History of Laws

For legislative history of D.C. Law 1-95, see Historical and Statutory Notes following § 2-215.01.

For legislative history of D.C. Law 3-91, see Historical and Statutory Notes following § 2-215.02.

For legislative history of D.C. Law 4-167, see Historical and Statutory Notes following § 2-215.10.

Law 5-159 was introduced in Council and assigned Bill No. 5-540, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 20, 1984 and December 4, 1984, respectively. Signed by the Mayor on December 10, 1984, it was assigned Act No. 5-224 and transmitted to both Houses of Congress for its review.

For Law 13-91, see notes following § 1-1104.

§ 2-215.09A. ADVANCE, PARTIAL, OR PROGRESS PAYMENTS.[REPEALED]

(Mar. 29, 1977, D.C. Law 1-95, § 12, 23 DCR 9532b; Apr. 12, 1997, D.C. Law 11-259, § 306, 44 DCR 1423; Apr. 12, 2000, D.C. Law 13-91, § 117(c), 47 DCR 520.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1150.

1973 Ed., § 1-860.

Legislative History of Laws

For legislative history of D.C. Law 1-95, see Historical and Statutory Notes following § 2-215.01.

For legislative history of D.C. Law 11-259, see Historical and Statutory Notes following § 2-213.02.

For Law 13-91, see notes following § 1-1104.

§ 2-215.10. RULES PROPOSED BY COMMISSION.[REPEALED]

(Mar. 29, 1977, D.C. Law 1-95, § 12a, as added Mar. 9, 1983, D.C. Law 4-167, § 2(e), 29 DCR 4983; Aug. 1, 1985, D.C. Law 6-15, § 3(b), 32 DCR 35703; Apr. 12, 2000, D.C. Law 13-91, § 117(c), 47 DCR 520.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1150.1.

Legislative History of Laws

For legislative history of D.C. Law 1-95, see Historical and Statutory Notes following § 2-215.01.

Law 4-167 was introduced in Council and assigned Bill No. 4-437, which was referred to the Committee on Housing and Economic Development. The Bill was adopted on first, amended first, and second readings on July 20, 1982, September 21, 1982 and October 5, 1982, respectively. Signed by the Mayor on October 22, 1982, it was assigned Act No. 4-242 and transmitted to both Houses of Congress for its review.

For legislative history of D.C. Law 6-15, see Historical and Statutory Notes following § 2-215.03.

For Law 13-91, see notes following § 1-1104.

Miscellaneous Notes

Proposed rules approved: Pursuant to Resolution 5-387, the "Minority Business Opportunity Commission Rules Approval Resolution of 1983", effective October 18, 1983, the Council approved the proposed rules of the District of Columbia Minority Business Opportunity Commission transmitted by the Mayor on July 1, 1983.

§ 2-215.11. SEVERABILITY.[REPEALED]

(Mar. 29, 1977, D.C. Law 1-95, § 13, 23 DCR 9532b; Oct. 20, 2005, D.C. Law 16-33, § 2382(a), 52 DCR 7503.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1151.

1973 Ed., § 1-861.

Emergency Act Amendments

For temporary (90 day) repeal of section, see § 2382(a), (c) of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

Legislative History of Laws

For legislative history of D.C. Law 1-95, see Historical and Statutory Notes following § 2-215.01.

For Law 16-33, see notes following § 2-307.01.

Miscellaneous Notes

Section 2382(c) of D.C. Law 16-33 provides:

"(c) An order, rule, or regulation in effect under a law repealed by this section shall remain in effect under the corresponding provision enacted by this subtitle [subtitle N of title II, §§ 2301 to 2391, of D.C. Law 16-33] until repealed, amended, or superseded."

SUBCHAPTER IX. EQUAL OPPORTUNITY FOR LOCAL, SMALL, AND DISADVANTAGED BUSINESS ENTERPRISES.[REPEALED]

§ 2-217.01. DEFINITIONS.[REPEALED]

(Apr. 27, 1999, D.C. Law 12-268, § 2, 46 DCR 969; Oct. 14, 1999, D.C. Law 13-49, § 13(a), 46 DCR 5153; Oct. 4, 2000, D.C. Law 13-169, § 2(a), 47 DCR 5846; Oct. 20, 2005, D.C. Law 16-33, § 2382(b), 52 DCR 7503.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1153.1.

Temporary Amendments of Section

For temporary (225 day) amendment of section, see § 2 of the Blanket Order Blitz Increased Opportunity for Local, Small, and Disadvantaged Business Enterprises Temporary Amendment Act of 1999 (D.C. Law 13-77, April 5, 2000, law notification 47 DCR 2634).

For temporary (225 day) amendment of section, see § 2(a) of the Equal Opportunity for Local, Small, or

Disadvantaged Business Enterprises Temporary Amendment Act of 2000 (D.C. Law 13-216, April 3, 2001, law notification 48 DCR 3458).

For temporary (225 day) amendment of section, see § 2(a) of the Local, Small, and Disadvantaged Business Enterprises Certification Temporary Amendment Act of 2005 (D.C. Law 16-14, July 22, 2005, law notification 52 DCR 7167).

Emergency Act Amendments

For temporary addition of subchapter II-B [1981 Ed.], see §§ 2-9 of the Equal Opportunity for Local, Small, and Disadvantaged Business Enterprises Second Emergency Act of 1997 (D.C. Act 12-221, December 29, 1997, 44 DCR 103) and §§ 2-8 and § 10 of the Equal Opportunity for Local, Small, and Disadvantaged Business Enterprises Emergency Act of 1998 (D.C. Act 12-565, January 12, 1999, 46 DCR 700).

For temporary (90-day) addition of subchapter II-B [1981 Ed.], see §§ 2 to 7 and 10 of the Equal Opportunity for Local, Small, and Disadvantaged Business Enterprises Congressional Review Emergency Act of 1999 (D.C. Act 13-39, March 22, 1999, 46 DCR 3019).

For temporary (90-day) amendment of section, see § 2(a) of the Increased Opportunity for Local, Small, and Disadvantaged Business Enterprises Emergency Amendment Act of 1999 (D.C. Act 13-136, August 4, 1999, 46 DCR 6794).

For temporary (90-day) amendment of section, see § 2(a) of the Blanket Order Blitz Increased Opportunity for Local, Small, and Disadvantaged Business Enterprises Emergency Amendment Act of 1999 (D.C. Act 13-184, November 2, 1999, 46 DCR 9745).

For temporary (90-day) amendment of section, see § 2(a) of the Blanket Order Blitz Increased Opportunity for Local, Small, and Disadvantaged Business Enterprises Congressional Review Emergency Amendment Act of 2000 (D.C. Act 13-278, March 7, 2000, 47 DCR 2019).

For temporary (90-day) amendment of section, see § 2(a) of the Equal Opportunity for Local, Small, or Disadvantaged Business Enterprises Emergency Amendment Act of 2000 (D.C. Act 13-415, August 14, 2000, 47 DCR 7296).

For temporary (90 day) amendment of section, see § 2(a) of Local, Small, and Disadvantaged Business Enterprises Certification Emergency Amendment Act of 2005 (D.C. Act 16-72, April 25, 2005, 52 DCR 4577).

For temporary (90 day) repeal of section, see § 2382(b), (c) of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

Legislative History of Laws

For legislative history of D.C. Law 12-268, see Historical and Statutory Notes following § 2-215.04.

Law 13-49, the "Criminal Code and Clarifying Technical Amendments Act of 1999," was introduced in Council and assigned Bill No. 13-61, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on March 2, 1999, and April 13, 1999, respectively. Signed by the Mayor on May 13, 1999, it was assigned Act No. 13-69 and transmitted to both Houses of Congress for its review. D.C. Law 13-49 became effective on October 19, 1999.

For Law 13-169, see notes following § 2-201.01.

Law 16-33, the "Fiscal Year 2006 Budget Support Act of 2005", was introduced in Council and assigned Bill No. 16-200 which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 10, 2005, and June 21, 2005, respectively. Signed by the Mayor on July 26, 2005, it was assigned Act No. 16-166 and transmitted to both Houses of Congress for its review. D.C. Law 16-33 became effective on October 20, 2005.

Miscellaneous Notes

Policy on the Participation of Local, Small, & Disadvantaged business Enterprises in Executive Branch Procurements, see Mayor's Order 2003-14, January 29, 2003 (50 DCR 1784).

Section 2382(c) of D.C. Law 16-33 provides:

"(c) An order, rule, or regulation in effect under a law repealed by this section shall remain in effect under the corresponding provision enacted by this subtitle [subtitle N of title II, §§ 2301 to 2391, of D.C. Law 16-33] until repealed, amended, or superseded."

§ 2-217.02. DISTRICT GOVERNMENT CONTRACTING WITH LOCAL BUSINESS ENTERPRISES; QUARTERLY AGENCY REPORTS ON CONTRACTS; COUNCIL REVIEW OF GOALS.[REPEALED]

(Apr. 27, 1999, D.C. Law 12-268, § 3, 46 DCR 969; Oct. 14, 1999, D.C. Law 13-49, § 13(b), 46 DCR 5153; Oct. 4, 2000, D.C. Law 13-169, § 2(b), 47 DCR 5846; Oct. 20, 2005, D.C. Law 16-33, § 2382(b), 52 DCR

7503.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1153.2.

Temporary Amendments of Section

For temporary (225 day) amendment of section, see § 2(b) of Equal Opportunity for Local, Small, or Disadvantaged Business Enterprises Temporary Amendment Act of 2000 (D.C. Law 13-216, April 3, 2001, law notification 48 DCR 3458).

For temporary (225 day) amendment of section, see § 2(a) of Local, Small and Disadvantaged Business Enterprises Program Temporary Amendment Act of 2003 (D.C. Law 14-291, April 4, 2003, law notification 50 DCR 5849).

Temporary Addition of Section

For temporary (225 day) addition of section, see § 2(b) of Local, Small and Disadvantaged Business Enterprises Program Temporary Amendment Act of 2003 (D.C. Law 14-291, April 4, 2003, law notification 50 DCR 5849).

Emergency Act Amendments

For temporary (90-day) addition of Subchapter II-B [1981 Ed.], see notes following § 2-217.01.

For temporary (90-day) amendment of section, see § 2(b) of the Equal Opportunity for Local, Small, or Disadvantaged Business Enterprises Emergency Amendment Act of 2000 (D.C. Act 13-415, August 14, 2000, 47 DCR 7296).

For temporary (90 day) amendment of section, see § 2 of Local, Small and Disadvantaged Business Enterprises Program Emergency Amendment Act of 2002 (D.C. Act 14-598, January 7, 2003, 50 DCR 658).

For temporary (90 day) repeal of section, see § 2382(b) of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

Legislative History of Laws

For legislative history of D.C. Law 12-268, see Historical and Statutory Notes following § 2-215.04.

For Law 13-49, see notes following § 2-217.01.

For Law 13-169, see notes following § 2-201.01.

For Law 16-33, see notes following § 2-217.01.

§ 2-217.03. ASSISTANCE PROGRAMS FOR LOCAL BUSINESS ENTERPRISE CONTRACTORS, DISADVANTAGED BUSINESS ENTERPRISE CONTRACTORS, AND SMALL BUSINESS ENTERPRISE CONTRACTORS.[REPEALED]

(Apr. 27, 1999, D.C. Law 12-268, § 4, 46 DCR 969; Oct. 14, 1999, D.C. Law 13-49, § 13(c), 46 DCR 5153; Oct. 4, 2000, D.C. Law 13-169, § 2(c), 47 DCR 5846; Oct. 20, 2005, D.C. Law 16-33, § 2382(b), 52 DCR 7503.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1153.3.

Temporary Amendments of Section

For temporary (225 day) amendment of section, see § 2(b) of the Blanket Order Blitz Increased Opportunity for Local, Small, and Disadvantaged Business Enterprises Temporary Amendment Act of 1999 (D.C. Law 13-77, April 5, 2000, law notification 47 DCR 2634).

For temporary (225 day) amendment of section, see § 2(c) of the Equal Opportunity for Local, Small, or Disadvantaged Business Enterprises Temporary Amendment Act of 2000 (D.C. Law 13-216, April 3, 2001, law notification 48 DCR 3458).

Emergency Act Amendments

For temporary (90-day) addition of subchapter II-B [1981 Ed.], see notes following § 2-217.01.

For temporary (90-day) amendment of section, see § 2(b) of the Increased Opportunity for Local, Small, and Disadvantaged Business Enterprises Emergency Amendment Act of 1999 (D.C. Act 13-136, August 4, 1999,

46 DCR 6794).

For temporary (90-day) amendment of section, see § 2(b) of the Blanket Order Blitz Increased Opportunity for Local, Small, and Disadvantaged Business Enterprises Emergency Amendment Act of 1999 (D.C. Act 13-184, November 2, 1999, 46 DCR 9745).

For temporary (90-day) amendment of section, see § 2(b) of the Blanket Order Blitz Increased Opportunity for Local, Small, and Disadvantaged Business Enterprises Congressional Review Emergency Amendment Act of 2000 (D.C. Act 13-278, March 7, 2000, 47 DCR 2019).

For temporary (90-day) amendment of section, see § 2(c) of the Equal Opportunity for Local, Small, or Disadvantaged Business Enterprises Emergency Amendment Act of 2000 (D.C. Act 13-415, August 14, 2000, 47 DCR 7296).

For temporary (90 day) repeal of section, see § 2382(b) of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

Legislative History of Laws

For legislative history of D.C. Law 12-268, see Historical and Statutory Notes following § 2-215.04.

For Law 13-49, see notes following § 2-217.01.

For Law 13-169, see notes following § 2-201.01.

For Law 16-33, see notes following § 2-217.01.

§ 2-217.04. CERTIFICATE OF REGISTRATION.[REPEALED]

(Apr. 27, 1999, D.C. Law 12-268, § 5, 46 DCR 969; Oct. 14, 1999, D.C. Law 13-49, § 13(d), 46 DCR 5153; Oct. 4, 2000, D.C. Law 13-169, § 2(d), 47 DCR 5846; Oct 20, 2005, D.C. Law 16-33, § 2382(b), 52 DCR 7503.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1153.4.

Temporary Amendments of Section

For temporary (225 day) amendment of section, see § 2(c) of the Blanket Order Blitz Increased Opportunity for Local, Small, and Disadvantaged Business Enterprises Temporary Amendment Act of 1999 (D.C. Law 13-77, April 5, 2000, law notification 47 DCR 2634).

For temporary (225 day) amendment of section, see § 2(d) of the Equal Opportunity for Local, Small, or Disadvantaged Business Enterprises Temporary Amendment Act of 2000 (D.C. Law 13-216, April 3, 2001, law notification 48 DCR 3458).

For temporary (225 day) amendment of section, see § 2(b) of the Local, Small, and Disadvantaged Business Enterprises Certification Temporary Amendment Act of 2005 (D.C. Law 16-14, July 22, 2005, law notification 52 DCR 7167).

Emergency Act Amendments

For temporary (90-day) addition of Subchapter II-B [1981 Ed.], see notes following § 2-217.01.

For temporary (90-day) amendment of section, see § 2(c) of the Increased Opportunity for Local, Small, and Disadvantaged Business Enterprises Emergency Amendment Act of 1999 (D.C. Act 13-136, August 4, 1999, 46 DCR 6794).

For temporary (90-day) amendment of section, see § 2(c) of the Blanket Order Blitz Increased Opportunity for Local, Small, and Disadvantaged Business Enterprises Emergency Amendment Act of 1999 (D.C. Act 13-184, November 2, 1999, 46 DCR 9745).

For temporary (90-day) amendment of section, see § 2(c) of the Blanket Order Blitz Increased Opportunity for Local, Small, and Disadvantaged Business Enterprises Congressional Review Emergency Amendment Act of 2000 (D.C. Act 13-278, March 7, 2000, 47 DCR 2019).

For temporary (90-day) amendment of section, see § 2(d) of the Equal Opportunity for Local, Small, or Disadvantaged Business Enterprises Emergency Amendment Act of 2000 (D.C. Act 13-415, August 14, 2000, 47 DCR 7296).

For temporary (90 day) amendment of section, see § 2(b) of Local, Small, and Disadvantaged Business Enterprises Certification Emergency Amendment Act of 2005 (D.C. Act 16-72, April 25, 2005, 52 DCR 4577).

For temporary (90 day) repeal of section, see § 2382(b) of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

For legislative history of D.C. Law 12-268, see Historical and Statutory Notes following § 2-215.04.

For Law 13-49, see notes following § 2-217.01.

For Law 13-169, see notes following § 2-201.01.

For Law 16-33, see notes following § 2-217.01.

§ 2-217.05. FUNCTIONS OF THE COMMISSION.[REPEALED]

(Apr. 27, 1999, D.C. Law 12-268, § 6, 46 DCR 969; Oct. 14, 1999, D.C. Law 13-49, § 13(e), 46 DCR 5153; Oct. 4, 2000, D.C. Law 13-169, § 2(e), 47 DCR 5846; Oct. 20, 2005, D.C. Law 16-33, § 2382(b), 52 DCR 7503.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1153.5.

Temporary Amendments of Section

For temporary (225 day) amendment of section, see § 2 of the Equal Opportunity for Local, Small, or Disadvantaged Business Enterprises Temporary Amendment Act of 1999 (D.C. Law 13-33, June 24, 1999, law notification 46 DCR 8698).

For temporary (225 day) amendment of section, see § 2(e) of the Equal Opportunity for Local, Small, or Disadvantaged Business Enterprises Temporary Amendment Act of 2000 (D.C. Law 13-216, April 3, 2001, law notification 48 DCR 3458).

Emergency Act Amendments

For temporary (90-day) addition of Subchapter II-B [1981 Ed.], see notes following § 2-217.01.

For temporary (90-day) amendment of section, see § 2 of the Equal Opportunity for Local, Small, or Disadvantaged Business Enterprises Emergency Amendment Act of 1999 (D.C. Act 13-89, June 4, 1999, 46 DCR 5322).

For temporary (90-day) amendment of section, see § 2 of the Equal Opportunity for Local, Small, or Disadvantaged Business Enterprises Second Congressional Review Emergency Amendment Act of 1999 (D.C. Act 13-160, October 18, 1999, 46 DCR 9214).

For temporary (90-day) amendment of section, see § 2 of the Equal Opportunity for Local, Small, or Disadvantaged Business Enterprises Congressional Review Emergency Amendment Act of 2000 (D.C. Act 13-342, May 9, 2000, 47 DCR 4666).

For temporary (90-day) amendment of section, see § 2(e) of the Equal Opportunity for Local, Small, or Disadvantaged Business Enterprises Emergency Amendment Act of 2000 (D.C. Act 13-415, August 14, 2000, 47 DCR 7296).

For temporary (90 day) repeal of section, see § 2382(b) of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

Legislative History of Laws

For legislative history of D.C. Law 12-268, see Historical and Statutory Notes following § 2-215.04.

For Law 13-49, see notes following § 2-217.01.

For Law 13-169, see notes following § 2-217.01.

For Law 13-216, see notes following § 2-201.01.

For Law 16-33, see notes following § 2-217.01.

§ 2-217.06. RULES.[REPEALED]

(Apr. 27, 1999, D.C. Law 12-268, § 7, 46 DCR 969; Oct 20, 2005, D.C. Law 16-33, § 2382(b), 52 DCR 7503.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1153.6.

Emergency Act Amendments

For temporary (90-day) addition of subchapter II-B [1981 Ed.], see notes following § 2-217.01.

For temporary (90 day) repeal of section, see § 2382(b) of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

Legislative History of Laws

For legislative history of D.C. Law 12-268, see Historical and Statutory Notes following § 2-215.04.

For Law 16-33, see notes following § 2-217.01.

§ 2-217.07. APPLICABILITY DATE.[REPEALED]

(Apr. 27, 1999, D.C. Law 12-268, § 10, 46 DCR 969; Oct 20, 2005, D.C. Law 16-33, § 2382(b), 52 DCR 7503.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1153.7.

Emergency Act Amendments

For temporary (90-day) addition of subchapter II-B [1981 Ed.], see notes following § 2-217.01.

For temporary (90 day) repeal of section, see § 2382(b) of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

Legislative History of Laws

For legislative history of D.C. Law 12-268, see Historical and Statutory Notes following § 2-215.04.

For Law 16-33, see notes following § 2-217.01.

**SUBCHAPTER IX-A. SMALL, LOCAL, AND
DISADVANTAGED BUSINESS ENTERPRISE
DEVELOPMENT AND ASSISTANCE.**

PART A. SHORT TITLE AND DEFINITIONS.

§ 2-218.01. SHORT TITLE.

This subchapter may be cited to as the "Small, Local, and Disadvantaged Business Enterprise Development and Assistance Act of 2005".

(Oct. 20, 2005, D.C. Law 16-33, § 2301, 52 DCR 7503.)

HISTORICAL AND STATUTORY NOTES

Emergency Act Amendments

For temporary (90 day) addition, see § 2301 of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

Legislative History of Laws

Law 16-33, the "Fiscal Year 2006 Budget Support Act of 2005", was introduced in Council and assigned Bill No. 16-200 which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 10, 2005, and June 21, 2005, respectively. Signed by the Mayor on July 26, 2005, it was assigned Act No. 16-166 and transmitted to both Houses of Congress for its review. D.C. Law 16-33 became effective on October 20, 2005.

§ 2-218.02. DEFINITIONS.

For the purposes of this subchapter, the term:

- (1) "Agency" means an agency, department, office, board, or commission of the District of Columbia government.

- (1A) "Business enterprise" means a business entity organized for profit.
- (1B) "Certified business enterprise" means a business enterprise or joint venture certified pursuant to part D of this subchapter.
- (2) "Commission" means the District of Columbia Small and Local Business Opportunity Commission, established by § 2-218.21.
- (3) "Department" means the Department of Small and Local Business Development, established by § 2-218.11.
- (4) "Director" means the Director of the Department of Small and Local Business Development.
- (5) "Disadvantaged business enterprise" means a business enterprise as described in § 2-218.33.
- (6) "District of Columbia Supply Schedule" or "DCSS" means the District of Columbia's multiple award schedule procurement program for providing commercial products or services to District government agencies.
- (7) "Economically disadvantaged individual" means an individual whose ability to compete in the free enterprise system is impaired because of diminished opportunities to obtain capital and credit as compared to others in the same line of business where such impairment is related to the individual's status as socially disadvantaged. An individual is socially disadvantaged if the individual has reason to believe that the individual has been subjected to prejudice or bias because of his or her identity as a member of a group without regard to his or her qualities as an individual.
- (8) "Enterprise zone" means:
- (A) The area of the District designated as the District of Columbia Enterprise Zone under section 1400 of the Internal Revenue Code of 1986, approved August 5, 1997 (111 Stat. 863; 26 U.S.C. § 1400); or
 - (B) An economic development zone designated by the Mayor and approved by the Council pursuant to §§ 6-1501 through 6-1504.
- (9) "Expendable budget" means the total budget of an agency, reduced by such funding sources, object classes, objects, and other items as shall be identified by the Mayor through rulemaking.
- (10) "Government corporation" means an entity established as a corporate body or independent authority or instrumentality of the District government created to effectuate certain public purposes, with or without a legal existence separate from that of the District government.
- (11) "Joint venture" means a combination of property, capital, efforts, skills, or knowledge of 2 or more persons or businesses to carry out a single project.
- (12) "Local business enterprise" means a business enterprise as described in § 2-218.31.
- (12A) "Local manufacturing business enterprise" means a business as described in § 2-218.39.
- (13) "Longtime resident business" means a business which has been continuously eligible for certification as a local business enterprise, as defined in § 2-218.31, for 20 consecutive years, or a small business enterprise, as defined in § 2-218.32, for 15 consecutive years.
- (14) "Regional governmental entity" means an organization that represents the District and surrounding local or state governments.
- (15) "Resident-owned business" means a local business enterprise owned by an individual who is, or a majority number of individuals who are, subject to personal income tax solely in the District of Columbia.
- (16) "Small business enterprise" means a business enterprise as described in § 2-218.32.
- (17) "Veteran-owned business enterprise" means a business as described in § 2-218.38.

(Oct. 20, 2005, D.C. Law 16-33, § 2302, 52 DCR 7503; Mar. 2, 2007, D.C. Law 16-191, § 15, 53 DCR 6794; Mar. 14, 2007, D.C. Law 16-266, § 2(a), 54 DCR 829; July 18, 2008, D.C. Law 17-207, § 2(a), 55 DCR 6107; Apr. 20, 2010, D.C. Law 18-141, § 2(a), 57 DCR 1485.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 16-191, in par. (1), substituted "or commission" for "commission, or instrumentality".

D.C. Law 16-266, in par. (13), inserted ", or a small business enterprise, as defined in § 2-218.32, for 15 consecutive years" following "for 20 consecutive years".

D.C. Law 17-207 added pars. (1A) and (1B).

D.C. Law 18-141 added pars. (12A) and (17); and, in par. (15), substituted "subject to personal income tax solely in the District of Columbia" for "subject to personal income tax in the District of Columbia".

Temporary Amendments of Section

For temporary (225 day) amendment of section, see § 2(a) of the Department of Small and Local Business Development Subcontracting Clarification Temporary Amendment Act of 2006 (D.C. Law 16-214, March 6, 2007, law notification 54 DCR 2761).

For temporary (225 day) amendment of section, see § 2(a) of the Department of Small and Local Business Development Subcontracting Clarification, Benefit Expansion, and Grant-making Authority Temporary Amendment Act of 2007 (D.C. Law 17-96, January 29, 2008, law notification 55 DCR 3403).

Emergency Act Amendments

For temporary (90 day) addition, see § 2302 of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

For temporary (90 day) amendment of section, see § 2(a) of Department of Small and Local Business Development Subcontracting Clarification Emergency Amendment Act of 2006 (D.C. Act 16-513, October 25, 2006, 53 DCR 9091).

For temporary (90 day) amendment of section, see § 2(a) of Department of Small and Local Business Development Subcontracting Clarification Congressional Review Emergency Amendment Act of 2006 (D.C. Act 16-575, December 19, 2006, 54 DCR 24).

For temporary (90 day) amendment of section, see § 2(a) of Department of Small and Local Business Development Subcontracting Clarification, Benefit Expansion, and Grant-making Authority Emergency Amendment Act of 2007 (D.C. Act 17-156, October 18, 2007, 54 DCR 10919).

For temporary (90 day) amendment of section, see § 2(a) of Department of Small and Local Business Development Subcontracting Clarification, Benefit Expansion, and Grant-making Authority Congressional Review Emergency Amendment Act of 2008 (D.C. Act 17-251, January 23, 2008, 55 DCR 1259).

Legislative History of Laws

For Law 16-33, see notes following § 2-218.01.

Law 16-191, the "Technical Amendments Act of 2006", was introduced in Council and assigned Bill No. 16-760, which was referred to the Committee of the whole. The Bill was adopted on first and second readings on June 20, 2006, and July 11, 2006, respectively. Signed by the Mayor on July 31, 2006, it was assigned Act No. 16-475 and transmitted to both Houses of Congress for its review. D.C. Law 16-191 became effective on March 2, 2007.

Law 16-266, the "Longtime Resident Business Definition Amendment Act of 2006", was introduced in Council and assigned Bill No. 16-506, which was referred to Committee on Economic Development. The Bill was adopted on first and second readings on December 5, 2006, and December 19, 2006, respectively. Signed by the Mayor on December 28, 2006, it was assigned Act No. 16-622 and transmitted to both Houses of Congress for its review. D.C. Law 16-266 became effective on March 14, 2007.

Law 17-207, the "Department of Small and Local Business Development Subcontracting Clarification, Benefit Expansion, and Grant-Making Authority Amendment Act of 2008", was introduced in Council and assigned Bill No. 17-444 which was referred to Economic Development. The Bill was adopted on first and second readings on April 1, 2008, and May 6, 2008, respectively. Signed by the Mayor on May 20, 2008, it was assigned Act No. 17-379 and transmitted to both Houses of Congress for its review. D.C. Law 17-207 became effective on July 18, 2008.

Law 18-141, the "Department of Small and Local Business Development Amendment Act of 2009", was introduced in Council and assigned Bill No. 18-332, which was referred to the Committee on Economic Development. The bill was adopted on first and second readings on November 3, 2009, and December 1, 2009, respectively. Enacted without signature by the Mayor on February 3, 2010, it was assigned Act No. 18-306 and transmitted to both Houses of Congress for its review. D.C. Law 18-141 became effective on April 20, 2010.

PART B. DEPARTMENT OF SMALL AND LOCAL BUSINESS DEVELOPMENT.

§ 2-218.11. ESTABLISHMENT OF THE DEPARTMENT OF SMALL AND LOCAL BUSINESS DEVELOPMENT.

(a) Pursuant to § 1-204.04(b), there is established, as a subordinate agency, in the Executive Branch of the government of the District of Columbia, the Department of Small and Local Business Development.

(Oct. 20, 2005, D.C. Law 16-33, § 2311, 52 DCR 7503.)

HISTORICAL AND STATUTORY NOTES

Emergency Act Amendments

For temporary (90 day) addition, see § 2311 of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

Legislative History of Laws

For Law 16-33, see notes following § 2-218.01.

§ 2-218.12. DIRECTOR OF THE DEPARTMENT OF SMALL AND LOCAL BUSINESS DEVELOPMENT.

(a)(1) The Department shall be under the supervision of a Director who shall carry out the functions and authorities assigned to the Department.

(2) The Mayor shall appoint the Director with the advice and consent of the Council.

(b) The Director shall have full authority over the Department and all functions and personnel assigned to the Department, including the power to re-delegate to other employees and officials of the Department such powers and authority as in the judgment of the Director are warranted in the interests of efficiency and sound administration.

(c) The Director shall monitor the accomplishment of the requirements of this subchapter in contracting and procurement performed by any government corporation involved in the development of a commercial ballpark or soccer stadium and in all projects exceeding \$10 million in value.

(d) The Director shall have authority to make a recommendation to the Chief Procurement Officer of the Office of Contracting and Procurement or a government corporation to reject proposed award of contract awards and procurements that the Director finds fail to comply with agency or project requirements for certified business enterprise contracting and procurement.

(e) The Director shall have authority to make a recommendation to the Chief Procurement Officer of the Office of Contracting and Procurement or a government corporation to require the payment of fines pursuant to § 2-218.48 by prime contractors who fail to comply with the requirements of this subchapter.

(f) The Director shall have the authority to make a recommendation to the Chief Procurement Officer of the Office of Contracting and Procurement or a government corporation to withhold payment on contracts shown to be substantially noncompliant as to their approved certified business enterprise subcontracting plans, if a subcontracting plan is required pursuant to § 2-218.46.

(g) The Director shall have the authority to impose fines for violations of this subchapter or the regulations implemented thereunder.

(Oct. 20, 2005, D.C. Law 16-33, § 2312, 52 DCR 7503; July 18, 2008, D.C. Law 17-207, § 2(b), 55 DCR 6107; Apr. 20, 2010, D.C. Law 18-141, § 2(b), 57 DCR 1485.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 17-207, in subsecs. (d) and (f), substituted "certified" for "local, small, and disadvantaged".

D.C. Law 18-141 added subsec. (g).

Temporary Amendments of Section

For temporary (225 day) amendment of section, see § 2(b) of the Department of Small and Local Business Development Subcontracting Clarification, Benefit Expansion, and Grant-making Authority Temporary Amendment Act of 2007 (D.C. Law 17-96, January 29, 2008, law notification 55 DCR 3403).

Emergency Act Amendments

For temporary (90 day) addition, see § 2312 of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

For temporary (90 day) amendment of section, see § 2(b) of Department of Small and Local Business Development Subcontracting Clarification, Benefit Expansion, and Grant-making Authority Emergency Amendment Act of 2007 (D.C. Act 17-156, October 18, 2007, 54 DCR 10919).

For temporary (90 day) amendment of section, see § 2(b) of Department of Small and Local Business Development Subcontracting Clarification, Benefit Expansion, and Grant-making Authority Congressional Review Emergency Amendment Act of 2008 (D.C. Act 17-251, January 23, 2008, 55 DCR 1259).

Legislative History of Laws

For Law 16-33, see notes following § 2-218.01.

For Law 17-207, see notes following § 2-218.02.

For Law 18-141, see notes following § 2-218.02.

§ 2-218.13. ORGANIZATION AND FUNCTIONS OF THE DEPARTMENT.

(a)(1) It shall be the goal and responsibility of the Department to stimulate and foster the economic growth and development of businesses based in and serving the District of Columbia, particularly certified business enterprises, with the intended goals of:

- (A) Stimulating and expanding the local tax base of the District of Columbia;
- (B) Increasing the number of viable employment opportunities for District residents; and
- (C) Extending economic prosperity to local business owners, their employees, and the communities they serve.

(2) Through advocacy, business development programs, and technical assistance offerings, the Department shall seek to maximize opportunities for certified business enterprises to participate in:

- (A) The District's contracting and procurement process;
- (B) The District's economic development activities; and
- (C) Federal and private sector business opportunities that occur in the District of Columbia.

(b) The Department shall administer part D of this subchapter except for those responsibilities assigned to another agency by this subchapter or through an order of the Mayor. The Director shall establish procedures and guidelines for the implementation of the programs established pursuant to part D of this subchapter. The Mayor shall not reassign a responsibility specifically assigned to the Department by this subchapter.

(c) The Department shall include, and the Director shall establish, oversee, and administer, the following divisions which shall have the stated responsibilities:

(1) The Office of Certification which shall be responsible for:

(A) Reviewing applications for certification as a:

- (i) Local business enterprise;
- (ii) Small business enterprise;
- (iii) Disadvantaged business enterprise;
- (iv) Resident-owned business;
- (v) Longtime resident business; or
- (vi) Local business enterprise with its principal office located in an enterprise zone;

(B) Providing information and assistance to business enterprises regarding the certification and application process;

(C) Determining a business enterprise's or joint venture's initial eligibility for certification under part D of this subchapter and reviewing and determining the continued eligibility of business enterprises and joint ventures certified under part D of this subchapter;

(D) Determining the percentage or the dollar amount of a project performed by a joint venture that may be attributed toward an agency's percentage goal;

(E) Providing information and assistance to the Commission and the District of Columbia Auditor in performance of its appeals and audit functions under §§ 2-218.22, 2-218.50, and 2-218.53;

(F) Repealed;

(G) Repealed;

(H) Repealed;

(I) Reviewing the quarterly and annual reports of agencies required by § 2-218.53; and

(J) Reviewing any reports as may be required of third parties;

(2) The Office of Business Opportunities and Access to Capital, which shall be responsible for:

(A) Maintaining, growing, and advocating on behalf of certified business enterprises in the following areas:

- (i) Certified business enterprises with less than \$10 million in annual revenue;
- (ii) Under separate criteria, certified business enterprises with over \$10 million in annual revenue; and
- (iii) All certified business enterprises that desire to participate in contracting opportunities with any government corporation;

(B) Maintaining and providing public access to a list of all current District government contracting

and procurement bids and solicitations;

(C) Maintaining and providing public access to a list of other current government contracting and procurement bids and solicitations, including those of the federal government and nearby local jurisdictions;

(D) Monitoring agency contracting and procurement activities to the extent those activities are related to the achievement of the goals set forth in § 2-218.41;

(E) Monitoring third-party contracting and procurement activities to the extent those activities are related to the achievement of goals related to contracting with, and procuring from, certified business enterprises;

(F) Monitoring and preparing recommendations to ensure agency achievement of the goals set forth in § 2-218.41;

(G) Monitoring agency implementation of the programs required by part D of this subchapter;

(H) Maintaining a list of current private contracting and procurement bids and solicitations;

(I) Organizing and publicizing certified business enterprise opportunities and events where contracting, procurement, or networking opportunities will be available;

(J) Organizing or attending meetings with business groups and other organizations to provide information on the District's certified business enterprise programs, the certification process, and the services and activities of the Department;

(K) Making known to the public and the business community information on the District's certified business enterprise programs and the certification process; and

(L) Making known to the public and the business community information on the services and activities of the Department; and

(3) The Office of Training and Education, which shall be responsible for the following:

(A) Coordinating the District's offerings, curricula, and locations of educational and training classes, sessions, and seminars to assist small businesses in the following areas:

(i) Basic and intermediate business skills, such as bookkeeping, accounting, and marketing;

(ii) Locating and obtaining contracting and procurement opportunities; and

(iii) Locating and obtaining financing and capital;

(B) Maintaining a current list of educational and training classes, sessions, and seminars in the Washington Metropolitan Region in the subject areas set forth in subparagraph (A) of this paragraph offered by persons or organizations outside the District government;

(C) To the extent feasible, coordinating the offerings, curricula, and locations of educational and training classes, sessions, and seminars in the Washington Metropolitan Region in the subject areas set forth in subparagraph (A) of this paragraph offered by persons or organizations outside the District government;

(D) To the extent necessary, providing educational and training classes, sessions, and seminars in the subject areas set forth in subparagraph (A) of this paragraph which are not otherwise conveniently or comprehensively provided by the District government or persons or organizations outside the District government; and

(E) Training agency contracting officers on the requirements and procedures of this subchapter.

(c-1) The Department shall have the authority to issue grants to local businesses (whether or not certified pursuant to this subchapter), community and neighborhood groups or other nonprofit organizations as necessary to effectuate the mission of the Department and the purposes of this subchapter.

(d) The Director may establish such other offices and the Department may take such other actions as are necessary or appropriate to carry out the provisions of this subchapter.

(Oct. 20, 2005, D.C. Law 16-33, § 2313, 52 DCR 7503; Sept. 18, 2007, D.C. Law 17-20, § 2062(a), 54 DCR 7052; July 18, 2008, D.C. Law 17-207, § 2(c), 55 DCR 6107; Apr. 20, 2010, D.C. Law 18-141, § 2(c), 57 DCR 1485; Sept. 26, 2012, D.C. Law 19-171, §§ 12(a), 13(a), 59 DCR 6190.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 17-20 rewrote subsecs. (a) and (c)(1), which had read as follows:

"(a) It shall be the goal and responsibility of the Department to stimulate and foster greater opportunities for local, small, and disadvantaged business enterprises to participate in the District's contracting and procurement process."

"(1) The Office of Certification, Compliance, and Enforcement, which shall be responsible for:

"(A) Reviewing applications for certification as a local, small, or disadvantaged business enterprise, or as a resident-owned or resident business or as a local business enterprise with its principal office located in an enterprise zone;

"(B) Providing information and assistance to business enterprises regarding the certification and application process;

"(C) Recommending to the Commission whether an application for certification should be approved or denied;

"(D) Providing information and assistance to the Commission in the Commission's review of applications for certification;

"(E) Monitoring agency contracting and procurement activities to the extent those activities are related to the achievement of the goals set forth in § 2-218.41;

"(F) Monitoring third-party contracting and procurement activities to the extent those activities are related to the achievement of goals related to contracting with, and procuring from, local, small, and disadvantaged business enterprises;

"(G) Preparing the quarterly and annual reports of the Department required by § 2-218.53;

"(H) Reviewing the quarterly and annual reports of agencies required by § 2-218.52; and

"(I) Reviewing any reports as may be required of third parties;"

D.C. Law 17-207, in subsec. (c)(1)(F), substituted "the achievement of the goals set forth in § 2-218.41" for "the achievement of goals related to contracting with, and procuring from, certified business enterprises; in subsec. (c)(1)(G), substituted "related to contracting with, and procuring from, certified business enterprises" for "the achievement of the goals set forth in § 2-218.41"; rewrote subsec. (c)(2); and added subsec. (c-1). Prior to amendment, subsec. (c-2) read as follows:

"(2) The Office of Contracting Opportunities, which shall be responsible for:

"(A) Maintaining, growing, and advocating on behalf of local, small, and disadvantaged business enterprises in the following areas;

"(i) Local, small, and disadvantaged business enterprises with less than \$10 million in annual revenue;

"(ii) Under separate criteria, local, small, and disadvantaged business enterprises with over \$10 million in annual revenue; and

"(iii) All local, small, and disadvantaged business enterprises that desire to participate in contracting opportunities with any government corporation;

"(B) Maintaining and providing public access to a list of all current District government contracting and procurement bids and solicitations;

"(C) Maintaining and providing public access to a list of other current government contracting and procurement bids and solicitations, including those of the federal government and nearby local jurisdictions;

"(D) Monitoring agency contracting and procurement activities to the extent those activities are related to the achievement of the goals set forth in § 2-218.41;

"(E) Monitoring third-party contracting and procurement activities to the extent those activities are related to the achievement of goals related to contracting with, and procuring from, local, small, and disadvantaged business enterprises;

"(F) Monitoring and preparing recommendations to ensure agency achievement of the goals set forth in § 2-218.41;

"(G) Monitoring agency implementation of the programs required by part D of this subchapter;

"(H) Maintaining a list of current private contracting and procurement bids and solicitations;

"(I) Organizing and publicizing local, small, and disadvantaged business enterprise opportunities and events where contracting, procurement, or networking opportunities will be available;

"(J) Organizing or attending meetings with business groups and other organizations to provide information on the District's local, small, and disadvantaged business enterprise programs, the certification process, and the services and activities of the Department;

"(K) Making known to the public and the business community information on the District's local, small, and disadvantaged business enterprise programs and the certification process; and

"(L) Making known to the public and the business community information on the services and activities of the Department; and".

D.C. Law 18-141, in subsec. (c)(1), substituted "Certification" for "Certification, Compliance, and Enforcement," in the introductory language, substituted "§§ 2-218.22, 2-218.50, and 2-218.53" for "§ 2-218.22" in subpar. (E), and repealed subpars. (F), (G), and (H) which had read as follows:

"(F) Monitoring agency contracting and procurement activities to the extent those activities are related to the

achievement of the goals set forth in § 2-218.41;

"(G) Monitoring third-party contracting and procurement activities to the extent those activities are related to contracting with, and procuring from, certified business enterprises;

"(H) Preparing the quarterly and annual reports of the Department required by § 2-218.54;"

D.C. Law 19-171, in the lead-in language of subsec. (c)(2)(A), substituted "areas:" for "areas;"; and, in subsecs. (c)(1) and (c)(2)(A)(i), validated previously made technical corrections.

Temporary Amendments of Section

For temporary (225 day) amendment of section, see § 2(b) of the Department of Small and Local Business Development Subcontracting Clarification Temporary Amendment Act of 2006 (D.C. Law 16-214, March 6, 2007, law notification 54 DCR 2761).

For temporary (225 day) amendment of section, see § 2(c) of the Department of Small and Local Business Development Subcontracting Clarification, Benefit Expansion, and Grant-making Authority Temporary Amendment Act of 2007 (D.C. Law 17-96, January 29, 2008, law notification 55 DCR 3403).

Emergency Act Amendments

For temporary (90 day) addition, see § 2313 of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

For temporary (90 day) amendment of section, see § 2(b) of Department of Small and Local Business Development Subcontracting Clarification Emergency Amendment Act of 2006 (D.C. Act 16-513, October 25, 2006, 53 DCR 9091).

For temporary (90 day) amendment of section, see § 2(b) of Department of Small and Local Business Development Subcontracting Clarification Congressional Review Emergency Amendment Act of 2006 (D.C. Act 16-575, December 19, 2006, 54 DCR 24).

For temporary (90 day) amendment of section, see § 2062(a) of Fiscal Year 2008 Budget Support Emergency Act of 2007 (D.C. Act 17-74, July 25, 2007, 54 DCR 7549).

For temporary (90 day) amendment of section, see § 2(c) of Department of Small and Local Business Development Subcontracting Clarification, Benefit Expansion, and Grant-making Authority Emergency Amendment Act of 2007 (D.C. Act 17-156, October 18, 2007, 54 DCR 10919).

For temporary (90 day) amendment of section, see § 2(c) of Department of Small and Local Business Development Subcontracting Clarification, Benefit Expansion, and Grant-making Authority Congressional Review Emergency Amendment Act of 2008 (D.C. Act 17-251, January 23, 2008, 55 DCR 1259).

Legislative History of Laws

For Law 16-33, see notes following § 2-218.01.

For Law 17-20, see notes following § 2-215.24.

For Law 17-207, see notes following § 2-218.02.

For Law 18-141, see notes following § 2-218.02.

Law 19-171, the "Technical Amendments Act of 2012", was introduced in Council and assigned Bill No. 19-397, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on March 20, 2012, and April 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to both Houses of Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

Miscellaneous Notes

Short title: Section 2061 of D.C. Law 17-20 provided that subtitle G of title II of the act may be cited as the "Department of Small and Local Business Development Amendment Act of 2007".

§ 2-218.14. TRANSFERS FROM THE OFFICE OF LOCAL BUSINESS DEVELOPMENT TO THE DEPARTMENT OF SMALL AND LOCAL BUSINESS DEVELOPMENT.

All positions, personnel, property, records, and unexpended balances of appropriations, allocations, and other funds available or to be made available to the Office of Local Business Development established by § 2-1205.01, are hereby transferred to the Department.

(Oct. 20, 2005, D.C. Law 16-33, § 2314, formerly § 2315, as added Apr. 7, 2006, D.C. Law 16-91, § 139, 52 DCR 10637; renumbered Mar. 2, 2007, D.C. Law 16-191, § 48(m), 53 DCR 6794.)

HISTORICAL AND STATUTORY NOTES

D.C. Law 16-191, in the credit, renumbered the section designation from § 2315 to § 2314.

For Law 16-91, see notes following § 2-218.54.

For Law 16-191, see notes following § 2-218.02.

PART C. DISTRICT OF COLUMBIA SMALL AND LOCAL BUSINESS OPPORTUNITY COMMISSION.

§ 2-218.21. DISTRICT OF COLUMBIA SMALL AND LOCAL BUSINESS OPPORTUNITY COMMISSION ESTABLISHMENT; COMPOSITION; APPOINTMENT; TERM OF OFFICE; QUALIFICATIONS; VACANCIES; REMOVAL; COMPENSATION.

(a) Pursuant to § 1-204.04(b), there is established the District of Columbia Small and Local Business Opportunity Commission. The Commission is the successor in interest to the Local Business Opportunity Commission, established by § 2-215.03(a).

(b)(1) The Commission shall consist of 9 members. The Mayor shall appoint one member from each ward of the District and one at-large member to staggered, 2- year terms with the advice and consent of the Council, in accordance with § 1-523.01.

(2) All members of the Commission shall be residents of the District of Columbia.

(3) Commissioners shall be eligible for reappointment.

(4) All commissioners shall have knowledge of the small, local, or disadvantaged business community as it relates to employment and economic development.

(5) Notwithstanding the provisions of this section, current members of the Local Business Opportunity Commission, as established by § 2-215.03(a), shall be considered qualified and may continue to serve as members of the Commission until new members are appointed.

(c)(1) The Mayor shall appoint the chairperson of the Commission from among its members with the advice and consent of the Council. The nomination of the chairperson shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the nomination within the 45-day period of review, the nomination shall be deemed approved.

(2) The chairperson shall serve as the chairperson at the pleasure of the Mayor.

(d) Any person appointed to fill a vacancy on the Commission shall be appointed only for the unexpired term of the member whose vacancy is being filled.

(e) The Mayor may remove any member of the Commission for misconduct, incapacity, or neglect of duty in accordance with procedures that the Mayor shall establish and that shall include procedures for notification and an opportunity for hearing.

(f)(1) The Commission shall meet at least once each month for the purpose of transacting any business as may properly come before it.

(2) The Commission shall meet with the Chairman of the Council Committee on Economic Development at least once per year.

(3) Special meetings may be held at such times as the chairperson may provide. Notice of each meeting and the time and place thereof shall be given to each member in such manner as the Commission may provide.

(4) The Commission may permit members to participate in meetings by means of a conference telephone, interactive conference video, or other similar communications equipment when it is otherwise difficult or infeasible for the members to attend the meeting in person; provided, that each member participating by such device can be identified when speaking, all participants are able to hear each other at the same time, and members of the public attending the meeting are able to hear any member of the Commission who speaks during the meeting.

(g) A majority of the members appointed to the Commission at any given time shall constitute a quorum for the transaction of official business. Official actions of the Commission shall be based on a majority vote of the members participating at the meeting.

(h) A Commission member who has a direct financial or personal interest in any measure pending before the Commission shall disclose this fact to the Commission and shall not vote upon such measure.

(i) Members of the Commission shall serve without compensation for their service on the Commission. (Oct. 20, 2005, D.C. Law 16-33, § 2321, 52 DCR 7503; Sept. 18, 2007, D.C. Law 17-20, § 2062(b), 54 DCR 7052.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 17-20, in subsec. (f)(4), deleted "for the certification of joint ventures" following "participate in meetings".

Emergency Act Amendments

For temporary (90 day) addition, see § 2321 of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

For temporary (90 day) amendment of section, see § 2062(b) of Fiscal Year 2008 Budget Support Emergency Act of 2007 (D.C. Act 17-74, July 25, 2007, 54 DCR 7549).

Legislative History of Laws

For Law 16-33, see notes following § 2-218.01.

For Law 17-20, see notes following § 2-215.24.

§ 2-218.22. FUNCTIONS OF THE COMMISSION.

The Commission shall:

- (1) Hear all requested appeals by business enterprises upon the denial of an application for certification by the Department; and
- (2) Take such other actions as are necessary or appropriate to carry out the responsibilities of the Commission under this subchapter.

(Oct. 20, 2005, D.C. Law 16-33, § 2322, 52 DCR 7503; Sept. 18, 2007, D.C. Law 17-20, § 2062(c), 54 DCR 7052; Apr. 20, 2010, D.C. Law 18-141, § 2(d), 57 DCR 1485.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 17-20 rewrote pars. (1) and (2), which had read as follows:

"(1) Determine a business enterprise's or joint venture's eligibility for certification under part D and review and determine the continued eligibility of business enterprises and joint ventures certified by the Commission;

"(2) Determine the percentage of the dollar amount of a joint venture which may be attributed toward an agency's percentage goal; and"

D.C. Law 18-141 rewrote the section, which had read as follows:

"The Commission shall:

"(1) Hear all requested appeals by business enterprises upon the denial of an application for initial certification, reinstatement, or renewal by the Department;

"(2) Perform regular and routine audits of the Department's certification process through a random review of 5 applications per month; and

"(3) Repeal and suspend the certification of a business enterprise pursuant to § 2-218.63."

Emergency Act Amendments

For temporary (90 day) addition, see § 2322 of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

For temporary (90 day) amendment of section, see § 2062(c) of Fiscal Year 2008 Budget Support Emergency Act of 2007 (D.C. Act 17-74, July 25, 2007, 54 DCR 7549).

Legislative History of Laws

For Law 16-33, see notes following § 2-218.01.

For Law 17-20, see notes following § 2-215.24.

For Law 18-141, see notes following § 2-218.02.

§ 2-218.24. RECORD KEEPING.

- (a) A record of the proceedings of the Commission shall be kept and files shall be maintained.
- (b) The Department shall and the Commission may maintain a register of all applicants for registration showing for each applicant the date of the application, name, qualifications, place of business, place of applicant's residence, and whether the certificate was granted or denied.
- (c) The books and register of the Commission shall be prima facie evidence of all matters recorded therein.

(Oct. 20, 2005, D.C. Law 16-33, § 2324, 52 DCR 7503; Sept. 18, 2007, D.C. Law 17-20, § 2062(d), 54 DCR 7052.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 17-20, in subsec. (b), substituted "The Department shall and the Commission may" for "the Commission shall".

Emergency Act Amendments

For temporary (90 day) addition, see § 2324 of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

For temporary (90 day) amendment of section, see § 2062(d) of Fiscal Year 2008 Budget Support Emergency Act of 2007 (D.C. Act 17-74, July 25, 2007, 54 DCR 7549).

Legislative History of Laws

For Law 16-33, see notes following § 2-218.01.

For Law 17-20, see notes following § 2-215.24.

§ 2-218.23. ADDITIONAL FUNCTIONS OF THE COMMISSION.[REPEALED]

(Oct. 20, 2005, D.C. Law 16-33, § 2323, 52 DCR 7503; July 18, 2008, D.C. Law 17-207, § 2(d), 55 DCR 6107; Apr. 20, 2010, D.C. Law 18-141, § 2(e), 57 DCR 1485.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 17-207 substituted "certified" for "local, small, and disadvantaged".

Temporary Amendments of Section

For temporary (225 day) amendment of section, see § 2(d) of the Department of Small and Local Business Development Subcontracting Clarification, Benefit Expansion, and Grant-making Authority Temporary Amendment Act of 2007 (D.C. Law 17-96, January 29, 2008, law notification 55 DCR 3403).

Emergency Act Amendments

For temporary (90 day) addition, see § 2323 of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

For temporary (90 day) amendment of section, see § 2(d) of Department of Small and Local Business Development Subcontracting Clarification, Benefit Expansion, and Grant-making Authority Emergency Amendment Act of 2007 (D.C. Act 17-156, October 18, 2007, 54 DCR 10919).

For temporary (90 day) amendment of section, see § 2(d) of Department of Small and Local Business Development Subcontracting Clarification, Benefit Expansion, and Grant-making Authority Congressional Review Emergency Amendment Act of 2008 (D.C. Act 17-251, January 23, 2008, 55 DCR 1259).

Legislative History of Laws

For Law 16-33, see notes following § 2-218.01.

For Law 17-207, see notes following § 2-218.02.

For Law 18-141, see notes following § 2-218.02.

§ 2-218.25. BY-LAWS AND INTERNAL RULES.

(1) The Commission may promulgate, amend, repeal, and enforce any by-laws and internal rules of operation, consistent with the provisions of this subchapter, as may be necessary or appropriate to carry out its responsibilities under this subchapter.

(2) The Department may promulgate, amend, repeal, and enforce any bylaws and internal rules of

operation, consistent with the provisions of this subchapter, as may be necessary or appropriate to carry out its responsibilities under this subchapter.

(Oct. 20, 2005, D.C. Law 16-33, § 2325, 52 DCR 7503; July 18, 2008, D.C. Law 17-207, § 2(e), 55 DCR 6107.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 17-207 designated par. (1) and added par. (2).

Temporary Amendments of Section

For temporary (225 day) amendment of section, see § 2(e) of the Department of Small and Local Business Development Subcontracting Clarification, Benefit Expansion, and Grant-making Authority Temporary Amendment Act of 2007 (D.C. Law 17-96, January 29, 2008, law notification 55 DCR 3403).

Emergency Act Amendments

For temporary (90 day) addition, see § 2325 of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

For temporary (90 day) amendment of section, see § 2(e) of Department of Small and Local Business Development Subcontracting Clarification, Benefit Expansion, and Grant-making Authority Emergency Amendment Act of 2007 (D.C. Act 17-156, October 18, 2007, 54 DCR 10919).

For temporary (90 day) amendment of section, see § 2(e) of Department of Small and Local Business Development Subcontracting Clarification, Benefit Expansion, and Grant-making Authority Congressional Review Emergency Amendment Act of 2008 (D.C. Act 17-251, January 23, 2008, 55 DCR 1259).

Legislative History of Laws

For Law 16-33, see notes following § 2-218.01.

For Law 17-207, see notes following § 2-218.02.

PART D. PROGRAMS FOR CERTIFIED BUSINESS ENTERPRISES.

SUBPART 1. CERTIFIED BUSINESS ENTERPRISES.

§ 2-218.31. LOCAL BUSINESS ENTERPRISES.

A business enterprise shall be eligible for certification as a local business enterprise if the business enterprise:

- (1) Has its principal office located physically in the District of Columbia;
- (2) Requires that its chief executive officer and the highest level managerial employees of the business enterprise maintain their offices and perform their managerial functions in the District;
- (2A) Meets 1 of the 4 following standards:
 - (A) More than 50% of the assets of the business enterprise, excluding bank accounts, are located in the District;
 - (B) More than 50% of the employees of the business enterprise are residents of the District;
 - (C) The owners of more than 50% of the business enterprise are residents of the District; or
 - (D) More than 50% of the total sales or other revenues are derived from transactions of the business enterprise in the District; and
- (3)(A) Is licensed pursuant to Chapter 28 of Title 47;
- (B) Is subject to the tax levied under Chapter 18 of Title 47; or
- (C) Is a business enterprise identified in § 47-1808.01 (1) through (5) and more than 50% of the business is owned by residents of the District.

(Oct. 20, 2005, D.C. Law 16-33, § 2331, 52 DCR 7503; Mar. 2, 2007, D.C. Law 16-192, § 2132(a), 53 DCR 6899; July 18, 2008, D.C. Law 17-207, § 2(f), 55 DCR 6107.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 16-192, in subsec. (a)(2), deleted "and" from the end; and added subsec. (a)(2A).

D.C. Law 17-207, in par. (2A), substituted "Meets 1" for "Meets 3".

Temporary Amendments of Section

For temporary (225 day) amendment of section, see § 2(c) of the Department of Small and Local Business Development Subcontracting Clarification Temporary Amendment Act of 2006 (D.C. Law 16-214, March 6, 2007, law notification 54 DCR 2761).

For temporary (225 day) amendment of section, see § 2(f) of the Department of Small and Local Business Development Subcontracting Clarification, Benefit Expansion, and Grant-making Authority Temporary Amendment Act of 2007 (D.C. Law 17-96, January 29, 2008, law notification 55 DCR 3403).

Emergency Act Amendments

For temporary (90 day) addition, see § 2331 of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

For temporary (90 day) amendment of section, see § 2132(a) of Fiscal Year 2007 Budget Support Emergency Act of 2006 (D.C. Act 16-477, August 8, 2006, 53 DCR 7068).

For temporary (90 day) amendment of section, see § 2132(a) of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2006 (D.C. Act 16-499, October 23, 2006, 53 DCR 8845).

For temporary (90 day) amendment of section, see § 2(c) of Department of Small and Local Business Development Subcontracting Clarification Emergency Amendment Act of 2006 (D.C. Act 16-513, October 25, 2006, 53 DCR 9091).

For temporary (90 day) amendment of section, see § 2(c) of Department of Small and Local Business Development Subcontracting Clarification Congressional Review Emergency Amendment Act of 2006 (D.C. Act 16-575, December 19, 2006, 54 DCR 24).

For temporary (90 day) amendment of section, see § 2132(a) of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2007 (D.C. Act 17-1, January 16, 2007, 54 DCR 1165).

For temporary (90 day) amendment of section, see § 2(f) of Department of Small and Local Business Development Subcontracting Clarification, Benefit Expansion, and Grant-making Authority Emergency Amendment Act of 2007 (D.C. Act 17-156, October 18, 2007, 54 DCR 10919).

For temporary (90 day) amendment of section, see § 2(f) of Department of Small and Local Business Development Subcontracting Clarification, Benefit Expansion, and Grant-making Authority Congressional Review Emergency Amendment Act of 2008 (D.C. Act 17-251, January 23, 2008, 55 DCR 1259).

For temporary (90 day) addition of sections, see §§ 2 to 4 of Department of Transportation Streetscape Construction Survival Fund Emergency Act of 2010 (D.C. Act 18-658, December 28, 2010, 58 DCR 63).

Legislative History of Laws

For Law 16-33, see notes following § 2-218.01.

Law 16-192, the "Fiscal Year Budget Support Act of 2006", was introduced in Council and assigned Bill No. 16-679, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 9, 2006, and June 6, 2006, respectively. Signed by the Mayor on August 8, 2006, it was assigned Act No. 16-476 and transmitted to both Houses of Congress for its review. D.C. Law 16-192 became effective on March 2, 2007.

For Law 17-207, see notes following § 2-218.02.

Miscellaneous Notes

Short title: Section 2131 of D.C. Law 16-192 provided that subtitle K of title II of the act may be cited as the "Local, Small, and Disadvantaged Businesses Enhancement Amendment Act of 2006".

§ 2-218.32. SMALL BUSINESS ENTERPRISES.

(a) A business enterprise shall be eligible for certification as a small business enterprise if the business enterprise:

(1)(A) Is a local business enterprise; or

(B) Repealed.

(2) Is independently owned, operated, and controlled; and

(3)(A) Is certified by the United States Small Business Administration as a small business concern under the Small Business Act, approved July 18, 1958 (72 Stat. 863; 15 U.S.C. § 631 *et seq.*); or

(B) Has had average annualized gross receipts for the 3 years preceding certification not exceeding the following limits:

Construction, Heavy (Street and Highways, Bridges, etc.)	\$ 23 million
Construction, Building (General Construction, etc.)	\$ 21 million
Construction, Specialty Trades	\$ 13 million
Goods and Equipment	\$ 20 million
General Services	\$ 19 million
Professional Services, Personal Services (Hotel, Beauty, Laundry, etc.)	\$ 5 million
Professional Services, Business Services	\$ 10 million
Professional Services, Health and Legal Services	\$ 10 million
Professional Services, Health Facilities Management	\$ 19 million
Manufacturing Services	\$ 10 million
Transportation and Hauling Services	\$ 13 million
Financial Institutions	\$ 300 million.

(b) A business enterprise that is affiliated with another business enterprise through common ownership, management, or control shall be eligible for certification as a small business enterprise if:

- (1) The business enterprise seeking certification as a small business enterprise is a local business enterprise;
- (2) The consolidated financial statements of the affiliated business enterprises do not exceed the average annualized gross receipt limits established by subsection (a)(3)(B) of this section; and
- (3) In the event of a parent-subsidiary affiliation, the parent company qualifies for certification as a small business enterprise.

(c) If a business enterprise seeking certification as a small business enterprise is affiliated only with one or more business enterprises that are in a different line of business, subsection (b) of this section shall not apply, and the business enterprise shall be eligible for certification as a small business enterprise if it meets the requirements of subsection (a) of this section.

(Oct. 20, 2005, D.C. Law 16-33, § 2332, 52 DCR 7503; Mar. 2, 2007, D.C. Law 16-192, § 2132(b), 53 DCR 6899.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 16-192 repealed subsec. (a)(1)(B); and, in subsec. (b)(1), deleted "or a qualified metropolitan area business enterprise" following "local business enterprise". Prior to repeal, subsec. (a)(1)(B) read as follows:

"(B) Is a qualified metropolitan area business enterprise;"

Emergency Act Amendments

For temporary (90 day) addition, see § 2332 of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

For temporary (90 day) amendment of section, see § 2132(b) of Fiscal Year 2007 Budget Support Emergency Act of 2006 (D.C. Act 16-477, August 8, 2006, 53 DCR 7068).

For temporary (90 day) amendment of section, see § 2132(b) of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2006 (D.C. Act 16-499, October 23, 2006, 53 DCR 8845).

For temporary (90 day) amendment of section, see § 2132(b) of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2007 (D.C. Act 17-1, January 16, 2007, 54 DCR 1165).

Legislative History of Laws

For Law 16-33, see notes following § 2-218.01.

For Law 16-192, see notes following § 2-218.31.

§ 2-218.33. DISADVANTAGED BUSINESS ENTERPRISES.

(a) A business enterprise shall be eligible for certification as a disadvantaged business enterprise if the business enterprise is:

- (1) Owned, operated, and controlled by economically disadvantaged individuals; and
- (2)(A) Is a local business enterprise; or
- (B) Repealed.

(b) A business enterprise that is affiliated with another business enterprise through common ownership, management, or control shall be eligible for certification as a disadvantaged business enterprise if:

(1) The business enterprise seeking certification as a disadvantaged business enterprise is a local business enterprise;

(2) In the event of a parent-subsidary affiliation, both enterprises meet the requirements of subsection (a) of this section; and

(3) The business enterprise has an average annualized gross receipts totaling \$75 million or less.

(Oct. 20, 2005, D.C. Law 16-33, § 2333, 52 DCR 7503; Mar. 2, 2007, D.C. Law 16-192, § 2132(c), 53 DCR 6899; Apr. 20, 2010, D.C. Law 18-141, § 2(f), 57 DCR 1485.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 16-192 repealed subsec. (a)(2)(B); and, in subsec. (b)(1), deleted "or a qualified metropolitan area business enterprise" following "local business enterprise". Prior to repeal, subsec. (a)(2)(B) read as follows:

"(B) Is a qualified metropolitan area business enterprise;"

D.C. Law 18-141, in subsec. (b), deleted "and" from the end of par. (1); substituted "; and" for a period at the end of par. (2), and added par. (3).

Emergency Act Amendments

For temporary (90 day) addition, see § 2333 of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

For temporary (90 day) amendment of section, see § 2132(c) of Fiscal Year 2007 Budget Support Emergency Act of 2006 (D.C. Act 16-477, August 8, 2006, 53 DCR 7068).

For temporary (90 day) amendment of section, see § 2132(c) of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2006 (D.C. Act 16-499, October 23, 2006, 53 DCR 8845).

For temporary (90 day) amendment of section, see § 2132(c) of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2007 (D.C. Act 17-1, January 16, 2007, 54 DCR 1165).

Legislative History of Laws

For Law 16-33, see notes following § 2-218.01.

For Law 16-192, see notes following § 2-218.31.

For Law 18-141, see notes following § 2-218.02.

§ 2-218.34. QUALIFIED METROPOLITAN AREA BUSINESS ENTERPRISES.[REPEALED]

(Oct. 20, 2005, D.C. Law 16-33, § 2334, 52 DCR 7503; Mar. 3, 2007, D.C. Law 16-192, § 2132(d), 53 DCR 6899.)

HISTORICAL AND STATUTORY NOTES

Emergency Act Amendments

For temporary (90 day) addition, see § 2334 of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

For temporary (90 day) repeal of section, see § 2132(d) of Fiscal Year 2007 Budget Support Emergency Act of 2006 (D.C. Act 16-477, August 8, 2006, 53 DCR 7068).

For temporary (90 day) repeal of section, see § 2132(d) of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2006 (D.C. Act 16-499, October 23, 2006, 53 DCR 8845).

For temporary (90 day) repeal of section, see § 2132(d) of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2007 (D.C. Act 17-1, January 16, 2007, 54 DCR 1165).

Legislative History of Laws

For Law 16-33, see notes following § 2-218.01.

For Law 16-192, see notes following § 2-218.31.

§ 2-218.35. RESIDENT-OWNED BUSINESSES.

A business enterprise shall be eligible for certification as a resident-owned business if it meets the

definition of resident-owned business pursuant to § 2-218.02.

(Oct. 20, 2005, D.C. Law 16-33, § 2335, 52 DCR 7503.)

HISTORICAL AND STATUTORY NOTES

Emergency Act Amendments

For temporary (90 day) addition, see § 2335 of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

Legislative History of Laws

For Law 16-33, see notes following § 2-218.01.

§ 2-218.36. LONGTIME RESIDENT BUSINESSES.

A business enterprise shall be eligible for certification as a longtime resident business if it meets the definition of longtime resident business pursuant to § 2-218.02.

(Oct. 20, 2005, D.C. Law 16-33, § 2336, 52 DCR 7503.)

HISTORICAL AND STATUTORY NOTES

Emergency Act Amendments

For temporary (90 day) addition, see § 2336 of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

Legislative History of Laws

For Law 16-33, see notes following § 2-218.01.

§ 2-218.37. LOCAL BUSINESS ENTERPRISES WITH PRINCIPAL OFFICES LOCATED IN AN ENTERPRISE ZONE.

A local business enterprise shall be eligible for certification as a local business enterprise with principal offices located in an enterprise zone if its principal offices are located in an enterprise zone as defined by § 2-218.02.

(Oct. 20, 2005, D.C. Law 16-33, § 2337, 52 DCR 7503.)

HISTORICAL AND STATUTORY NOTES

Emergency Act Amendments

For temporary (90 day) addition, see § 2337 of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

Legislative History of Laws

For Law 16-33, see notes following § 2-218.01.

§ 2-218.38. VETERAN-OWNED BUSINESS ENTERPRISES.

A business enterprise shall be eligible for certification as a veteran-owned business enterprise if the business enterprise:

- (1) Meets the definition of a small business enterprise as described in § 2-218.32;
- (2) Is not less than 51% owned and operated by one or more veterans (as defined in 38 U.S.C. § 101(2));
- (3) In the case of any publicly owned business, not less than 51% of the stock of which is owned by one or more veterans; and
- (4) One or more veterans control the management and daily operations.

(Oct. 20, 2005, D.C. Law 16-33, § 2338, as added Apr. 20, 2010, D.C. Law 18-141, § 2(g), 57 DCR 1485.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 18-141, see notes following § 2-218.02.

§ 2-218.39. LOCAL MANUFACTURING BUSINESS ENTERPRISES.

A business enterprise shall be eligible for certification as a local manufacturing business enterprise if the business enterprise:

- (1) Meets the definition of a local business enterprise as described in § 2- 218.31;
- (2) Makes a product through a process involving raw materials, components, or assemblies, usually on a large scale, with different operations divided among different workers;
- (3) Has an annual revenue of \$2 million in the manufactured product; and
- (4) Has its principal location of manufacturing in the District of Columbia.

(Oct. 20, 2005, D.C. Law 16-33, § 2339, as added Apr. 20, 2010, D.C. Law 18-141, § 2(g), 57 DCR 1485.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 18-141, see notes following § 2-218.02.

§ 2-218.39A. JOINT VENTURE BUSINESS ENTERPRISES.

(a) A business enterprise shall be eligible for certification as a joint venture business enterprise if the joint venture has a member that owns a majority interest or minority interest in the joint venture business enterprise and meets the definition of a certified business enterprise pursuant to § 2- 218.02.

(b) For the purposes of this section, the term:

(1) "Majority interest" means:

(A) More than 50% of the total combined voting power of all classes of stock of the joint venture business enterprise or more than 50% of the total value of all of the joint venture business enterprise;

(B) A financial contribution to the enterprise of more than 50%; and

(C) More than 50% of the total interest in the capital, profits, and loss, or beneficial interest in the joint venture business enterprise.

(2) "Minority interest" means:

(A) Less than 50% of the total combined voting power of all classes of stock of the joint venture business enterprise or less than 50% of the total value of all of the joint venture business enterprise;

(B) A financial contribution to the enterprise of less than 50%; and

(C) Less than 50% of the total interest in the capital, profits, and loss, or beneficial interest in the joint venture business enterprise.

(c) The Department shall consider the defined contributions and defined benefits provided by each member of the joint venture, which shall be demonstrated by the following information:

(1) Organizational documents of the joint venture, including the joint venture agreement, the operating agreement, and any other agreement between or among the members; and

(2) Documentation of the financial contribution of each member, including access to bank records and organizational resolutions and agreements.

(d) Decisions concerning the affairs of the business shall require the consent of those members with voting rights holding at least a majority interest in the business.

(Oct. 20, 2005, D.C. Law 16-33, § 2339a, as added Apr. 20, 2010, D.C. Law 18-141, § 2(g), 57 DCR 1485.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 18-141, see notes following § 2-218.02.

SUBPART 2. REQUIREMENTS OF PROGRAMS.

§ 2-218.41. GOALS FOR DISTRICT AGENCIES WITH RESPECT TO CONTRACTING AND PROCUREMENT WITH SMALL BUSINESS ENTERPRISES.

(a) Each agency, including an agency that contracts or procures in whole or in part through the Office of

Contracting and Procurement, shall exercise its contracting and procurement authority so as to meet, on an annual basis, the goal of procuring and contracting 50% of the dollar volume of its goods and services, including construction goods and services, to small business enterprises.

(b) The dollar volume referenced in subsection (a) of this section shall be based on the expendable budget of the agency.

(Oct. 20, 2005, D.C. Law 16-33, § 2341, 52 DCR 7503.)

HISTORICAL AND STATUTORY NOTES

Emergency Act Amendments

For temporary (90 day) addition, see § 2341 of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

Legislative History of Laws

For Law 16-33, see notes following § 2-218.01.

§ 2-218.42. REQUIRED PROGRAMS, PROCEDURES, AND POLICIES TO ACHIEVE CONTRACTING AND PROCUREMENT GOALS.

To achieve the goals set forth in this subchapter, the Department shall establish by rules issued pursuant to § 2-218.72, programs for certified business enterprises. The Department shall include among these programs:

- (1) A bid preference mechanism for certified business enterprises with principal offices located in an enterprise zone;
- (2) A set-aside program for small business enterprises; and
- (3) A set-aside program for certified business enterprises for the District of Columbia Supply Schedule.

(Oct. 20, 2005, D.C. Law 16-33, § 2342, 52 DCR 7503; July 18, 2008, D.C. Law 17-207, § 2(g), 55 DCR 6107; Mar. 25, 2009, D.C. Law 17-353, § 243, 56 DCR 1117; Sept. 26, 2012, D.C. Law 19-171, § 12(b), 59 DCR 6190.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 17-207, in the introductory language, substituted "certified business enterprises" for "local and disadvantaged business enterprises, resident-owned businesses, resident businesses, and local business enterprises with principal offices located in an enterprise zone"; and, in par. (3), substituted "certified" for "local, small, and disadvantaged".

D.C. Law 17-353 validated previously made technical corrections in the introductory language and par. (3).

D.C. Law 19-171, in par. (1), substituted "certified" for "local and disadvantaged business enterprises, resident-owned businesses, resident businesses, and local".

Temporary Amendments of Section

For temporary (225 day) amendment of section, see § 2(g) of the Department of Small and Local Business Development Subcontracting Clarification, Benefit Expansion, and Grant-making Authority Temporary Amendment Act of 2007 (D.C. Law 17-96, January 29, 2008, law notification 55 DCR 3403).

Emergency Act Amendments

For temporary (90 day) addition, see § 2342 of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

For temporary (90 day) amendment of section, see § 2(g) of Department of Small and Local Business Development Subcontracting Clarification, Benefit Expansion, and Grant-making Authority Emergency Amendment Act of 2007 (D.C. Act 17-156, October 18, 2007, 54 DCR 10919).

For temporary (90 day) amendment of section, see § 2(g) of Department of Small and Local Business Development Subcontracting Clarification, Benefit Expansion, and Grant-making Authority Congressional Review Emergency Amendment Act of 2008 (D.C. Act 17-251, January 23, 2008, 55 DCR 1259).

Legislative History of Laws

For Law 16-33, see notes following § 2-218.01.

For Law 17-207, see notes following § 2-218.02.

Law 17-353, the "Technical Amendments Act of 2008", was introduced in Council and assigned Bill No. 17-

994 which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 2, 2008, and December 16, 2008, respectively. Signed by the Mayor on January 15, 2009, it was assigned Act No. 17-687 and transmitted to both Houses of Congress for its review. D.C. Law 17-353 became effective on March 25, 2009.

For history of Law 19-171, see notes under § 2-218.13.

§ 2-218.43. BID AND PROPOSAL PREFERENCES.

(a) In evaluating bids or proposals, agencies shall award preferences as follows:

(1) In the case of proposals, points shall be granted as follows:

- (A) Three points for a small business enterprise;
- (B) Five points for a resident-owned business;
- (C) Five points for a longtime resident business;
- (D) Two points for a local business enterprise;
- (E) Two points for a local business enterprise with its principal office located in an enterprise zone;
- (F) Two points for a disadvantaged business enterprise;
- (G) Two points for a veteran-owned business enterprise; and
- (H) Two points for a local manufacturing business enterprise.

(2) In the case of bids, a percentage reduction in price shall be granted as follows:

- (A) Three percent for a small business enterprise;
- (B) Five percent for a resident-owned business;
- (C) Ten percent for a longtime resident business;
- (D) Two percent for a local business enterprise;
- (E) Two percent for a local business enterprise with its principal office located in an enterprise zone; and
- (F) Two percent for a disadvantaged business enterprise.

(b) A certified business enterprise shall be entitled to any or all of the preferences provided in this section, but in no case shall a certified business enterprise be entitled to a preference of more than 12 points or a reduction in price of more than 12 percent.

(Oct. 20, 2005, D.C. Law 16-33, § 2343, 52 DCR 7503; Mar. 14, 2007, D.C. Law 16-266, § 2(b), 54 DCR 829; July 18, 2008, D.C. Law 17-207, § 2(h), 55 DCR 6107; Apr. 20, 2010, D.C. Law 18-141, § 2(h), 57 DCR 1485; Sept. 26, 2012, D.C. Law 19-171, § 13(b), 59 DCR 6190.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 16-266, in subsec. (a)(1)(B), substituted "Five points" for "Three points"; and, in (a)(2)(B), substituted "Five percent" for "Three percent".

D.C. Law 17-207, in pars. (1)(B) and (2)(B), inserted "a" preceding "resident-owned".

D.C. Law 18-141, in subsec. (a)(1), substituted "Five points" for "Ten points" in subpar. (C), deleted "and" from the end of subpar. (E); substituted "; and" for a period at the end of subpar. (F), and added subpars. (G) and (H).

D.C. Law 19-171 repealed subsection (h)(3) of D.C. Law 18-141 that substituted "; and" for a period at the end of subpar. (a)(1)(F).

Temporary Amendments of Section

For temporary (225 day) amendment of section, see § 2(h) of the Department of Small and Local Business Development Subcontracting Clarification, Benefit Expansion, and Grant-making Authority Temporary Amendment Act of 2007 (D.C. Law 17-96, January 29, 2008, law notification 55 DCR 3403).

Emergency Act Amendments

For temporary (90 day) addition, see § 2343 of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

For temporary (90 day) amendment of section, see § 2(h) of Department of Small and Local Business Development Subcontracting Clarification, Benefit Expansion, and Grant-making Authority Emergency Amendment Act of 2007 (D.C. Act 17-156, October 18, 2007, 54 DCR 10919).

For temporary (90 day) amendment of section, see § 2(h) of Department of Small and Local Business Development Subcontracting Clarification, Benefit Expansion, and Grant-making Authority Congressional Review Emergency Amendment Act of 2008 (D.C. Act 17-251, January 23, 2008, 55 DCR 1259).

Legislative History of Laws

For Law 16-33, see notes following § 2-218.01.

For Law 16-266, see notes following § 2-218.02.

For Law 17-207, see notes following § 2-218.02.

For Law 18-141, see notes following § 2-218.02.

For history of Law 19-171, see notes under § 2-218.13.

§ 2-218.44. MANDATORY SET-ASIDES OF SMALL CONTRACTS FOR SMALL BUSINESS ENTERPRISES.

(a) Except as provided in § 2-218.45, each agency shall set aside every contract or procurement of \$100,000 or less for small business enterprises; provided, that the agency shall not be required to set aside a contract or procurement if the agency determines in writing that there are not at least 2 responsible certified small business enterprises that can provide the services or goods which are the subject of the contract.

(b) An agency may refuse to award a contract or procurement set aside under this section, and may thereafter issue the contract or procurement in the open market if the agency determines in writing that the bids for the contract or procurement set aside for a small business enterprise are believed to be 12% or more above the likely price on the open market.

(Oct. 20, 2005, D.C. Law 16-33, § 2344, 52 DCR 7503.)

HISTORICAL AND STATUTORY NOTES

Emergency Act Amendments

For temporary (90 day) addition, see § 2344 of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

Legislative History of Laws

For Law 16-33, see notes following § 2-218.01.

§ 2-218.45. MANDATORY SET-ASIDES OF CONTRACTS IN THE DISTRICT OF COLUMBIA SUPPLY SCHEDULE FOR SMALL BUSINESS ENTERPRISES.

Each agency shall set aside every contract of \$100,000 or less for the District of Columbia Supply Schedule for small business enterprises; provided, that the agency shall not be required to set aside a contract if the agency determines in writing that there are not at least 2 responsible certified small business enterprises on the DCSS that can provide the services or goods which are the subject of the contract.

(Oct. 20, 2005, D.C. Law 16-33, § 2345, 52 DCR 7503.)

HISTORICAL AND STATUTORY NOTES

Emergency Act Amendments

For temporary (90 day) addition, see § 2345 of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

Legislative History of Laws

For Law 16-33, see notes following § 2-218.01.

§ 2-218.46. PERFORMANCE AND SUBCONTRACTING REQUIREMENTS FOR CONSTRUCTION AND NON-CONSTRUCTION CONTRACTS; SUBCONTRACTING PLANS.

(a)(1) All construction contracts in excess of \$250,000 shall include the following requirements:

(A) At least 35% of the dollar volume shall be subcontracted to small business enterprises; provided, that the costs of materials, goods, and supplies shall not be counted towards the 35% subcontracting requirement unless such materials, goods, and supplies are purchased from small

business enterprises; or

(B) If there are insufficient qualified small business enterprises to completely fulfill the requirement of subparagraph (A) of this paragraph, then the subcontracting requirement may be satisfied by subcontracting 35% of the dollar volume to any certified business enterprises; provided, that all reasonable efforts shall be made to ensure that qualified small business enterprises are significant participants in the overall subcontracting work.

(2) All non-construction contracts in excess of \$250,000, unless a waiver has been approved by the Office of Contracting and Procurement, shall include the following requirements:

(A) At least 35% of the dollar volume shall be subcontracted to small business enterprises; provided, that the costs of materials, goods, and supplies shall not be counted towards the 35% subcontracting requirement unless such materials, goods, and supplies are purchased from small business enterprises; or

(B) If there are insufficient qualified small business enterprises to completely fulfill the requirement of subparagraph (A) of this paragraph, then the subcontracting requirement may be satisfied by subcontracting 35% of the dollar volume to any certified business enterprises; provided, that all reasonable efforts shall be made to ensure that qualified small business enterprises are significant participants in the overall subcontracting work.

(3) For the purposes of this section, a business enterprise certified as a small business enterprise, local business enterprise, or disadvantaged business enterprise shall not have to comply with the requirements set forth in paragraphs (1) or (2) of this subsection.

(b)(1)(A) Each construction contract for which a certified business enterprise is selected as a prime contractor and is granted points or a price reduction pursuant to § 2-218.43 or is selected through a set-aside program under this subpart shall include a requirement that the business enterprise perform at least 35% of the contracting effort, excluding the cost of materials, goods, and supplies, with its own organization and resources and, if it subcontracts, 35% of the subcontracted effort, excluding the cost of materials, goods, and supplies, shall be with certified business enterprises.

(B) If the total of the contracting effort, excluding the cost of materials, good, and supplies, proposed to be performed by certified business enterprises is less than the amount required by subparagraph (A) of this paragraph, then the business enterprise shall not be eligible to receive preference points or price reductions for a period of not less than 2 years.

(2)(A) Each construction contract for which a joint venture is selected as a prime contractor and is granted points or a price reduction pursuant to § 2- 218.43 or is selected through a set-aside program under this subpart shall include a requirement that the certified business enterprise perform at least 50% of the contracting effort, excluding the cost of materials, goods, and supplies, with its own organization and resources and, if the joint venture subcontracts, 35% of the subcontracted effort, excluding the cost of materials, goods, and supplies, shall be with certified business enterprises.

(B) If the total of the contracting effort, excluding the cost of materials, good, and supplies, proposed to be performed by certified business enterprises is less than the amount required by subparagraph (A) of this paragraph, then the business enterprise shall not be eligible to receive preference points or price reductions for a period of not less than 2 years.

(c) Each construction contract of \$1 million or less for which a certified business enterprise is selected as a prime contractor and is granted points or a price reduction pursuant to § 2-218.43 or is selected through a set-aside program under this subpart shall include a requirement that the business enterprise perform at least 50% of the on-site work with its own work force.

(d) Bids or proposals responding to a solicitation, including an open market solicitation, shall be deemed nonresponsive and shall be rejected if the law requires subcontracting and the prime contractor fails to submit a subcontracting plan as part of its bid or proposal. A certified business enterprise subcontracting plan shall specify the following:

- (1) The name and address of the subcontractor;
- (2) Whether the subcontractor is currently certified as a certified business enterprise;
- (3) The scope of work to be performed by the subcontractor; and
- (4) The price to be paid by the contractor to the subcontractor.

(e) No prime contractor shall be allowed to amend the subcontracting plan filed as part of its bid or proposal except with the consent of the contracting officer and the Director. Any reduction in the dollar volume of the subcontracted portion resulting from such amendment of the plan shall insure to the benefit of the District.

(f) No multiyear contracts or extended contracts in which the options or extensions exceed \$1 million in value, which are not in compliance with this subchapter at the time of the contemplated exercise of the option or extension, shall be renewed or extended, and any such option or extension shall be void.

(g) The subcontracting requirements of this section may be waived pursuant to § 2-218.51.

(h) A prime contractor shall submit to the contracting officer and the Director copies of the executed contracts with the subcontracts identified in the subcontracting plan. Failure to submit copies of the executed contracts shall render the underlying contract voidable by the District.

(i) Beginning on April 20, 2010, each contractor or beneficiary shall provide a copy of the contract, which includes the subcontracting plan for utilization of certified business enterprises, within 10 business days of its execution to the Office of District of Columbia Auditor. A quarterly report shall be provided to the Department and the Office of District of Columbia Auditor by the contractor or beneficiary, which shall include a list of each subcontractor identified in the subcontracting plan for utilization of certified business enterprises, and for each subcontract:

- (1) The price to be paid by the contractor to the subcontractor;
- (2) A description of the goods procured or the services contracted for; and
- (3) The amount paid by the contractor to the subcontractor.

(Oct. 20, 2005, D.C. Law 16-33, § 2346, 52 DCR 7503; Mar. 2, 2007, D.C. Law 16-192, § 2132(e), 53 DCR 6899; July 18, 2008, D.C. Law 17-207, § 2(i), 55 DCR 6107; Apr. 20, 2010, D.C. Law 18-141, § 2(i), 57 DCR 1485; May 27, 2010, D.C. Law 18-159, § 2(b), 57 DCR 3006; Sept. 26, 2012, D.C. Law 19- 171, § 12(c), 59 DCR 6190.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 16-192, in the section heading, inserted "and non-construction" following "construction"; added subsec. (a)(3); in subsec. (e), substituted "dollar volume" for "dollar value"; and added subsec. (h).

D.C. Law 17-207 rewrote subsec. (a); and, in subssecs. (b), (c), and (d), substituted "certified" for "small, local, or disadvantaged". Prior to amendment, subsec. (a) read as follows:

"(a)(1) All construction contracts shall include a requirement that at least 35% of the dollar value, excluding the cost of materials, goods, and supplies, be subcontracted to small business enterprises, except that if there are insufficient qualified small business enterprises to fulfill this requirement, then 35% of the dollar value, excluding the cost of materials, goods, and supplies, shall be subcontracted to local, small, or disadvantaged business enterprises.

"(2) Reserved.

"(3) All non-construction contracts in which a portion will be subcontracted shall include a requirement that at least 35% of the dollar volume, excluding the cost of materials, goods, and supplies, be subcontracted to local small business enterprises, except that if there are insufficient qualified local small business enterprises to fulfill this requirement, then 35% of the dollar volume, excluding the cost of materials, goods, and supplies, shall be subcontracted to local, small, or disadvantaged business enterprises."

D.C. Law 18-141, in subsec. (a)(2), substituted "excess of \$250, 000, unless a waiver has been approved by the Office of Contracting and Procurement," for "which a portion of the work is subcontracted"; added subsec. (a)(3); in subsec. (d), substituted "the law requires subcontracting" for "the solicitation requires submission of a certified business enterprise subcontracting plan"; and added subsec. (i).

D.C. Law 18-159, in subsec. (i), substituted "each contractor or beneficiary shall provide a copy of the contract," for "each developer or beneficiary shall provide a copy of the certified business agreement,".

D.C. Law 19-171, in subsec. (i), substituted "contractor" for "developer".

Temporary Amendments of Section

For temporary (225 day) amendment of section, see § 2(a) of Department of Small and Local Business Development Clarification Temporary Amendment Act of 2005 (D.C. Law 16-49, February. 9, 2006, law notification 53 DCR 1457).

For temporary (225 day) amendment of section, see § 2(d) of the Department of Small and Local Business Development Subcontracting Clarification Temporary Amendment Act of 2006 (D.C. Law 16-214, March 6, 2007, law notification 54 DCR 2761).

For temporary (225 day) amendment of section, see § 2(i) of the Department of Small and Local Business Development Subcontracting Clarification, Benefit Expansion, and Grant-making Authority Temporary Amendment Act of 2007 (D.C. Law 17-96, January 29, 2008, law notification 55 DCR 3403).

Emergency Act Amendments

For temporary (90 day) addition, see § 2346 of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

For temporary (90 day) amendment of section, see § 2(a) of Department of Small and Local Business Development Clarification Emergency Act of 2005 (D.C. Act 16-191, October 28, 2005, 52 DCR 10026).

For temporary (90 day) amendment of section, see § 2(a) of Department of Small and Local Business

Development Clarification Congressional Review Emergency Act of 2006 (D.C. Act 16-301, February 27, 2006, 53 DCR 1883).

For temporary (90 day) amendment of section, see § 2132(e) of Fiscal Year 2007 Budget Support Emergency Act of 2006 (D.C. Act 16-477, August 8, 2006, 53 DCR 7068).

For temporary (90 day) amendment of section, see § 2132(e) of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2006 (D.C. Act 16-499, October 23, 2006, 53 DCR 8845).

For temporary (90 day) amendment of section, see § 2(d) of Department of Small and Local Business Development Subcontracting Clarification Emergency Amendment Act of 2006 (D.C. Act 16-513, October 25, 2006, 53 DCR 9091).

For temporary (90 day) amendment of section, see § 2(d) of Department of Small and Local Business Development Subcontracting Clarification Congressional Review Emergency Amendment Act of 2006 (D.C. Act 16-575, December 19, 2006, 54 DCR 24).

For temporary (90 day) amendment of section, see § 2132(e) of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2007 (D.C. Act 17-1, January 16, 2007, 54 DCR 1165).

For temporary (90 day) amendment of section, see § 2(i) of Department of Small and Local Business Development Subcontracting Clarification, Benefit Expansion, and Grant-making Authority Emergency Amendment Act of 2007 (D.C. Act 17-156, October 18, 2007, 54 DCR 10919).

For temporary (90 day) amendment of section, see § 2(i) of Department of Small and Local Business Development Subcontracting Clarification, Benefit Expansion, and Grant-making Authority Congressional Review Emergency Amendment Act of 2008 (D.C. Act 17-251, January 23, 2008, 55 DCR 1259).

Legislative History of Laws

For Law 16-33, see notes following § 2-218.01.

For Law 16-192, see notes following § 2-218.31.

For Law 17-207, see notes following § 2-218.02.

For Law 18-141, see notes following § 2-218.02.

Law 18-159, the "Small Business Stabilization and Job Creation Strategy Amendment Act of 2010", was introduced in Council and assigned Bill No. 18-457, which was referred to the Committee on Economic Development. The bill was adopted on first and second readings on February 2, 2010, and March 2, 2010, respectively. Signed by the Mayor on March 25, 2010, it was assigned Act No. 18-350 and transmitted to both Houses of Congress for its review. D.C. Law 18- 159 became effective on May 27, 2010.

For history of Law 19-171, see notes under § 2-218.13.

§ 2-218.47. UNBUNDLING REQUIREMENT.

The Mayor shall establish procedures to ensure that solicitations are subdivided and unbundled and that smaller contracts are created to the extent feasible and fiscally prudent.

(Oct. 20, 2005, D.C. Law 16-33, § 2347, 52 DCR 7503.)

HISTORICAL AND STATUTORY NOTES

Emergency Act Amendments

For temporary (90 day) addition, see § 2347 of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

Legislative History of Laws

For Law 16-33, see notes following § 2-218.01.

§ 2-218.48. ENFORCEMENT AND PENALTIES FOR WILLFUL BREACH OF SUBCONTRACTING PLAN.

(a) There shall be a rebuttable presumption that a contractor willfully breached a subcontracting plan for utilization of certified business enterprises in the performance of a contract if the contractor:

- (1) Fails to submit any required subcontracting plan monitoring or compliance report;
- (2) Submits a monitoring or compliance report containing a false statement; or
- (3) Fails to disclose required information.

(b) The presumption that a contractor willfully breached a subcontracting plan for utilization of certified business enterprises may be rebutted with a showing, by clear and convincing evidence, of full compliance

with the requirements set forth in the subcontracting plan for utilization of certified business enterprises.

(c) A contractor that is found to have willfully breached a subcontracting plan for utilization of certified business enterprises shall be subject to the imposition of penalties, including monetary fines of \$ 15,000 or 5% of the total amount of the work that the contractor was to subcontract to certified business enterprises, whichever is greater, for each breach.

(Oct. 20, 2005, D.C. Law 16-33, § 2348, 52 DCR 7503; July 18, 2008, D.C. Law 17-207, § 2(j), 55 DCR 6107; Apr. 20, 2010, D.C. Law 18-141, § 2(j), 57 DCR 1485; May 27, 2010, D.C. Law 18-159, § 2(c), 57 DCR 3006.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 17-207 substituted "certified business enterprises" for "local, small, or disadvantaged businesses" in two places.

D.C. Law 18-141 rewrote the section, which had read as follows:

"The willful breach by a contractor of a subcontracting plan for utilization of certified business enterprises in the performance of a contract, the failure to submit any required subcontracting plan monitoring or compliance report, or the deliberate submission of falsified data may be enforced by the Department through the imposition of penalties, including monetary fines of \$15,000 or 5% of the total amount of the work that the contractor was to subcontract to certified business enterprises, whichever is greater, for each such breach, failure, or falsified submission."

D.C. Law 18-159, in subsec. (a), deleted "or" from the end of par. (1), rewrote par. (2), and added par. (3). Prior to amendment, subsec. (a)(2) read as follows:

"(2) Submits a monitoring or compliance report with the intent to defraud, by means of a false statement, failure to disclose information, or other fraudulent scheme or device."

Temporary Amendments of Section

For temporary (225 day) amendment of section, see § 2(j) of the Department of Small and Local Business Development Subcontracting Clarification, Benefit Expansion, and Grant-making Authority Temporary Amendment Act of 2007 (D.C. Law 17-96, January 29, 2008, law notification 55 DCR 3403).

Emergency Act Amendments

For temporary (90 day) addition, see § 2348 of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

For temporary (90 day) amendment of section, see § 2(j) of Department of Small and Local Business Development Subcontracting Clarification, Benefit Expansion, and Grant-making Authority Emergency Amendment Act of 2007 (D.C. Act 17-156, October 18, 2007, 54 DCR 10919).

For temporary (90 day) amendment of section, see § 2(j) of Department of Small and Local Business Development Subcontracting Clarification, Benefit Expansion, and Grant-making Authority Congressional Review Emergency Amendment Act of 2008 (D.C. Act 17-251, January 23, 2008, 55 DCR 1259).

Legislative History of Laws

For Law 16-33, see notes following § 2-218.01.

For Law 17-207, see notes following § 2-218.02.

For Law 18-141, see notes following § 2-218.02.

For Law 18-159, see notes following § 2-218.46.

§ 2-218.49. OTHER PROCEDURES AND PROGRAMS.

(a) The Mayor shall establish policies and procedures to maximize the participation of certified business enterprises in the contracting and procurement processes, including:

(1) A procedure whereby an agency may waive bid security requirements on contracts in excess of \$100,000, where the waiver is appropriate to achieve the purposes of this subchapter; and

(2) A policy whereby an agency shall make advance payments to a certified contractor, where the payments are necessary to achieve the purposes of this subchapter.

(b) The Mayor may establish a pilot set-aside program for small business enterprises with gross revenues of \$5 million or less.

(Oct. 20, 2005, D.C. Law 16-33, § 2349, 52 DCR 7503; July 18, 2008, D.C. Law 17-207, § 2(k), 55 DCR 6107.)

Effect of Amendments

D.C. Law 17-207, in subsec. (a), substituted "certified" for "small, local, and disadvantaged".

Emergency Act Amendments

For temporary (90 day) addition, see § 2349 of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

Legislative History of Laws

For Law 16-33, see notes following § 2-218.01.

For Law 17-207, see notes following § 2-218.02.

§ 2-218.49A. EQUITY AND DEVELOPMENT PARTICIPATION.

(a) Local business enterprises, small business enterprises, or disadvantaged business enterprises shall receive 20% in equity participation and 20% in development participation in all development projects supported by District funds and in all development projects that take place on District-owned property.

(a-1)(1) No more than 25% of the total 20% equity participation requirement ("equal to 5%") set forth in subsection (a) of this section may be met by a certified business enterprise providing development services in lieu of a cash equity investment that will be compensated by the developer in the future at a date certain ("sweat equity contribution").

(2) The developer and the certified business enterprise shall sign a service agreement describing the following:

- (A) A detailed description of the scope of work that the certified business enterprise will perform;
- (B) The dollar amount that the certified business enterprise will be compensated for its services and the amount the certified business enterprise is forgoing as an investment in a project;
- (C) The date or time period when the certified business enterprise will receive compensation;
- (D) The return, if any, the certified business enterprise will receive on its sweat equity contribution; and
- (E) An explanation of when the certified business enterprise will receive its return as compared to other team members or investors.

(3) If a developer is unable to meet the 20% equity participation requirement, including sweat equity contribution and cash equity investment, the developer shall pay to the District the outstanding cash equity amount as a fee in lieu of the unmet equity participation requirement. Any fee collected in accordance with this provision shall be deposited into the Small Business Micro Loan Fund established by § 2-218.75(b).

(4) Any administrative costs associated with subsection (a)(3) of this section shall be reimbursed through fees collected by the District as a result of unmet equity and development participation requirements. The collected fees shall be used as follows:

- (A) Fifty percent shall be used to support vocational training programs benefitting District residents.
- (B) The remainder shall be used to provide:
 - (i) Low-interest loans for small businesses located in a Main Street, Great Street, or underserved area in the District; and
 - (ii) Grants to small businesses negatively impacted by District subsidized construction or street-scaping projects.
- (C) The prescribed uses of the Small Business Micro Loan Fund established by this paragraph shall be in addition to the uses of the Small Business Micro Loan Fund established by § 2-218.75(b).

(5) The Department of Small and Local Business Development shall:

- (A) Issue a solicitation for the grant and loan applications described in paragraph (4)(B) of this subsection;
- (B) Manage, receive, and review the grant and loan applications; and
- (C) Determine which vocational training programs and small businesses shall receive assistance pursuant to paragraph (4)(A) and (B) of this subsection.

(b) The participation requirement shall include all development projects undertaken by government corporations and all development projects resulting from contractual relationships where District owned

real property is transferred to a third party.

(c) The Mayor shall promulgate proposed rules to implement the provisions of this section within 90 days of March 2, 2007. The Mayor shall submit the proposed rules to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within the 45-day review period, the proposed rules shall be deemed approved.

(d) This section shall not apply if the entity that controls the development project is an entity tax-exempt under section 501(c) of the Internal Revenue Code of 1986, approved August 16, 1954 (68A Stat. 163; 26 U.S.C. § 501(c)), or other not-for-profit entity.

(e) This section shall not apply to any development project for which a contract for purchase of one or more parcels of real property has been executed prior to March 2, 2007.

(Oct. 20, 2005, D.C. Law 16-33, § 2349a, as added Mar. 2, 2007, D.C. Law 16-192, § 2132(f), 53 DCR 6899; Apr. 20, 2010, D.C. Law 18-141, § 2(k), 57 DCR 1485; Apr. 8, 2011, D.C. Law 18-357, § 2(a), 58 DCR 763.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 18-141 rewrote subsec. (a); and added subsec. (a-1). Prior to amendment, subsec. (a) read as follows:

"(a) Local, small, and disadvantaged business enterprises shall receive 20% in equity and development participation in all development projects supported by District funds and in all development projects that take place on District owned property."

D.C. Law 18-357, in subsec. (a-1)(3), substituted "in lieu of the unmet equity participation requirement. Any fee collected in accordance with this provision shall be deposited into the Small Business Micro Loan Fund established by § 2-218.75(b)." for "in lieu of the unmet equity participation requirement."; added subsec. (a-1)(4)(C); and, in subsec. (a-1)(5), substituted "Department of Small and Local Business Development" for "Office of the Deputy Mayor for Planning and Economic Development".

Emergency Act Amendments

For temporary (90 day) addition of section, see § 2132(f) of Fiscal Year 2007 Budget Support Emergency Act of 2006 (D.C. Act 16-477, August 8, 2006, 53 DCR 7068).

For temporary (90 day) addition of section, see § 2132(f) of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2006 (D.C. Act 16-499, October 23, 2006, 53 DCR 8845).

For temporary (90 day) addition of section, see § 2132(f) of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2007 (D.C. Act 17-1, January 16, 2007, 54 DCR 1165).

For temporary (90 day) amendment of section, see § 2(a) of Alternative Equity Payment Allocation Emergency Amendment Act of 2010 (D.C. Act 18-589, October 20, 2010, 57 DCR 10143).

For temporary (90 day) amendment of section, see § 2(a) of Alternative Equity Payment Allocation Congressional Review Emergency Amendment Act of 2011 (D.C. Act 19-1, February 2, 2011, 58 DCR 1236).

Legislative History of Laws

For Law 16-192, see notes following § 2-218.31.

For Law 18-141, see notes following § 2-218.02.

Law 18-357, the "Alternative Equity Payment Allocation Amendment Act of 2010", was introduced in Council and assigned Bill No. 18-1047, which was referred to the Committee on Economic Development. The Bill was adopted on first and second readings on December 7, 2010, and December 21, 2010, respectively. Signed by the Mayor on January 19, 2011, it was assigned Act No. 18-357 and transmitted to both Houses of Congress for its review. D.C. Law 18-357 became effective on April 8, 2011.

§ 2-218.50. SPECIAL REQUIREMENTS FOR GOVERNMENT CORPORATIONS.

(a) A government corporation shall comply with all provisions of this subchapter.

(b)(1)(A) A government corporation shall take all measures as shall be reasonably necessary to assure that all contracts entered into by the government corporation, or any agency or subsidiary of the government corporation, with respect to each major phase of the development and construction of a project undertaken by the government corporation, including contracts for professional services, architectural, engineering, and other construction-related services and construction trade work, shall provide that at least 35% of the work on the project shall be awarded to small business enterprises;

provided, that the costs of materials, goods, and supplies shall not be counted towards the 35% subcontracting requirement unless such materials, goods, and supplies are purchased from small business enterprises.

(B) If there are insufficient qualified small business enterprises to fulfill the small business enterprise contracting requirement, then the subcontracting requirement may be satisfied by subcontracting 35% of the dollar volume of the project to any certified business enterprises; provided, that all reasonable efforts shall be made to ensure that qualified small business enterprises are significant participants in the overall subcontracting work.

(2) Of the work required to be awarded pursuant to paragraph (1) of this subsection, at least 10% of those business enterprises shall be located in the ward in which the work is being performed.

(3) If 35% of the work required to be awarded pursuant to paragraph (1) of this subsection, is unattainable, the government corporation shall report this fact to the Council for reconsideration of this requirement.

(c) The subcontracting requirement of subsection (b) of this section may be waived pursuant to § 2-218.51.

(d)(1) A government corporation shall take all measures as shall be reasonably necessary to assure that all contracts entered into by the government corporation, or any agency or subsidiary of the government corporation, with respect to the development and construction of a project undertaken by the government corporation, comply with the First Source Employment requirements of subchapter X of Chapter 2 of Title 2.

(2) Of the jobs required to be filed pursuant to paragraph (1) of this subsection, at least 20% of those jobs shall be designated for residents in the ward in which the work is being performed.

(e)(1) A government corporation shall take all measures as shall be reasonably necessary to assure that all contracts entered into by the government corporation or any agency or subsidiary of the government corporation with respect to the development and construction of a project undertaken by the government corporation shall comply with the requirements of subchapter I of Chapter 14 of Title 32.

(2)(A) Fifty percent of all apprenticeship hours performed pursuant to any apprenticeship programs related to the construction and operation of a project undertaken by the government corporation shall be performed by District of Columbia residents.

(B) Any prime contractor or subcontractor that fails to make a good faith effort to comply with the requirements of this paragraph shall be subject to a monetary fine in the amount of 5% of the direct or indirect labor costs of the contract. Fines shall be imposed by the Department of Employment Services to be applied to job training programs, subject to appropriations by Congress.

(f) Beginning with the first full quarter after April 20, 2010, each government corporation shall provide a quarterly report for every quarter, except for the 4th quarter, to the Department and to the District of Columbia Auditor within 30 days after the end of each quarter. The 4th quarter and annual report shall be submitted together. A quarterly report shall include the following information:

(1) The dollar volume and percentage of awards to local, small, and disadvantaged business enterprises in construction and development projects;

(2) The dollar volume and percentage of awards to local, small, and disadvantaged business enterprises in development projects as equity partners;

(3) The dollar volume and percentage of awards to certified business enterprises for contracting and procurement of goods and services;

(4) The dollar amount actually expended with local, small, and disadvantaged business enterprises in construction and development projects;

(5) The dollar amount actually expended with certified business enterprises in development projects as equity partners; and

(6) The dollar amount actually expended with certified business enterprises for contracting and procurement of goods and services.

(g) Beginning with fiscal year 2006, each government corporation shall provide an annual report to the Department and to the District of Columbia Auditor within 45 days after the end of each fiscal year. The annual report shall include the information required to be included in the quarterly reports (with the dollar percentages and volumes calculated on an annual basis, including 4th quarter reports).

(h) The District of Columbia Auditor shall monitor government corporation compliance with the reporting requirements of this section.

(i) The Department shall review the annual report of a government corporation to determine whether the planned activities of the government corporation for the succeeding fiscal year are likely to enable the government corporation to achieve the goals set forth in this section. The Department shall make recommendations concerning activities in which the government corporation should engage in to meet or

exceed the requirements set forth in this section. The Department's recommendations shall be submitted to the government corporation, the Commission, the Council, the Mayor, and the District of Columbia Auditor within 30 days of the government corporation's annual report submission.

(j) The Department may review the annual report of a government corporation to determine whether the planned activities of the government corporation for the succeeding fiscal year are likely to enable the government corporation to achieve the goals set forth in this section. The Department may make recommendations concerning activities in which the government corporation should engage in to meet or exceed the requirements set forth in this section. The Department's recommendations, if any, shall be submitted to the government corporation and the District of Columbia Auditor.

(Oct. 20, 2005, D.C. Law 16-33, § 2350, 52 DCR 7503; Mar. 2, 2007, D.C. Law 16-192, § 2132(g), 53 DCR 6899; July 18, 2008, D.C. Law 17-207, § 2(l), 55 DCR 6107; Mar. 3, 2010, D.C. Law 18-111, § 2222(a), 57 DCR 181; Apr. 20, 2010, D.C. Law 18-141, § 2(l), 57 DCR 1485; Sept. 26, 2012, D.C. Law 19-171, § 14, 59 DCR 6190.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 16-192, in subsec. (b)(1)(B), substituted "dollar volume" for "dollar value".

D.C. Law 17-207 rewrote subsec. (b)(1); and, in subsections. (f)(3) and (g)(2)(A), substituted "certified" for "local, small, and disadvantaged". Prior to amendment, subsec. (b)(1) read as follows:

"(b)(1)(A) A government corporation shall take all measures as shall be reasonably necessary to assure that all contracts entered into by the government corporation, or any agency or subsidiary of the government corporation, with respect to each major phase of the development and construction of a project undertaken by the government corporation, including contracts for architectural, engineering, and construction services, shall provide that at least 35% of the work in the aggregate under such contracts shall be awarded to small business enterprises.

"(B) In the event that there are insufficient qualified small business enterprises to fulfill this requirement, 35% of the dollar volume, excluding the cost of materials, goods, and supplies, shall be subcontracted to local, small, or disadvantaged business enterprises."

D.C. Law 18-111, in subsec. (f), substituted "March 3, 2010" for "October 20, 2005" in the lead-in text, deleted "and" from the end of par. (2), substituted a semicolon for a period at the end of par. (3), and added pars. (4 to (6); in subsec. (g), substituted ", volumes, and amounts" for "and volumes"; rewrote subsec. (i); and, in subsec. (j), substituted "Department" for "Commission" twice, and rewrote the last sentence, which had read as follows: "The Commission's recommendations shall be submitted to the government corporation, the Council, and the Department.". Prior to amendment, subsec. (i) read as follows:

"(i) The Department shall review the annual report of each government corporation to determine whether the planned activities of the government corporation for the succeeding fiscal year are likely to enable the agency to achieve the requirements set forth in this section. The Department shall make recommendations on activities the government corporation should engage in to meet or exceed the requirements set forth in this section. The Department's recommendations shall be submitted to the government corporation, the Council, and the Commission."

D.C. Law 18-141 rewrote subsections. (f), (g), (h), and (i), which had read as follows:

"(f) Beginning with the first full quarter after March 3, 2010, each government corporation shall provide a quarterly report to the Department within 30 days after the end of each quarter. The quarterly report shall include the following information:

"(1) The dollar volume and percentage of awards to local, small, and disadvantaged business enterprises in construction and development projects;

"(2) The dollar volume and percentage of awards to local, small, and disadvantaged business enterprises in development projects as equity partners;

"(3) The dollar volume and percentage of awards to certified business enterprises for contracting and procurement of goods and services;

"(4) The dollar amount actually expended with local, small, and disadvantaged business enterprises in construction and development projects;

"(5) The dollar amount actually expended with certified business enterprises in development projects as equity partners; and

"(6) The dollar amount actually expended with certified business enterprises for contracting and procurement of goods and services.

"(g) Beginning with fiscal year 2006, each government corporation shall provide an annual report to the Department within 45 days after the end of each fiscal year. The annual report shall include:

"(1) The information required to be included in the quarterly reports (with the dollar percentages and volumes

calculated on an annual basis);

"(2) The dollar volume and percentage of the contracts and procurements awarded during the fiscal year which were actually paid (including payments through subcontracting) to:

"(A) Certified business enterprises;

"(B) Local businesses enterprises;

"(C) Small business enterprises; and

"(D) Disadvantaged business enterprises;

"(3) A description of the activities the government corporation engaged in, including the programs required by this part, in order to achieve the requirements set forth in this section; and

"(4) A description of any changes the government corporation intends to make during the succeeding fiscal year to the activities it engages in to achieve the requirements set forth in this section.

"(h) The Department shall monitor government corporation compliance with the reporting requirements of this section.

"(i) The District of Columbia Auditor shall review the annual report of each government corporation to determine whether the planned activities of the government corporation for the succeeding fiscal year are likely to enable the agency to achieve the requirements set forth in this section. The District of Columbia Auditor shall make recommendations on activities the government corporation should engage in to meet or exceed the requirements set forth in this section. The District of Columbia Auditor's recommendations shall be submitted to the government corporation, the Council, the Mayor, and the Department."

D.C. Law 19-171, in subsec. (f), validated a previously made technical correction.

Temporary Amendments of Section

For temporary (225 day) amendment of section, see § 2(e) of the Department of Small and Local Business Development Subcontracting Clarification Temporary Amendment Act of 2006 (D.C. Law 16-214, March 6, 2007, law notification 54 DCR 2761).

For temporary (225 day) amendment of section, see § 2(k) of the Department of Small and Local Business Development Subcontracting Clarification, Benefit Expansion, and Grant-making Authority Temporary Amendment Act of 2007 (D.C. Law 17-96, January 29, 2008, law notification 55 DCR 3403).

Emergency Act Amendments

For temporary (90 day) addition, see § 2350 of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

For temporary (90 day) amendment of section, see § 2132(g) of Fiscal Year 2007 Budget Support Emergency Act of 2006 (D.C. Act 16-477, August 8, 2006, 53 DCR 7068).

For temporary (90 day) amendment of section, see § 2132(g) of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2006 (D.C. Act 16-499, October 23, 2006, 53 DCR 8845).

For temporary (90 day) amendment of section, see § 2(e) of Department of Small and Local Business Development Subcontracting Clarification Emergency Amendment Act of 2006 (D.C. Act 16-513, October 25, 2006, 53 DCR 9091).

For temporary (90 day) amendment of section, see § 2(e) of Department of Small and Local Business Development Subcontracting Clarification Congressional Review Emergency Amendment Act of 2006 (D.C. Act 16-575, December 19, 2006, 54 DCR 24).

For temporary (90 day) amendment of section, see § 2132(g) of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2007 (D.C. Act 17-1, January 16, 2007, 54 DCR 1165).

For temporary (90 day) amendment of section, see § 2(k) of Department of Small and Local Business Development Subcontracting Clarification, Benefit Expansion, and Grant-making Authority Emergency Amendment Act of 2007 (D.C. Act 17-156, October 18, 2007, 54 DCR 10919).

For temporary (90 day) amendment of section, see § 2(k) of Department of Small and Local Business Development Subcontracting Clarification, Benefit Expansion, and Grant-making Authority Congressional Review Emergency Amendment Act of 2008 (D.C. Act 17-251, January 23, 2008, 55 DCR 1259).

For temporary (90 day) amendment of section, see § 2222(a) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) amendment of section, see § 2222(a) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

Legislative History of Laws

For Law 16-33, see notes following § 2-218.01.

For Law 16-192, see notes following § 2-218.31.

For Law 17-207, see notes following § 2-218.02.

Law 18-111, the "Fiscal Year 2010 Budget Support Act of 2009", was introduced in Council and assigned Bill No. 18-203, which was referred to the Committee on the Whole. The bill was adopted on first and second readings on May 12, 2009, and September 22, 2009, respectively. Signed by the Mayor on December 18, 2009, it was assigned Act No. 18-255 and transmitted to both Houses of Congress for its review. D.C. Law 18-111 became effective on March 3, 2010.

For Law 18-141, see notes following § 2-218.02.

For history of Law 19-171, see notes under § 2-218.13.

§ 2-218.51. WAIVER OF SUBCONTRACTING REQUIREMENTS.

(a) The Director may waive the subcontracting requirements of §§ 2-218.46 and 2-218.50 pursuant to this section.

(b) A contracting officer may request that the Director waive the subcontracting requirements for a particular contract by submitting to the Director with the request for waiver a statement of the reasons that justify a waiver.

(c) Repealed.

(d)(1) The Director shall approve a waiver of the subcontracting requirements of §§ 2-218.46 and 2-218.50 requested by a contracting officer if the Director finds that no qualified business enterprises are available to satisfy the subcontracting requirements.

(2) The Director shall waive the subcontracting requirements of §§ 2-218.46 and 2-218.50 if the Director finds that a waiver is necessary to achieve the purposes of this subchapter.

(e) In addition to a waiver granted pursuant to subsection (d) of this section, the Director may grant a waiver or modification of a subcontracting plan requested by the contracting officer if the Director finds that the applicant has made a good faith effort to meet the requirements of §§ 2-218.46 and 2-218.50. In making a good faith determination, the Director shall consider the following factors:

(1) Whether the applicant conducted any pre-solicitation or pre-bid conferences to inform certified business enterprises of contracting and subcontracting opportunities;

(2) Whether the applicant advertised in general circulation, trade association, and ethnic-focus media concerning the contracting and subcontracting opportunities;

(3) Whether the applicant provided written notice to a reasonable number of specific certified business enterprises, in sufficient time to allow certified business enterprises to participate effectively, that their interest in the contract was being solicited;

(4) Whether the applicant followed up initial solicitations of interest by conducting negotiations with certified business enterprises;

(5) Whether rejections by the applicant of certified business enterprises as being unqualified were based on sound reasoning and thorough investigation of their capabilities;

(6) Whether the applicant made efforts to assist interested certified business enterprises in obtaining bonding, lines of credit, or insurance required by the applicant;

(7) Whether the applicant effectively used the services of the Commission in recruiting qualified and responsible certified business enterprises;

(8) Whether bids submitted by certified business enterprises were excessive or noncompetitive based upon a review of prevailing market conditions; and

(9) Any other factors which may be relevant in a particular case.

(f)(1) The contracting officer shall provide written notice of the waiver of the subcontracting requirements of §§ 2-218.46 and 2-218.50 to the applicant prior to the acceptance of bids or proposals and upon approval of the waiver by the Director.

(Oct. 20, 2005, D.C. Law 16-33, § 2351, 52 DCR 7503; Mar. 2, 2007, D.C. Law 16-191, § 5(o)(2), 53 DCR 6794; Sept. 18, 2007, D.C. Law 17-20, § 2062(f), 54 DCR 7052; July 18, 2008, D.C. Law 17-207, § 2(m), 55 DCR 6107.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 16-191 validated a previously made technical correction.

D.C. Law 17-20 repealed subsec. (c); and, in subsec. (d)(2), substituted "Director" for "Commission". Prior to repeal, subsec. (c) read as follows:

"(c) The Commission may find that a waiver of the subcontracting requirements of §§ 2-218.46 and 2-218.50 for a particular contract are justified in order to achieve the purposes of this subchapter."

D.C. Law 17-207, in subsec. (e), substituted "certified" for "small, local, or disadvantaged".

Temporary Amendments of Section

For temporary (225 day) amendment of section, see § 2(l) of the Department of Small and Local Business Development Subcontracting Clarification, Benefit Expansion, and Grant-making Authority Temporary Amendment Act of 2007 (D.C. Law 17-96, January 29, 2008, law notification 55 DCR 3403).

Emergency Act Amendments

For temporary (90 day) addition, see § 2351 of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

For temporary (90 day) amendment of section, see § 2062(f) of Fiscal Year 2008 Budget Support Emergency Act of 2007 (D.C. Act 17-74, July 25, 2007, 54 DCR 7549).

For temporary (90 day) amendment of section, see § 2(l) of Department of Small and Local Business Development Subcontracting Clarification, Benefit Expansion, and Grant-making Authority Emergency Amendment Act of 2007 (D.C. Act 17-156, October 18, 2007, 54 DCR 10919).

For temporary (90 day) amendment of section, see § 2(l) of Department of Small and Local Business Development Subcontracting Clarification, Benefit Expansion, and Grant-making Authority Congressional Review Emergency Amendment Act of 2008 (D.C. Act 17-251, January 23, 2008, 55 DCR 1259).

Legislative History of Laws

For Law 16-33, see notes following § 2-218.01.

For Law 16-191, see notes following § 2-218.02.

For Law 17-20, see notes following § 2-215.24.

For Law 17-207, see notes following § 2-218.02.

§ 2-218.52. ENFORCEMENT MECHANISM AGAINST AN AGENCY.

If an agency fails to meet any of the goals set forth in § 2-218.41, the Department may require that a portion of the agency's contracts and procurements be made part of a set-aside program for small business enterprises.

(Oct. 20, 2005, D.C. Law 16-33, § 2352, 52 DCR 7503.)

HISTORICAL AND STATUTORY NOTES

Emergency Act Amendments

For temporary (90 day) addition, see § 2352 of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

Legislative History of Laws

For Law 16-33, see notes following § 2-218.01.

§ 2-218.53. AGENCY REPORTING REQUIREMENTS.

(a) Each agency shall submit a quarterly report to the Department and to the District of Columbia Auditor within 30 days after the end of each quarter, except for the 4th quarter report. The 4th quarter and annual report shall be submitted together. When submitting a quarterly report, each agency shall list each expenditure as it appears in the general ledger from the expendable budget of the agency during the quarter, which shall include:

- (1) The name of the vendor from which the goods or services were purchased;
- (2) The vendor identification number as it appears in the general ledger;
- (3) A description of the goods or services;
- (4) Whether the vendor was a certified small business enterprise;
- (5) The funding source for the expenditure (local, federal, capital, or other);
- (6) The date of the expenditure;
- (7) The dollar amount of the expenditure; and
- (8) If the vendor is a certified business enterprise, the percentage the amount from paragraph (7) of

this subsection is of the agency's total expenditure on all certified business enterprises.

(b) Each agency shall submit to the Department and the District of Columbia Auditor, within 30 days of the issuance of the Comprehensive Annual Financial Report, an annual report listing each expenditure as it appears in the general ledger from the expendable budget of the agency during the fiscal year which shall include:

- (1) The information required to be included in the quarterly reports (with calculations for the fiscal year);
- (2) A description of the activities the agency engaged in, including the programs required by this part, to achieve the goals set forth in § 2-218.41; and
- (3) A description of any changes the agency intends to make during the succeeding fiscal year to the activities it engages in to achieve the goals set forth in § 2-218.41.

(c) The Department shall monitor agency compliance with the reporting requirements of this section.

(d) The District of Columbia Auditor shall review the annual report of each agency to determine whether the planned activities of the agency for the succeeding fiscal year are likely to enable the agency to achieve the goals set forth in § 2-218.41. The District of Columbia Auditor shall make recommendations on activities the agency should engage in to meet or exceed the goals set forth in § 2-218.41. The District of Columbia Auditor's recommendations shall be submitted to the agency, the Council, and the Department.

(e) The Department shall review the annual report of an agency to determine whether the planned activities of the agency for the succeeding fiscal year are likely to enable the agency to achieve the goals set forth in § 2-218.41. The Department shall make recommendations on activities the agency should engage in to meet or exceed the goals set forth in § 2-218.41. The Department's recommendations shall be submitted to the agency, the Office of District of Columbia Auditor, and the Council within 30 days of the agency's annual report submission.

(Oct. 20, 2005, D.C. Law 16-33, § 2353, 52 DCR 7503; July 18, 2008, D.C. Law 17-207, § 2(n), 55 DCR 6107; Mar. 3, 2010, D.C. Law 18-111, § 2222(b), 57 DCR 181; Apr. 20, 2010, D.C. Law 18-141, § 2(m), 57 DCR 1485; May 27, 2010, D.C. Law 18-159, § 2(d), 57 DCR 3006.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 17-207, in subsec. (a)(1)(D), substituted "certified" for "local, small, or disadvantaged"; and, in subsecs. (a)(2)(A), (3)(A), (b)(2)(A), substituted "Certified" for "Local, small, or disadvantaged".

D.C. Law 18-111 rewrote the section, which had read as follows:

"(a) Each agency shall submit to the Department, within 30 days after the end of the quarter, a quarterly report listing each expenditure as it appears in the general ledger from the expendable budget of the agency during the quarter, which shall include:

- "(1) The name of the vendor from which the goods or services were purchased;
- "(2) The vendor identification number as it appears in the general ledger;
- "(3) A description of the goods or services;
- "(4) Whether the vendor was a certified Small Business Enterprise;
- "(5) The funding source for the expenditure (local, federal, other, or capital);
- "(6) The date of the expenditure;
- "(7) The dollar amount of the expenditure; and

"(8) The total expenditure on Small Business Enterprises and the percentage that the total expenditure on Small Business Enterprises is when compared to the total expenditure.

"(b) Each agency shall submit to the Department, within 30 days of the issuance of the Comprehensive Annual Financial Report, an annual report listing each expenditure as it appears in the general ledger from the expendable budget of the agency during the fiscal year which shall include:

- "(1) The information required to be included in the quarterly reports (with calculations for the fiscal year);
- "(2) A description of the activities the agency engaged in, including the programs required by this part, to achieve the goals set forth in § 2-218.41; and
- "(3) A description of any changes the agency intends to make during the succeeding fiscal year to the activities it engages in to achieve the goals set forth in § 2-218.41.

"(c) The Department shall monitor agency compliance with the reporting requirements of this section.

"(d) The District of Columbia Auditor shall review the annual report of each agency to determine whether the planned activities of the agency for the succeeding fiscal year are likely to enable the agency to achieve the goals set forth in § 2-218.41. The District of Columbia Auditor shall make recommendations on activities the

agency should engage in to meet or exceed the goals set forth in § 2-218.41. The District of Columbia Auditor's recommendations shall be submitted to the agency, the Council, and the Department.

"(e) The Department may review the annual report of an agency to determine whether the planned activities of the agency for the succeeding fiscal year are likely to enable the agency to achieve the goals set forth in § 2-218.41. The Department may make recommendations on activities the agency should engage in to meet or exceed the goals set forth in § 2-218.41. The Department's recommendations, if any, shall be submitted to the agency and the Council."

D.C. Law 18-141 rewrote subsecs. (a) and (e); and, in subsec. (b), substituted "the Department and the District of Columbia Auditor" for "the Department". Prior to amendment, subsecs. (a) and (e) read as follows:

"(a) Each agency shall submit to the Department, within 30 days after the end of the quarter, a quarterly report listing each expenditure as it appears in the general ledger from the expendable budget of the agency during the quarter, which shall include:

"(1) The name of the vendor from which the goods or services were purchased;

"(2) The vendor identification number as it appears in the general ledger;

"(3) A description of the goods or services;

"(4) Whether the vendor was a certified Small Business Enterprise;

"(5) The funding source for the expenditure (local, federal, other, or capital);

"(6) The date of the expenditure;

"(7) The dollar amount of the expenditure; and

"(8) The total expenditure on Small Business Enterprises and the percentage that the total expenditure on Small Business Enterprises is when compared to the total expenditure."

"(e) The Department may review the annual report of an agency to determine whether the planned activities of the agency for the succeeding fiscal year are likely to enable the agency to achieve the goals set forth in § 2-218.41. The Department may make recommendations on activities the agency should engage in to meet or exceed the goals set forth in § 2-218.41. The Department's recommendations, if any, shall be submitted to the agency and the Council."

D.C. Law 18-159, in the lead-in language of subsec. (a), inserted "The 4th quarter and annual report shall be submitted together."; and rewrote subsec. (a)(8), which had read as follows:

"(8) The total expenditure on certified small business enterprises and the percentage the total expenditure on certified small business enterprises is of the total expenditure."

Temporary Amendments of Section

For temporary (225 day) amendment of section, see § 2(m) of the Department of Small and Local Business Development Subcontracting Clarification, Benefit Expansion, and Grant-making Authority Temporary Amendment Act of 2007 (D.C. Law 17-96, January 29, 2008, law notification 55 DCR 3403).

Emergency Act Amendments

For temporary (90 day) addition, see § 2353 of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

For temporary (90 day) amendment of section, see § 2(m) of Department of Small and Local Business Development Subcontracting Clarification, Benefit Expansion, and Grant-making Authority Emergency Amendment Act of 2007 (D.C. Act 17-156, October 18, 2007, 54 DCR 10919).

For temporary (90 day) amendment of section, see § 2(m) of Department of Small and Local Business Development Subcontracting Clarification, Benefit Expansion, and Grant-making Authority Congressional Review Emergency Amendment Act of 2008 (D.C. Act 17-251, January 23, 2008, 55 DCR 1259).

For temporary (90 day) amendment of section, see § 2222(b) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) amendment of section, see § 2222(b) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

Legislative History of Laws

For Law 16-33, see notes following § 2-218.01.

For Law 17-207, see notes following § 2-218.02.

For Law 18-111, see notes following § 2-218.50.

For Law 18-141, see notes following § 2-218.02.

For Law 18-159, see notes following § 2-218.46.

§ 2-218.54. DEPARTMENT REPORTING REQUIREMENTS.

(a) Within 45 days of its receipt of the annual reports required by § 2-218.53(b), the Department shall submit to the District of Columbia Auditor, through the Compliance Unit established part K of subchapter I of Chapter 3 of Title 1, the following documents and information:

- (1) A copy of the annual reports required by § 2-218.53; and
- (2) A chart listing the following information with respect to each agency for the current fiscal year:
 - (A) The total budget of each agency;
 - (B) The expendable budget of each agency;
 - (C) A description of each funding source, object class, object, or item that was excluded from the total budget of the agency in the Department's calculation of the expendable budget of the agency;
 - (D) Each goal of the agency under § 2-218.41 in percentage and dollar terms; and
 - (E) The actual dollar amount expended with each certified business enterprise.

(b) Within 45 days of its receipt of the annual reports required by § 2-218.50(g), the Department shall submit to the District of Columbia Auditor, through the Compliance Unit established by part K of subchapter I of Chapter 3 of Title 1 a report containing the following information with respect to each government corporation for the current and prior fiscal years:

- (1) The expendable budget of the government corporation.
- (2) A list of all agencies and government corporations that have not submitted a report for that quarter with a detailed explanation of what actions were taken by the Department to effectuate compliance with the reporting requirement.

(Oct. 20, 2005, D.C. Law 16-33, § 2354, 52 DCR 7503; Apr. 7, 2006, D.C. Law 16-91, § 129, 52 DCR 10637; Mar. 2, 2007, D.C. Law 16-191, § 5(o)(3), 53 DCR 6794; Mar. 2, 2007, D.C. Law 16-192, § 2132(h), 53 DCR 6899; July 18, 2008, D.C. Law 17-207, § 2(o), 55 DCR 6107; Mar. 3, 2010, D.C. Law 18-111, § 2222(c), 57 DCR 181.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 16-91, in the introductory language, validated a previously made technical correction.

D.C. Law 16-191, in the introductory language, validated a previously made technical correction.

D.C. Law 16-192 designated the existing language as subsec. (a); in subsec. (a)(2), deleted "; and" from the end of subpar. (C), substituted "; and" for a period at the end of subpar. (D), and added subpar. (E); and added subsecs. (b) and (c).

D.C. Law 17-207, rewrote subsec. (a)(2)(E), which had read as follows: "(E) The actual dollar amount expended with each business enterprise."; and, in subsec. (b)(3)(D), deleted "local, small, or disadvantaged" following "was a".

D.C. Law 18-111 rewrote the section, which had read as follows:

"(a) Within 45 days of its receipt of the annual reports required by § 2-218.53(b), the Department shall submit to the Council and the Commission a report containing the following documents and information:

"(1) A chart containing the following information with respect to each agency for the prior fiscal year:

"(A) The expendable budget of the agency;

"(B) Each goal of the agency under § 2-218.41 in dollar and percentage terms;

"(C) The agency's achievement with respect to each goal established by § 2-218.41, which shall include the following information:

"(i) The percentage of the expendable budget, the percentage of the total budget, and the dollar volume that was contracted or procured with the following:

"(I) Local business enterprises;

"(II) Small business enterprises; and

"(III) Disadvantaged business enterprises; and

"(ii) The dollar volume and percentage of the contracts and procurements awarded during the quarter which were actually paid (including payments through subcontracting) to:

"(I) Local business enterprises;

"(II) Small business enterprises; and

"(III) Disadvantaged business enterprises; and

"(D) A list of each contract or procurement of the agency, including:

"(i) A description of the contract or procurement;

"(ii) The dollar amount of the contract or procurement;

"(iii) The name of the business enterprise from which the goods or services were contracted or procured;

"(iv) Whether the business enterprise was a certified local, small, or disadvantaged business enterprise, and, if it was:

"(I) The category or categories under which the business enterprise is certified; and

"(II) The identification number of the business enterprise assigned by the Department; and

"(v) The source of funding for the contract (local, federal, other, or capital); and

"(2) A chart listing the following information with respect to each agency for the current fiscal year:

"(A) The total budget of each agency;

"(B) The expendable budget of each agency;

"(C) A description of each funding source, object class, object, or item that was excluded from the total budget of the agency in the Department's calculation of the expendable budget of the agency;

"(D) Each goal of the agency under § 2-218.41 in percentage and dollar terms; and

"(E) The actual dollar amount expended with each certified business enterprise.

"(b) Within 45 days of its receipt of the annual reports required by § 2-218.50(g), the Department shall submit to the Council and the Commission a report containing the following information with respect to each government corporation for the current and prior fiscal years:

"(1) The expendable budget of the government corporation;

"(2) The government corporation's achievement with respect to the requirements of § 2-218.50.

"(3) A list of each contract or procurement of the government corporation, which shall include the following information:

"(A) A description of the contract or procurement;

"(B) The dollar amount of the contract or procurement;

"(C) The name of the business enterprise from which the goods or services were contracted or procured;

"(D) Whether the business enterprise was a business enterprise, and, if so:

"(i) The category or categories under which the business enterprise is certified; and

"(ii) The identification number of the business enterprise assigned by the Department;

"(E) The source of funding for the contract (local, federal, other, or capital); and

"(F) The actual dollar amount expended with each business enterprise.

"(c)(1) Beginning with the first full quarter after March 2, 2007, the Department shall submit to the Council, within 60 days of the end of each quarter, the quarterly reports of each agency required by § 2-218.53 and the quarterly reports of each government corporation required by § 2-218.50(f).

"(2) Beginning with the first full quarter after March 2, 2007, the Department shall submit to the Council the following:

"(A) A summary of the information that each agency is required to submit pursuant to § 2-218.53 and the information that each government corporation is required to submit pursuant to § 2-218.50(f), in a format that shows the cumulative progress of each agency's or government corporation's annual LSDBE contracting and procurement goals to date, and the actual dollar amount expended with each business enterprise for the current fiscal year; and

"(B) A list of all agencies and government corporations that have not submitted a report for that quarter with a detailed explanation of what actions were taken by the Department to effectuate compliance with the reporting requirement."

Temporary Amendments of Section

For temporary (225 day) amendment of section, see § 2(b) of Department of Small and Local Business Development Clarification Temporary Amendment Act of 2005 (D.C. Law 16-49, February 9, 2006, law notification 53 DCR 1457).

For temporary (225 day) amendment of section, see § 2(f) of the Department of Small and Local Business Development Subcontracting Clarification Temporary Amendment Act of 2006 (D.C. Law 16-214, March 6, 2007, law notification 54 DCR 2761).

For temporary (225 day) amendment of section, see § 2(n) of the Department of Small and Local Business Development Subcontracting Clarification, Benefit Expansion, and Grant-making Authority Temporary

Amendment Act of 2007 (D.C. Law 17-96, January 29, 2008, law notification 55 DCR 3403).

Emergency Act Amendments

For temporary (90 day) addition, see § 2354 of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

For temporary (90 day) amendment of section, see § 2(b) of Department of Small and Local Business Development Clarification Emergency Act of 2005 (D.C. Act 16-191, October 28, 2005, 52 DCR 10026).

For temporary (90 day) amendment of section, see § 2(b) of Department of Small and Local Business Development Clarification Congressional Review Emergency Act of 2006 (D.C. Act 16-301, February 27, 2006, 53 DCR 1883).

For temporary (90 day) amendment of section, see § 2132(h) of Fiscal Year 2007 Budget Support Emergency Act of 2006 (D.C. Act 16-477, August 8, 2006, 53 DCR 7068).

For temporary (90 day) amendment of section, see § 2132(h) of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2006 (D.C. Act 16-499, October 23, 2006, 53 DCR 8845).

For temporary (90 day) amendment of section, see § 2(f) of Department of Small and Local Business Development Subcontracting Clarification Emergency Amendment Act of 2006 (D.C. Act 16-513, October 25, 2006, 53 DCR 9091).

For temporary (90 day) amendment of section, see § 2(f) of Department of Small and Local Business Development Subcontracting Clarification Congressional Review Emergency Amendment Act of 2006 (D.C. Act 16-575, December 19, 2006, 54 DCR 24).

For temporary (90 day) amendment of section, see § 2132(h) of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2007 (D.C. Act 17-1, January 16, 2007, 54 DCR 1165).

For temporary (90 day) amendment of section, see § 2(n) of Department of Small and Local Business Development Subcontracting Clarification, Benefit Expansion, and Grant-making Authority Emergency Amendment Act of 2007 (D.C. Act 17-156, October 18, 2007, 54 DCR 10919).

For temporary (90 day) amendment of section, see § 2(n) of Department of Small and Local Business Development Subcontracting Clarification, Benefit Expansion, and Grant-making Authority Congressional Review Emergency Amendment Act of 2008 (D.C. Act 17-251, January 23, 2008, 55 DCR 1259).

For temporary (90 day) amendment of section, see § 2222(c) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) amendment of section, see § 2222(c) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

Legislative History of Laws

For Law 16-33, see notes following § 2-218.01.

Law 16-91, the "Technical Amendments Act of 2005", was introduced in Council and assigned Bill No. 16-477 which was referred to the Committee on the Whole. The Bill was adopted on first and second readings on November 1, 2005, and November 15, 2005, respectively. Signed by the Mayor on November 30, 2005, it was assigned Act No. 16-212 and transmitted to both Houses of Congress for its review. D.C. Law 16-91 became effective on April 7, 2006.

For Law 16-191, see notes following § 2-218.02.

For Law 16-192, see notes following § 2-218.31.

For Law 17-207, see notes following § 2-218.02.

For Law 18-111, see notes following § 2-218.50.

§ 2-218.55. REGIONAL GOVERNMENTAL ENTITIES.

(a) Except as provided in subsection (b) of this section, a regional governmental entity shall be exempt from the requirements of this subchapter to the extent that the requirements of this subchapter impact on the regional governmental entity's operations within the territory of a member government other than the District.

(b) The District of Columbia Water and Sewer Authority shall be exempt from the requirements of this subchapter to the extent that the requirements of this subchapter are contrary to procurement regulations promulgated pursuant to statutes establishing the District of Columbia Water and Sewer Authority.

(Oct. 20, 2005, D.C. Law 16-33, § 2355, 52 DCR 7503.)

HISTORICAL AND STATUTORY NOTES

Emergency Act Amendments

For temporary (90 day) addition, see § 2355 of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

Legislative History of Laws

For Law 16-33, see notes following § 2-218.01.

SUBPART 3. CERTIFICATION.

§ 2-218.61. CERTIFICATE OF REGISTRATION.

(a) No business enterprise shall be permitted to participate in a program established under this part unless the business enterprise:

(1) Has demonstrated its capability to perform and been issued a certificate of registration under the provisions of this subchapter; or

(2) Has been issued a provisional certification under regulations issued pursuant to this subchapter.

(b)(1) An enterprise seeking to be certified as a local, small, or disadvantaged business enterprise, as a resident-owned business, or as a local business enterprise with its principal office located in an enterprise zone shall file with the Department a written application on such form as may be prescribed by the Department.

(2) The application shall include, at a minimum, the following documents and information:

(A) A certification of the correctness of the information provided;

(B) Written evidence that the applicant is:

(i) A bona fide local business enterprise;

(ii) A bona fide disadvantaged business enterprise;

(iii) A bona fide small business enterprise;

(iv) A bona fide local business enterprise located in an enterprise zone;

(v) A bona fide resident-owned business; or

(vi) A bona fide longtime resident business.

(C) Evidence of ability and character;

(D) Evidence of financial position, which may be the applicant's most recent financial statement. For the purposes of this subparagraph, the term "recent" means produced from current data no more than 90 days prior to the application date;

(E) Any other information the Commission or Department may require; and

(F) Federal income taxes, both corporate and personal, as well as District taxes, both corporate and personal.

(c) The Department shall issue the applicant a certificate of registration if:

(1) The information provided in the application or additional filings is satisfactory to the Department;

(2) The business enterprise meets the standards of this subchapter; and

(3) The applicant fulfills other requirements as may be established by the Commission or the Department.

(d) A certificate of registration shall expire 2 years from the date of approval of the application. A business enterprise that is registered with the Department may voluntarily relinquish its registration as a certified business enterprise at any time prior to the expiration of the 2-year term.

(e) The Department shall give first priority in reviewing applications submitted pursuant to subsection (b) of this section to any business enterprises that has received a provisional certification pursuant to § 2-218.62.

(Oct. 20, 2005, D.C. Law 16-33, § 2361, 52 DCR 7503; Mar. 2, 2007, D.C. Law 16-192, § 2132(i), 53 DCR 6899; Sept. 18, 2007, D.C. Law 17-20, § 2062(g), 54 DCR 7052; July 18, 2008, D.C. Law 17-207, § 2(p), 55 DCR 6107; Apr. 20, 2010, D.C. Law 18-141, § 2(n), 57 DCR 1485; Sept. 26, 2012, D.C. Law 19-171, § 13(c), 59 DCR 6190.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 16-192 added subsec. (e).

D.C. Law 17-20 rewrote subsec. (b)(1); and, in the introductory language and par. (1) of subsec. (c) and in

subsec. (e), substituted "Department" for "Commission". Prior to amendment, subsec. (b)(1) read as follows:

"(1) An enterprise seeking to be certified as a local, small, or disadvantaged business enterprise, as a resident-owned business, as a resident business, or as a local business enterprise with its principal office located in an enterprise zone shall file with the Commission a written application on such form or forms as may be prescribed by the Commission or the Department."

D.C. Law 17-207, in subsec. (b), inserted "longtime" preceding "resident business".

D.C. Law 18-141, in subsec. (a)(1), substituted "Has demonstrated its capability to perform and been" for "Has been"; in subsec. (b)(2), deleted "and" from the end of par. (D); substituted "; and" for a period at the end of par. (E), and added par. (F); and, in subsec. (d), added the second sentence.

D.C. Law 19-171 validated a previously made technical correction in subsec. (b)(2)(E).

Temporary Amendments of Section

For temporary (225 day) amendment of section, see § 2(o) of the Department of Small and Local Business Development Subcontracting Clarification, Benefit Expansion, and Grant-making Authority Temporary Amendment Act of 2007 (D.C. Law 17-96, January 29, 2008, law notification 55 DCR 3403).

Emergency Act Amendments

For temporary (90 day) addition, see § 2361 of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

For temporary (90 day) amendment of section, see § 2132(i) of Fiscal Year 2007 Budget Support Emergency Act of 2006 (D.C. Act 16-477, August 8, 2006, 53 DCR 7068).

For temporary (90 day) amendment of section, see § 2132(i) of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2006 (D.C. Act 16-499, October 23, 2006, 53 DCR 8845).

For temporary (90 day) amendment of section, see § 2132(i) of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2007 (D.C. Act 17-1, January 16, 2007, 54 DCR 1165).

For temporary (90 day) amendment of section, see § 2062(g) of Fiscal Year 2008 Budget Support Emergency Act of 2007 (D.C. Act 17-74, July 25, 2007, 54 DCR 7549).

For temporary (90 day) amendment of section, see § 2(o) of Department of Small and Local Business Development Subcontracting Clarification, Benefit Expansion, and Grant-making Authority Emergency Amendment Act of 2007 (D.C. Act 17-156, October 18, 2007, 54 DCR 10919).

For temporary (90 day) amendment of section, see § 2(o) of Department of Small and Local Business Development Subcontracting Clarification, Benefit Expansion, and Grant-making Authority Congressional Review Emergency Amendment Act of 2008 (D.C. Act 17-251, January 23, 2008, 55 DCR 1259).

Legislative History of Laws

For Law 16-33, see notes following § 2-218.01.

For Law 16-192, see notes following § 2-218.31.

For Law 17-20, see notes following § 2-215.24.

For Law 17-207, see notes following § 2-218.02.

For Law 18-141, see notes following § 2-218.02.

For history of Law 19-171, see notes under § 2-218.13.

§ 2-218.62. PROVISIONAL CERTIFICATION; SELF-CERTIFICATION PROHIBITED.

(a) The Department may authorize a business enterprise to participate in a program established under this part without receiving a certificate of registration under § 2-218.61; provided, that such authorization shall be granted only when:

(1) A business enterprise is applying for certification in order to bid on a contract or procurement for which responses are due within the next 45 days;

(2) The business enterprise has submitted a majority of the information required under § 2-218.61; and

(3) The Department reasonably believes that it will certify the business enterprise after the business enterprise has submitted all of the information required under this subchapter or regulations promulgated pursuant to this subchapter.

(b) An authorization granted under this section shall not last for more than 90 days.

(c) The Department shall make authorizations under subsection (a) of this section pursuant to rules promulgated pursuant to this subchapter.

(d) A business enterprise may not self-certify or self-authorize to participate in a program established under § 2-218.43 through 2-218.49.

(Oct. 20, 2005, D.C. Law 16-33, § 2362, 52 DCR 7503; Mar. 2, 2007, D.C. Law 16-192, § 2132(j), 53 DCR 6899; Sept. 18, 2007, D.C. Law 17-20, § 2062(h), 54 DCR 7052.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 16-192, in subsec. (b), substituted "90" for "120".

D.C. Law 17-20, in subsec. (a)(3), substituted "it will" for "the Commission will".

Emergency Act Amendments

For temporary (90 day) addition, see § 2362 of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

For temporary (90 day) amendment of section, see § 2132(j) of Fiscal Year 2007 Budget Support Emergency Act of 2006 (D.C. Act 16-477, August 8, 2006, 53 DCR 7068).

For temporary (90 day) amendment of section, see § 2132(j) of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2006 (D.C. Act 16-499, October 23, 2006, 53 DCR 8845).

For temporary (90 day) amendment of section, see § 2132(j) of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2007 (D.C. Act 17-1, January 16, 2007, 54 DCR 1165).

For temporary (90 day) amendment of section, see § 2062(h) of Fiscal Year 2008 Budget Support Emergency Act of 2007 (D.C. Act 17-74, July 25, 2007, 54 DCR 7549).

Legislative History of Laws

For Law 16-33, see notes following § 2-218.01.

For Law 16-192, see notes following § 2-218.31.

For Law 17-20, see notes following § 2-215.24.

§ 2-218.63. REVOCATION OF REGISTRATION; CHALLENGES TO REGISTRATION; PENALTIES.

(a) After reasonable notice to a person or a business, and a reasonable opportunity to be heard, the Commission may revoke or suspend the certificate of registration of a business enterprise that:

(1) Fraudulently obtained or held, or attempted to obtain or hold, certification;

(1A) Willfully obstructed or impeded, or attempted to obstruct or impede, a city official or employee investigating the qualifications of a business entity that has requested certification;

(1B) In any certified business enterprise matter administered under this subchapter:

(A) Fraudulently obtained, attempted to obtain, or aided another person in fraudulently obtaining or attempting to obtain, public moneys to which the person is not entitled under this subsection;

(B) Willfully falsified, concealed, or covered up a material fact by any scheme or device;

(C) Made a false or fraudulent statement or representation; or

(D) Used a false writing or document that the person knows to contain a false or fraudulent statement or entry.

(1C) Aided another person in performing an act prohibited under paragraphs (1), (1A), or (1B) of this subsection.

(2) Furnished substantially inaccurate or incomplete ownership or financial information;

(3) Failed to report changes that affect its eligibility for certification, including relocation of its principal office or change in ownership or control;

(4) Acted with gross negligence, incompetence, financial irresponsibility, or misconduct in the practice of a trade or profession;

(5) Willfully violated any provision of this subchapter or rules adopted pursuant to this subchapter;

(6) Misrepresented its capability to the Department and failed to perform satisfactorily in the performance of a contract;

(7) No longer qualifies as a local business enterprise; or

(8) Any other cause the Commission determines to be sufficiently serious and compelling to affect responsibility as a District government contractor, including revocation, suspension, or debarment by

another governmental entity for any cause listed in rules and regulations.

(a-1)(1) After reasonable notice to a person or business and reasonable opportunity to be heard by the Commission, the Commission shall revoke the certificate of registration of the business enterprise that has willfully failed to cooperate in an audit or investigation conducted by:

(A) The District of Columbia Auditor pursuant to § 1-204.55; or

(B) The Chairman of the Council or the chairperson of the Council committee that conducts an investigation pursuant to § 1-204.13.

(2) The revocation shall be for a period of 2 years, unless the Department receives written notification, from the Commission, that determines within the 2-year period that the affected business has cooperated in the audit or investigation referred to in paragraph (1) of this subsection and has come into full compliance for re-certification.

(b)(1)(A) Any person may file with the Commission through the Department a complaint alleging a violation of this subchapter against an applicant for registration or a business enterprise registered pursuant to this subchapter. The complaint shall be in writing, sworn to by the complainant, and notarized.

(B) The Department shall establish a fraud hotline for reporting violations of this section.

(2) The Commission, without a hearing, may dismiss a complaint which it determines to be frivolous or otherwise without merit. If the Commission dismisses a complaint, the Commission shall prepare a report documenting the following:

(A) A statement detailing the complaint, including the name, address, and telephone number of the person filing the complaint;

(B) The name of the applicant for registration or business enterprise alleged to be in violation of this subchapter;

(C) The facts and legal authority considered in rendering the determination; and

(D) Any other information considered in rendering the determination.

(3) The Commission shall maintain a record listing all complaints, which shall contain the following information:

(A) The name of the applicant or business enterprise alleged to be in violation of this subchapter;

(B) The date the complaint was made to the Department; and

(C) A description of the complaint.

(4) If the Commission does not determine that a complaint is frivolous or otherwise without merit, it shall hold a hearing on the complaint within 3 months of the filing of the complaint. The Commission shall determine the time and place of the hearing. The Commission shall cause to be issued and served on the person or business enterprise alleged to have committed the violation, hereafter called the "respondent", a written notice of the hearing together with a copy of the complaint at least 30 days prior to the scheduled hearing. Notice shall be served by registered or certified mail, return receipt requested, or by personal service. At the hearing, the respondent shall have the right to appear personally or by a representative and to cross-examine witnesses and to present evidence and witnesses.

(5) If, after the conclusion of the hearing, the Commission determines that the respondent has violated the provisions of this subchapter or regulations issued pursuant to this subchapter, the Commission shall issue, and cause to be served on the respondent, a decision and order, accompanied by findings of fact and conclusions of law, revoking or suspending the respondent's registration, or taking any other action it considers appropriate.

(6) The Commission shall have the authority to issue subpoenas requiring the attendance of witnesses and to compel the production of records, papers, and other documents.

(c) In addition to the procedures and penalties provided in subsection (b) of this section, the Attorney General for the District of Columbia may bring a civil action in the Superior Court of the District of Columbia against a business enterprise and the directors, officers, or principals of a business enterprise that is reasonably believed to have obtained certification by fraud or deceit or to have willfully furnished substantially inaccurate or incomplete ownership information to the Department or to the Commission. A business enterprise or individual found guilty under this subsection shall be subject to a civil penalty of not more than \$100,000.

(d) The Commission may at any time reissue a certificate of registration to any firm or joint venture whose certificate has been revoked; provided, that a majority of at least 4 members of the Commission vote in favor of reissuance. The Commission may consider whether the firm or joint venture should be required to submit satisfactory proof that conditions within the company that led to the violation have been corrected.

(d-1) Repealed.

(e) Any contract awarded to a business enterprise based on the use of a provisional certification issued pursuant to § 2-218.62 shall be voidable by the District if the final disposition of an application for a certificate of registration is denied pursuant to § 2-218.61.

(f) The Department may downgrade the certification of registration of a business enterprise that ceases to meet the requirements of a particular category of certification; provided, that this subsection shall not apply where a business enterprise ceases to qualify as a local business enterprise.

(Oct. 20, 2005, D.C. Law 16-33, § 2363, 52 DCR 7503; Mar. 2, 2007, D.C. Law 16-192, § 2132(k), 53 DCR 6899; Sept. 18, 2007, D.C. Law 17-20, § 2062(i), 54 DCR 7052; Apr. 20, 2010, D.C. Law 18-141, § 2(o), 57 DCR 1485; May 27, 2010, D.C. Law 18-159, § 2(e), 57 DCR 3006.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 16-192 added subsec. (e).

D.C. Law 17-20, in subsec. (c), substituted "to the Department or to the Commission" for "to the Commission"; and, in subsec. (e), deleted "by the commission" following "denied".

D.C. Law 18-141 rewrote the section, which had read as follows:

"(a) The Commission may revoke or suspend the certificate of registration of a business enterprise that:

"(1) Engaged in fraud or deceit in obtaining the registration;

"(2) Furnished substantially inaccurate or incomplete ownership or financial information;

"(3) Failed to report changes that affect its eligibility for certification;

"(4) Acted with gross negligence, incompetence, financial irresponsibility, or misconduct in the practice of a trade or profession; or

"(5) Willfully violated any provision of this subchapter or rules adopted pursuant to this subchapter.

"(b)(1) Any person may file with the Commission a complaint alleging a violation of this subchapter against an applicant for registration or a business enterprise registered pursuant to this subchapter. The complaint shall be in writing and sworn to by the complainant.

"(2) The Commission may request that the Department investigate the facts and merits of the complaint.

"(3) The Commission may, without a hearing, dismiss a complaint which it determines to be frivolous or otherwise without merit.

"(4) If the Commission does not determine that a complaint is frivolous or otherwise without merit, it shall hold a hearing on the complaint within 3 months of the filing of the complaint. The Commission shall determine the time and place of the hearing. The Commission shall cause to be issued and served on the person or business enterprise alleged to have committed the violation, hereafter called the "respondent", a written notice of the hearing together with a copy of the complaint at least 30 days prior to the scheduled hearing. Notice shall be served by registered or certified mail, return receipt requested, or by personal service. At the hearing, the respondent shall have the right to appear personally or by a representative and to cross-examine witnesses and to present evidence and witnesses.

"(5) If, after the conclusion of the hearing, the Commission determines that the respondent has violated the provisions of this subchapter or regulations issued pursuant to this subchapter, the Commission shall issue, and cause to be served on the respondent, a decision and order, accompanied by findings of fact and conclusions of law, revoking or suspending the respondent's registration, or taking any other action it deems appropriate.

"(6) The Commission shall have the authority to issue subpoenas requiring the attendance of witnesses and to compel the production of records, papers, and other documents.

"(c) In addition to the procedures and penalties provided in subsection (b) of this section, the Attorney General for the District of Columbia may bring a civil action in the Superior Court of the District of Columbia against a business enterprise and the directors, officers, or principals of a business enterprise that is reasonably believed to have obtained certification by fraud or deceit or to have willfully furnished substantially inaccurate or incomplete ownership information to the Department or to the Commission. A business enterprise or individual found guilty under this subsection shall be subject to a civil penalty of not more than \$100,000.

"(d) The Commission may at any time reissue a certificate of registration to any firm or joint venture whose certificate has been revoked; provided, that a majority of at least 4 members of the Commission vote in favor of reissuance. The Commission may consider whether the firm or joint venture should be required to submit satisfactory proof that conditions within the company that led to the violation have been corrected.

"(e) Any contract awarded to a business enterprise based on the use of a provisional certification issued pursuant to § 2-218.62 shall be voidable by the District if the final disposition of an application for a certificate of registration is denied pursuant to § 2-218.61."

D.C. Law 18-159, in subsec. (a-1)(1), substituted "business enterprise" for "person or business enterprise"; in

subsec. (b)(1)(A), substituted "the Commission through the Department" for "the Department"; in subsec. (b)(2), substituted "Commission" for "Department" and "Commission" for "Director"; in subsec. (b)(3), substituted "Commission" for "Director"; added subsecs. (b)(4), (5), and (6); and repealed subsec. (d-1), which had read as follows:

"(d-1) The Department may at any time reissue a certificate of registration to any firm or joint venture whose certificate has been revoked. The Department may consider whether the firm or joint venture should be required to submit satisfactory proof that conditions within the company that led to the violation have been corrected."

Emergency Act Amendments

For temporary (90 day) addition, see § 2363 of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

For temporary (90 day) amendment of section, see § 2132(k) of Fiscal Year 2007 Budget Support Emergency Act of 2006 (D.C. Act 16-477, August 8, 2006, 53 DCR 7068).

For temporary (90 day) amendment of section, see § 2132(k) of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2006 (D.C. Act 16-499, October 23, 2006, 53 DCR 8845).

For temporary (90 day) amendment of section, see § 2132(k) of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2007 (D.C. Act 17-1, January 16, 2007, 54 DCR 1165).

For temporary (90 day) amendment of section, see § 2062(i) of Fiscal Year 2008 Budget Support Emergency Act of 2007 (D.C. Act 17-74, July 25, 2007, 54 DCR 7549).

Legislative History of Laws

For Law 16-33, see notes following § 2-218.01.

For Law 16-192, see notes following § 2-218.31.

For Law 17-20, see notes following § 2-215.24.

For Law 18-141, see notes following § 2-218.02.

For Law 18-159, see notes following § 2-218.46.

§ 2-218.64. IDENTIFICATION OF CERTIFIED BUSINESS ENTERPRISES IN BIDS OR PROPOSALS; FALSE STATEMENTS ON CERTIFICATION; PENALTIES.

(a)(1) Except as otherwise provided by law, a contractor or business enterprise may not:

(A) Identify a certified business enterprise in a bid or proposal unless it:

(i) Has obtained authorization from the certified business enterprise to identify the certified business enterprise in its bid or proposal;

(ii) Has notified the certified business enterprise before execution of the contract of its inclusion in the bid or proposal; and

(iii) Uses the certified business enterprise in the performance of the contract; or

(B) Pay the certified business enterprise solely for the use of its name in the bid or proposal.

(2) A person who violates any provision of this subsection is guilty of a felony and, upon conviction, subject to a fine not to exceed \$15,000, imprisonment not to exceed 5 years, or both.

(b)(1) A person may not make false statements about whether an entity has business enterprise certification.

(2) A person who violates this subsection is guilty of a misdemeanor and, upon conviction, subject to a fine not to exceed \$5,000, imprisonment not to exceed one year, or both.

(Oct. 20, 2005, D.C. Law 16-33, § 2364, as added Apr. 20, 2010, D.C. Law 18-141, § 2(p), 57 DCR 1485; May 27, 2010, D.C. Law 18-159, § 2(f), 57 DCR 3006.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 18-159 rewrote subsec. (a)(1)(A)(i); and, in subsec. (a)(2), substituted "imprisonment not to exceed 5 years," for "imprisonment." Prior to amendment, subsec. (a)(1)(A)(i) read as follows:

"(i) Has requested, received, or otherwise obtained authorization from the certified business enterprise to identify the certified business enterprise in its bid or proposal;"

Legislative History of Laws

For Law 18-141, see notes following § 2-218.02.

For Law 18-159, see notes following § 2-218.46.

§ 2-218.65. CERTIFICATION AUDITS.

The District of Columbia Auditor may conduct random audits of certification files to determine whether the Department followed the requirements set forth in § 2-218.61. The District of Columbia Auditor shall submit findings and recommendations to the Department and the Council.

(Oct. 20, 2005, D.C. Law 16-33, § 2365, as added Apr. 20, 2010, D.C. Law 18-141, § 2(p), 57 DCR 1485.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 18-141, see notes following § 2-218.02.

SUBPART 3A. STABILIZATION AND JOB CREATION STRATEGY.

§ 2-218.66. SERVICES TO CERTIFIED BUSINESS ENTERPRISES.

(a) The Department shall provide the following services to certified business enterprises:

- (1) Specialized programs to assist certified business enterprises in securing capital and repairing damaged credit;
- (2) Informational seminars on securing credit and loans; and
- (3) Access to non-traditional financing sources, as well as traditional lending sources.

(b) The Department shall:

- (1) Develop a catalog of on-line survival and growth tools and resources that certified business enterprises can access through the Internet or other organizations;
- (2) Enter into a memorandum of understanding with a third-party vendor to provide expert consulting and education to assist certified businesses enterprises at risk of failure, including certified business enterprises that are considering filing for bankruptcy;
- (3) Develop a formal listing of financing options for business enterprises;
- (4) Deliver services that assist workers who become unemployed due to economic fluctuations to begin new businesses; and
- (5) Enter into a memorandum of understanding with a third-party vendor to provide one-on-one counseling with potential borrowers to improve financial presentations to lenders.

(Oct. 20, 2005, D.C. Law 16-33, § 2366, as added May 27, 2010, D.C. Law 18-159, § 2(g), 57 DCR 3006.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

Law 18-159, the "Small Business Stabilization and Job Creation Strategy Amendment Act of 2010", was introduced in Council and assigned Bill No. 18-457, which was referred to the Committee on Economic Development. The bill was adopted on first and second readings on February 2, 2010, and March 2, 2010, respectively. Signed by the Mayor on March 25, 2010, it was assigned Act No. 18-350 and transmitted to both Houses of Congress for its review. D.C. Law 18-159 became effective on May 27, 2010.

§ 2-218.67. ESTABLISHMENT OF THE VOLUNTEER CORP OF EXECUTIVES AND ENTREPRENEURS.

(a) There is established the Volunteer Corp of Executives and Entrepreneurs to provide mentoring, education, consulting, and networking services to certified business enterprises within the Department. Notwithstanding any other provision of law, the Volunteer Corp of Executives and Entrepreneurs may solicit contributions from the private sector to be used to carry out its functions under this section.

(b)(1) The Volunteer Corp of Executives and Entrepreneurs shall consist of individuals with at least 10 years of experience in the industry.

(2) Individuals serving within the Volunteer Corp of Executives and Entrepreneurs shall serve without compensation for their services.

(c) The Director shall:

(1) Ensure that the Volunteer Corp of Executives and Entrepreneurs carries out a plan to increase the proportion of persons within the certified business enterprises who are from socially and economically disadvantaged backgrounds;

(2) Ensure that the Volunteer Corp of Executives and Entrepreneurs establishes benchmarks for use in evaluating the performance of its activities and the performance of the individuals serving in the Volunteer Corp of Executives and Entrepreneurs, including the following:

(A) The demographic characteristics and the geographic characteristics of persons within the certified business enterprises assisted by the Volunteer Corp of Executives and Entrepreneurs;

(B) The hours spent mentoring by individuals within the Volunteer Corp of Executives and Entrepreneurs; and

(C) The performance evaluations of the persons or the certified business enterprises assisted by the Volunteer Corp of Executives and Entrepreneurs;

(3) Ensure that the Volunteer Corp of Executives and Entrepreneurs provides one-on-one advice to certified business enterprises; and

(4) Implement a networking program through the Volunteer Corp of Executives and Entrepreneurs, which provides certified business enterprises with the opportunity to make business contacts in their industry.

(d) The Council shall receive an annual report on the implementation of this section.

(Oct. 20, 2005, D.C. Law 16-33, § 2367, as added May 27, 2010, D.C. Law 18-159, § 2(g), 57 DCR 3006.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 18-159, see notes following § 2-218.66.

§ 2-218.68. MANAGEMENT AND DIRECTION.

(a)(1) Beginning with fiscal year 2011, the Department shall develop an annual job creation plan ("Plan") for using District small business development resources as a catalyst for job creation and submit the Plan to the Council within 45 days of October 1st.

(2) The Plan shall include the Department's strategy for drawing on existing programs and other available resources. To evaluate the success of the Department's actions regarding these efforts, the Director shall identify, in consultation with the appropriate personnel from small business development programs, the performance measures and criteria, to include job creation, retention, and retraining goals.

(b)(1) The Department, pursuant to subchapter I of Chapter 5 of this title, shall issue rules to develop and implement a consistent data collection process to cover all small business development programs in the District.

(2) The data collection process shall include data relating to:

(A) Job creation;

(B) Performance; and

(C) Any other data determined appropriate by the Director.

(c) Beginning with fiscal year 2011, the Director, in consultation with other departments and agencies, shall submit, within 45 days of October 1, an annual report to the Council on opportunities to foster coordination, limit duplication, and improve program delivery for small business development programs.

(d)(1) The Director shall designate a staff member as a community specialist who is responsible for working with local small development service providers to increase coordination with federal resources.

(2) The Director shall develop benchmarks for measuring the performance of the community specialist under this subsection.

(Oct. 20, 2005, D.C. Law 16-33, § 2368, as added May 27, 2010, D.C. Law 18-159, § 2(g), 57 DCR 3006.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 18-159, see notes following § 2-218.66.

§ 2-218.69. PROCUREMENT TRAINING AND ASSISTANCE.

The Department shall:

- (1) Identify contracts that are suitable for certified business enterprises;
- (2) Assist certified business enterprises in identifying and preparing for business opportunities made available under the American Recovery and Reinvestment Act of 2009, approved February 17, 2009 (Pub. L. No. 111-5; 123 Stat. 115), through informational presentations and the dissemination of information; and
- (3) Provide technical assistance regarding the District and federal procurement processes, including assisting certified business enterprises to comply with local and federal regulations and bonding requirements.

(Oct. 20, 2005, D.C. Law 16-33, § 2369, as added May 27, 2010, D.C. Law 18-159, § 2(g), 57 DCR 3006.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 18-159, see notes following § 2-218.66.

SUBPART 4. TRIENNIAL REVIEW AND RULEMAKING.

§ 2-218.71. TRIENNIAL REVIEW OF PROGRAM AND SUBCHAPTER.

(a) Every 3 years following October 20, 2005, the Department shall submit to the Council, the Mayor, and the Commission the results of an independent evaluation of the certified business enterprise programs. This evaluation shall compare the costs of contracts awarded pursuant to this subchapter to the cost of contracts awarded without use of the set-asides and bid preferences authorized by this subchapter. This evaluation shall also compare economic outcomes such as revenue, tax payments, and employment of District residents for certified business enterprises certified pursuant to Part D of this subchapter to economic outcomes for similar firms that are not certified pursuant to Part D of this subchapter.

(b) The Department and the Commission shall review the findings in the triennial report and the goals, intents, and purposes of this subchapter. The Department shall, and the Commission may, transmit to the Council and the Mayor a report setting forth any recommended amendments to this subchapter.

(Oct. 20, 2005, D.C. Law 16-33, § 2371, 52 DCR 7503; Sept. 18, 2007, D.C. Law 17-20, § 2062(j), 54 DCR 7052; July 18, 2008, D.C. Law 17-207, § 2(q), 55 DCR 6107.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 17-20, in subsec. (a), substituted "pursuant to Part D of this subchapter" for "by the Commission".

D.C. Law 17-207, in subsec. (a), substituted "certified" for "small, local, and disadvantaged".

Temporary Amendments of Section

For temporary (225 day) amendment of section, see § 2(p) of the Department of Small and Local Business Development Subcontracting Clarification, Benefit Expansion, and Grant-making Authority Temporary Amendment Act of 2007 (D.C. Law 17-96, January 29, 2008, law notification 55 DCR 3403).

Emergency Act Amendments

For temporary (90 day) addition, see § 2371 of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

For temporary (90 day) amendment of section, see § 2062(j) of Fiscal Year 2008 Budget Support Emergency Act of 2007 (D.C. Act 17-74, July 25, 2007, 54 DCR 7549).

For temporary (90 day) amendment of section, see § 2(p) of Department of Small and Local Business Development Subcontracting Clarification, Benefit Expansion, and Grant-making Authority Emergency Amendment Act of 2007 (D.C. Act 17-156, October 18, 2007, 54 DCR 10919).

For temporary (90 day) amendment of section, see § 2(p) of Department of Small and Local Business Development Subcontracting Clarification, Benefit Expansion, and Grant-making Authority Congressional Review Emergency Amendment Act of 2008 (D.C. Act 17-251, January 23, 2008, 55 DCR 1259).

Legislative History of Laws

For Law 16-33, see notes following § 2-218.01.

For Law 17-20, see notes following § 2-215.24.

For Law 17-207, see notes following § 2-218.02.

§ 2-218.72. RULEMAKING AUTHORITY.

The Mayor shall, pursuant to subchapter I of Chapter 5 of Title 2, issue proposed rules to implement this subchapter. The proposed rules shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within this 45-day review period, the proposed rules shall be deemed approved.

(Oct. 20, 2005, D.C. Law 16-33, § 2372, 52 DCR 7503.)

HISTORICAL AND STATUTORY NOTES

Emergency Act Amendments

For temporary (90 day) addition, see § 2372 of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

Legislative History of Laws

For Law 16-33, see notes following § 2-218.01.

Delegation of Authority

Delegation of Authority--Department of Small and Local Business Development, see Mayor's Order 2005-136, September 27, 2005 (53 DCR 154).

Delegation of Authority pursuant to section 2372 of the Small, Local, and Disadvantaged Business Enterprise Development and Assistance Act of 2005, see Mayor's Order 2009-58, April 15, 2009 (56 DCR 6797).

Resolutions

Resolution 18-267, the "Local, Small, and Disadvantaged Business Enterprise Contracting Regulations Approval Resolution of 2009", was approved effective October 6, 2009.

SUBPART 5. FINANCIAL ASSISTANCE.

§ 2-218.75. SMALL BUSINESS MICRO LOAN FUND.

(a) For the purposes of this section, the term:

- (1) "Eligible recipient" means businesses certified as small business enterprises pursuant to § 2-218.22 or disadvantaged business enterprises pursuant to § 2-218.23.
- (2) "Fund" means the Small Business Micro Loan Fund.

(b) There is established as a nonlapsing fund the Small Business Micro Loan Fund, which shall be used for the following purposes:

- (1) To grant the local funds necessary to obtain federal matching funds to establish a procurement technical assistance program in the Department;
- (2) To make a one-time grant in an amount of \$50,000 to provide operating support to a newly formed business association in Ward 3; and
- (3) To provide financial assistance, including grants, loans, and loan guarantees, to eligible recipients.

(c)(1) All funds deposited into the Fund shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time, but shall be continually available for the uses and purposes set forth in subsection (b) of this section without regard to fiscal year limitation, subject to authorization by Congress.

(2) Any penalties assessed by the Department pursuant to § 2-218.48 and any civil penalties imposed pursuant to § 2-218.63(c) and any fees collected pursuant to § 2-218.49a(a-1) shall be collected by the Department and deposited into the Fund.

(d) Preference for financial assistance shall be given to:

- (1) Eligible recipients that are also certified as resident-owned businesses pursuant to § 2-218.35; or
- (2) Eligible recipients that serve, or whose principal office is located in:
 - (A) A DC Main Street corridor;
 - (B) A Neighborhood Investment Program Target Area; or
 - (C) Another area identified by the Mayor for economic development or commercial revitalization.

(e) Within 90 days of September 18, 2007, the Mayor shall issue rules to implement the provisions of this section. The Mayor shall submit the proposed rules to the Council for a 45-day period of review, excluding

Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution, within the 45-day review period, the proposed rules shall be deemed approved.

(Oct. 20, 2005, D.C. Law 16-33, § 2375, as added Sept. 18, 2007, D.C. Law 17-20, § 2062(e), 54 DCR 7052; July 18, 2008, D.C. Law 17-207, § 3, 55 DCR 6107; Aug. 16, 2008, D.C. Law 17-219, § 2022, 55 DCR 7598; Mar. 25, 2009, D.C. Law 17-353, § 216, 56 DCR 1117; Mar. 3, 2010, D.C. Law 18-111, § 2231, 57 DCR 181; Apr. 8, 2011, D.C. Law 18-357, § 2(b), 58 DCR 763.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 17-207, in subsec. (c)(2), made an amendment that resulted in no change in text; redesignated the former second subsection designated as (c) as subsec. (d); and redesignated former subsec. (d) as subsec. (e).

D.C. Law 17-219 rewrote subsec. (b), which had read as follows:

"(b) There is established as a nonlapsing fund the Small Business Micro Loan Fund, which shall be used solely to provide financial assistance, including loans and loan guarantees, to eligible recipients."

D.C. Law 17-353 validated previously made technical corrections in subsecs. (c)(2), (d), and (e).

D.C. Law 18-111, in subsec. (a)(1), substituted "or disadvantaged" for "and disadvantaged"; and rewrote subsec. (b)(2), which had read as follows:

"(2) To make a one-time grant in an amount of \$120,000 to be divided equally among the D.C. Main Streets Programs that are in good standing and have letters of agreement with the Department of Small and Local Business Development that expire by September 30, 2008 for expenditures related to personnel, accounting, and auditor services; and to make a one-time grant in an amount of \$10,000 to the Latino Economic Development Corporation for the printing of the Think Local First print directory that supports local businesses in the District; and".

D.C. Law 18-357, in subsec. (b), substituted "used" for "used solely"; and, in subsec. (c)(2), substituted "and any fees collected pursuant to § 2-218.49a(a-1) shall be collected by the Department and deposited into the Fund" for "shall be collected by the Department and deposited into the Fund".

Temporary Amendments of Section

For temporary (225 day) amendment of section, see § 3 of the Department of Small and Local Business Development Subcontracting Clarification, Benefit Expansion, and Grant-making Authority Temporary Amendment Act of 2007 (D.C. Law 17-96, January 29, 2008, law notification 55 DCR 3403).

Emergency Act Amendments

For temporary (90 day) addition, see § 2062(e) of Fiscal Year 2008 Budget Support Emergency Act of 2007 (D.C. Act 17-74, July 25, 2007, 54 DCR 7549).

For temporary (90 day) amendment of section, see § 3 of Department of Small and Local Business Development Subcontracting Clarification, Benefit Expansion, and Grant-making Authority Emergency Amendment Act of 2007 (D.C. Act 17-156, October 18, 2007, 54 DCR 10919).

For temporary (90 day) amendment of section, see § 3 of Department of Small and Local Business Development Subcontracting Clarification, Benefit Expansion, and Grant-making Authority Congressional Review Emergency Amendment Act of 2008 (D.C. Act 17-251, January 23, 2008, 55 DCR 1259).

For temporary (90 day) amendment of section, see § 2 of Small Business Micro Loan Fund Emergency Amendment Act of 2009 (D.C. Act 18-106, June 18, 2009, 56 DCR 4927).

For temporary (90 day) amendment of section, see § 2231 of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) amendment of section, see § 2231 of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

For temporary (90 day) addition of section, see § 2242 of Fiscal Year 2011 Budget Support Emergency Act of 2010 (D.C. Act 18-463, July 2, 2010, 57 DCR 6542).

For temporary (90 day) amendment of section, see § 2(b) of Alternative Equity Payment Allocation Emergency Amendment Act of 2010 (D.C. Act 18-589, October 20, 2010, 57 DCR 10143).

For temporary (90 day) amendment of section, see § 2(b) of Alternative Equity Payment Allocation Congressional Review Emergency Amendment Act of 2011 (D.C. Act 19-1, February 2, 2011, 58 DCR 1236).

Legislative History of Laws

Law 17-20, the "Fiscal Year 2008 Budget Support Act of 2007", was introduced in Council and assigned Bill No. 17-148 which was referred to the Committee of the Whole. The Bill was adopted on first and second

readings on May 15, 2007, and June 5, 2007, respectively. Signed by the Mayor on June 28, 2007, it was assigned Act No. 17-63 and transmitted to both Houses of Congress for its review. D.C. Law 17-20 became effective on September 18, 2007.

For Law 17-207, see notes following § 2-218.02.

Law 17-219, the "Fiscal Year 2009 Budget Support Act of 2008", was introduced in Council and assigned Bill No. 17-678, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 13, 2008, and June 3, 2008, respectively. Signed by the Mayor on June 26, 2008, it was assigned Act No. 17-419 and transmitted to both Houses of Congress for its review. D.C. Law 17-219 became effective on August 16, 2008.

For Law 17-353, see notes following § 2-218.42.

For Law 18-111, see notes following § 2-218.50.

For history of Law 18-357 see notes under § 2-218.49a.

Miscellaneous Notes

Short title: Section 2021 of D.C. Law 17-219 provided that subtitle I of title II of the act may be cited as the "Small Business Micro Loan Fund Amendment Act of 2008".

Short title: Section 2230 of D.C. Law 18-111 provided that subtitle X of title II of the act may be cited as the "Small Business Micro Fund Amendment Act of 2009".

§ 2-218.76. COMMERCIAL REVITALIZATION ASSISTANCE FUND.

(a)(1) There is established as a nonlapsing fund the Commercial Revitalization Assistance Fund ("Fund"). All funds deposited into the Fund and any interest earned on those funds, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or any other time, but shall be continually available for the uses and purposes set forth in subsection (b) of this section without regard to fiscal year limitation, subject to authorization by Congress.

(2) The Fund shall be administered by the Department of Small and Local Business Development and shall be separate and independent from any other commercial revitalization programs provided by the District.

(b) The Fund shall be used solely to provide commercial revitalization funding to Main Streets programs and other commercial revitalization services; provided, that the Fund shall not be used to provide commercial Clean Team services within a geographic area that is subject to a Business Improvement District, as defined in § 2-1215.02(7); except, that beginning in fiscal year 2013, the commercial Clean Team services shall include service in the vicinity of the intersection of Minnesota Avenue, S.E., and Pennsylvania Avenue, S.E.

(Oct. 20, 2005, D.C. Law 16-33, § 2376, as added Sept. 24, 2010, D.C. Law 18-223, § 2242, 57 DCR 6242; Sept. 20, 2012, D.C. Law 19-168, § 2143, 59 DCR 8025.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 19-168 substituted "commercial revitalization services; provided, that the Fund shall not be used to provide commercial Clean Team services within a geographic area that is subject to a Business Improvement District, as defined in § 2-1215.02(7); except, that beginning in fiscal year 2013, the commercial Clean Team services shall include service in the vicinity of the intersection of Minnesota Avenue, S.E., and Pennsylvania Avenue, S.E." for "commercial revitalization services".

Legislative History of Laws

Law 18-223, the "Fiscal Year 2011 Budget Support Act of 2010", was introduced in Council and assigned Bill No. 18-731, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 26, 2010, and June 15, 2010, respectively. Signed by the Mayor on July 2, 2010, it was assigned Act No. 18-462 and transmitted to both Houses of Congress for its review. D.C. Law 18-223 became effective on September 24, 2010.

Law 19-168, the "Fiscal Year 2013 Budget Support Act of 2012", was introduced in Council and assigned Bill No. 19-743, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 15, 2012, and June 5, 2012, respectively. Signed by the Mayor on June 22, 2012, it was assigned Act No. 19-385 and transmitted to both Houses of Congress for its review. D.C. Law 19-168 became effective on September 20, 2012.

Miscellaneous Notes

Short title: Section 2241 of D.C. Law 18-223 provided that subtitle U of title II of the act may be cited as the "Commercial Revitalization Segregated Fund Amendment Act of 2010".

PART E. REPEALERS.

§ 2-218.81. [RESERVED]

§ 2-218.82. REPEALERS.

(a) Sections 2-215.03, 2-215.04, and 2-215.11 are repealed.

(b) Subchapter IX of Chapter 2 of Title 2 is repealed.

(c) An order, rule, or regulation in effect under a law repealed by this section shall remain in effect under the corresponding provision enacted by this subtitle until repealed, amended, or superseded.

(Oct. 20, 2005, D.C. Law 16-33, § 2382, 52 DCR 7503.)

SUBCHAPTER X. FIRST SOURCE EMPLOYMENT.

PART A. GENERAL.

§ 2-219.01. DEFINITIONS.

For the purposes of this part, the term:

(1) "Beneficiary" means:

(A) The signatory to a contract executed by the Mayor which involves any District of Columbia government funds, or funds which, in accordance with a federal grant or otherwise, the District government administers and which details the number and description of all jobs created by a government-assisted project or contract for which the beneficiary is required to use the First Source Register;

(B) A recipient of a District government economic development action including contracts, grants, loans, tax abatements, land transfers for redevelopment, or tax increment financing that results in a financial benefit of \$300,000 or more from an agency, commission, instrumentality, or other entity of the District government, including a financial or banking institution which serves as the repository for \$1 million or more of District of Columbia funds.

(C) A retail or commercial tenant that is a direct recipient of a District government economic development action, including contracts, grants, loans, tax abatements, land transfers for public redevelopment, or tax increment financing in excess of \$300,000.

(2) "Employment agreement" means the contract referred to in paragraph (1) of this section.

(3) "All jobs" means any union and non-union managerial, nonmanagerial professional, nonprofessional, technical or nontechnical position including: clerical and sales occupations, service occupations, processing occupations, machine trade occupations, bench work occupations, structural work occupations, agricultural, fishery, forestry, and related occupations, and any other occupations as the Department of Employment Services may identify in the Dictionary of Occupational Titles, United States Department of Labor.

(4) "First Source Register" means the Department of Employment Services Automated Applicant Files, which consists of the names of unemployed District residents registered with the Department of Employment Services.

(5) "Government-assisted project or contract" means any construction or non-construction project or contract receiving funds or resources from the District of Columbia, or funds or resources which, in accordance with a federal grant or otherwise, the District of Columbia government administers, including contracts, grants, loans, tax abatements or exemptions, land transfers, land disposition and development agreements, tax increment financing, or any combination thereof, that is valued at \$300,000 or more.

(6) "Unemployed District resident" means:

(A) Any unemployed resident of the District of Columbia who does not receive unemployment compensation benefits pursuant to Chapter 1 of Title 51, and who lives within the boundaries of the advisory neighborhood commission in which the government-assisted project or contract is located;

(B) Any unemployed resident of the District of Columbia who does not receive unemployment

compensation benefits pursuant to Chapter 1 of Title 51; or

(C) Any other unemployed resident of the District of Columbia.

(7) "Hard to employ" means a District resident who is confirmed by a District of Columbia government agency as:

(A) An ex-offender who has been released from prison within the last 10 years;

(B) A participant of the Temporary Assistance for Needy Families program;

(C) A participant of the Supplemental Nutrition Assistance Program;

(D) Living with a permanent disability verified by the Social Security Administration or District vocational rehabilitation program;

(E) Unemployed for 6 months or more in the last 12-month period;

(F) Homeless;

(G) A participant or graduate of the Transitional Employment Program established by § 32-1331; or

(H) An individual who qualified for inclusion in the Work Opportunity Tax Credit Program as certified by the Department of Employment Services.

(8) "Direct labor costs" means all costs, including wages and benefits, associated with the hiring and employment of personnel assigned to a process in which payroll expenses are traced to the units of output and are included in the cost of goods sold.

(9) "Indirect labor costs" means all costs, including wages and benefits, that are part of operating expenses and are associated with the hiring and employment of personnel assigned to tasks other than producing products.

(10) "Workforce Act" means the Workforce Intermediary Establishment and Reform of the First Source Amendment Act of 2011 [D.C. Law 19-84].

(June 29, 1984, D.C. Law 5-93, § 2, 31 DCR 2545; Mar. 15, 1985, D.C. Law 5-175, § 2, 32 DCR 746; Mar. 17, 1993, D.C. Law 9-210, § 2(a), 40 DCR 19; June 8, 2006, D.C. Law 16-118, § 302(a), 53 DCR 2602; Mar. 25, 2009, D.C. Law 17-353, § 113, 56 DCR 1117; Feb. 24, 2012, D.C. Law 19-84, § 2(a), 58 DCR 11170.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1161.

Effect of Amendments

D.C. Law 16-118 rewrote par. (1), which had read as follows:

"(1) 'Beneficiary' means the signator to a contract executed by the Mayor which involves any District of Columbia government funds, or funds which, in accordance with a federal grant or otherwise, the District of Columbia government administers, or the applicant for any street or alley closing pursuant to Chapter 2 of Title 9, and which details the number and description of all jobs created by a government-assisted project for which the beneficiary is required to use the First Source Register."

D.C. Law 17-353 validated a previously made technical correction in the lead-in language.

D.C. Law 19-84 rewrote pars. (1) and (5); in par. (3), substituted "union and non-union managerial, nonmanagerial" for "managerial, nonmanagerial,"; in par. (6), substituted "government-assisted project or contract" for "government-assisted project"; and added pars. (7) to (10). Prior to amendment, pars. (1) and (5) read as follows:

"(1) 'Beneficiary' means:"

"(5) 'Government-assisted project' means any project funded in whole or in part with District of Columbia funds, or funds which, in accordance with a federal grant or otherwise, the District of Columbia government administers, and on which the District of Columbia is signatory to any agreement of a contractual nature, including leasing agreements of real property for 1 year or more, or the initial project, development, or construction facilitated by any street or alley closing pursuant to Chapter 2 of Title 9."

Temporary Addition of Section

Section 2 of D.C. Law 19-55 added a section to read as follows:

"Sec. 2. Establishment of Workforce Intermediary Task Force.

"(a)(1) By November 1, 2011, the Mayor shall establish a Workforce Intermediary Task Force ("Task Force") to review best practices for workforce intermediary programs.

"(2) The Task Force shall review similar programs implemented by the governments of Boston, Minneapolis, San Francisco, and any other cities that have implemented similar programs.

"(3) By January 15, 2012, the Task Force shall recommend to the Mayor and the Council a Workforce Intermediary Program ("Program") for the District. The recommendation shall include a review of:

"(A) The industries, in addition to the construction industry, that should be a focal point of the Program because they are frequently required to enter into first source agreements;

"(B) What would be a reasonable operating budget for the Program, including a cap on administrative costs;

"(C) What would be a reasonable funding mechanism for the Program;

"(D) How the Program would collaborate with multiple District government agencies and community-based organizations to serve job-ready residents as well as residents needing job-training services or adult basic education services;

"(E) The specific performance metrics that should be used to assess the performance of the Program's process and outcomes;

"(F) The baseline data that would be needed to isolate, to the fullest extent possible, the effects of the Program;

"(G) The type of governance structure that would work best for establishing the Program and for the ongoing operations of the Program; and

"(H) What programmatic and statutory recommendations would be necessary regarding how the Program will interact with the District's First Source Register program.

"(b)(1) The recommendations shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. Upon receipt of the recommendations, the Council shall hold a public roundtable or hearing. If the Council does not approve or disapprove the recommendations, in whole or in part, by resolution within the 45-day review period, the recommendations shall be deemed disapproved.

"(2) If the recommendations are disapproved by the Council, the Council's Committee on Housing and Workforce Development shall transmit a report to the Task Force citing the Council's concerns and the Task Force shall have 30 days to review the report and re-submit its new recommendations to the Mayor and the Council for approval pursuant to paragraph (1) of this subsection.

"(c) The Task Force shall consist of the following 17 members:

"(1) The Mayor, or his designee;

"(2) The Chairman of the Council, or his designee;

"(3) The Chairman of the Council's Committee on Housing and Workforce Development, or his designee;

"(4) The Director of the Department of Employment Services;

"(5) The Deputy Mayor for Planning and Economic Development, or his designee;

"(6) The Executive Director of the Workforce Investment Council;

"(7) Two members of the District business community who represent industries that are frequently subject to first source agreements, appointed by the Mayor;

"(8) Two members of the District business community who represent industries that are frequently subject to first source agreements, appointed by the Chairman of the Council;

"(9) A representative of a District job training or education provider, appointed by the Mayor;

"(10) A representative of a District job training or education provider, appointed by the Chairman of the Council;

"(11) Two representatives of organized labor, appointed by the Mayor;

"(12) A representative of organized labor, appointed by the Chairman of the Council;

"(13) A representative of the District philanthropic community or an organization focused on workforce development research, appointed by the Mayor; and

"(14) A representative of the District philanthropic community or an organization focused on workforce development research, appointed by the Chairman of the Council.

"(d) The Mayor and the Chairman of the Council shall serve as co-chairs of the Task Force.

"(e) The director of each District agency and instrumentality that engages in capital construction shall advise and assist the Task Force."

Section 4(b) of D.C. Law 19-55 provides that the act shall expire after 225 days of its having taken effect.

Emergency Act Amendments

For temporary (90 day) addition of section, see § 2 of Workforce Intermediary Task Force Establishment Emergency Act of 2011 (D.C. Act 19-131, August 2, 2011, 58 DCR 6789).

For temporary (90 day) addition of section, see § 2 of Workforce Intermediary Task Force Establishment Second Emergency Act of 2011 (D.C. Act 19-167, October 11, 2011, 58 DCR 8900).

Legislative History of Laws

Law 5-93, the "First Source Employment Agreement Act of 1984," was introduced in Council and assigned Bill No. 5-341, which was referred to the Committee on Housing and Economic Development. The Bill was adopted on first and second readings on April 10, 1984 and April 30, 1984, respectively. Signed by the Mayor on May 9, 1984, it was assigned Act No. 5-134 and transmitted to both Houses of Congress for its review.

Law 5-175 was introduced in Council and assigned Bill No. 5-542, which was referred to the Committee on Housing and Economic Development. The Bill was adopted on first and second readings on December 4, 1984 and December 18, 1984, respectively. Signed by the Mayor on January 11, 1985, it was assigned Act No. 5-240 and transmitted to both Houses of Congress for its review.

Law 9-210, the "First Source Employment Agreement Act of 1984 Amendment Act of 1992," was introduced in Council and assigned Bill No. 9-75, which was referred to the Committee on Labor. The Bill was adopted on first and second readings on November 4, 1992, and December 1, 1992, respectively. Signed by the Mayor on December 21, 1992, it was assigned Act No. 9-339 and transmitted to both Houses of Congress for its review. D.C. Law 9-210 became effective on March 17, 1993.

For Law 16-118, see notes following § 2-220.01.

For Law 17-353, see notes following § 2-218.42.

Law 19-84, the "Workforce Intermediary Establishment and Reform of First Source Amendment Act of 2011", was introduced in Council and assigned Bill No. 19-50, which was referred to the Committee on Housing and Workforce Development. The Bill was adopted on first and second readings on November 1, 2011, and December 6, 2011, respectively. Signed by the Mayor on December 21, 2011, it was assigned Act No. 19-244 and transmitted to both Houses of Congress for its review. D.C. Law 19-84 became effective on February 24, 2012.

Delegation of Authority

Delegation of Authority pursuant to D.C. Law 16-118, the "Way to Work Amendment Act of 2006", see Mayor's Order 2006-122, September 27, 2006 (53 DCR 9313).

Delegation of Additional Functions relating to First Source Employment Compliance to the Deputy Mayor for Planning and Economic Development, see Mayor's Order 2011-47, February 23, 2011 (58 DCR 1665).

§ 2-219.02. FIRST SOURCE REGISTER CREATED.

(a) The Mayor shall maintain a First Source Register. The First Source Register is the Department of Employment Services Automated Applicant File, which consists of the names of unemployed District residents registered with the Department of Employment Services.

(b) In compiling and maintaining the First Source Register the Mayor shall contact community organizations, advisory neighborhood commissions, civic and citizen associations, and project area committees for names of unemployed District residents.

(June 29, 1984, D.C. Law 5-93, § 3, 31 DCR 2545; Mar. 17, 1993, D.C. Law 9-210, § 2(b), 40 DCR 19.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1162.

Legislative History of Laws

For legislative history of D.C. Law 5-93, see Historical and Statutory Notes following § 2-219.01.

For legislative history of D.C. Law 9-210, see Historical and Statutory Notes following § 2-219.01.

Delegation of Authority

Delegation of authority pursuant to Law 5-93, see Mayor's Order 86-66, April 22, 1986.

§ 2-219.03. EMPLOYMENT AGREEMENTS REQUIRED.

(a) The Mayor shall include for every government-assisted project or contract a requirement that the beneficiary enter into an employment agreement with the District of Columbia government which states that:

(1) The first source for finding employees to fill all jobs created by the government-assisted project or contract will be the First Source Register; and

(2) The first source for finding employees to fill any vacancy occurring in all jobs covered by an employment agreement will be the First Source Register.

(b) In selecting unemployed District residents from the First Source Register for interviews for all jobs covered by each employment agreement, the Mayor shall:

(1) Give first preference to unemployed District residents pursuant to § 2- 219.01(6)(A); and

(2) Give second preference to unemployed District residents pursuant to § 2- 219.01(6)(B).

(c) The Mayor shall transmit each employment agreement to the Department of Employment Services no less than 7 calendar days in advance of the project or contract start date, whichever is later, and no work associated with the relevant government assistance can begin on a project or contract until the employment agreement has been accepted by the Department of Employment Services.

(d) Repealed.

(e)(1)(A) The Mayor shall include in each government-assisted project or contract that receives government assistance totaling between \$300,000 and \$5,000,000, a provision that at least 51% of the new employees hired to work on the project or contract shall be District residents. Collective bargaining agreements shall not be the basis for a waiver from this requirement.

(B) Prior to the employment agreement being accepted by the Department of Employment Services, each beneficiary covered by this paragraph shall choose whether the 51% of the new employees hired shall be:

(i) Cumulative of all new hires, including those made by all subcontractors at any tier who work on the project or contract; or

(ii) Met by each beneficiary covered by this paragraph and each individual subcontractor at any tier who works on the project or contract.

(C) Each beneficiary covered by this paragraph shall submit to the Department of Employment Services each month following the start of the project or contract a hiring compliance report for the project or contract that includes the:

(i) Number of employees who worked on the project or contract;

(ii) Number of current employees transferred;

(iii) Number of new job openings created;

(iv) Number of job openings created by employee attrition;

(v) Number of job openings listed with the Department of Employment Services;

(vi) Total monthly direct and indirect labor costs associated with the project or contract;

(vii) Total number of all District residents hired for the reporting period and the cumulative total number of District residents hired; and

(viii) Total number of all employees hired for the reporting period and the cumulative total number of employees hired, including each employee's:

(I) Name;

(II) Social security number;

(III) Job title;

(IV) Hire date;

(V) Residence; and

(VI) Referral source for all new hires.

(D)(i) Government-assisted construction projects or contracts covered by this paragraph shall be subject to the hiring and reporting requirements set forth in this paragraph until construction is completed and a final certificate of occupancy has been issued.

(ii) Government-assisted non-construction projects or contracts covered by this paragraph shall be subject to the hiring and reporting requirements set forth in this paragraph for as long as the benefit is being received.

(iii) A retail or commercial tenant that is a beneficiary as defined under § 2-219.01(1)(C) and is covered by this paragraph shall be subject to the hiring and reporting requirements set forth in this paragraph for 5 years following the commencement of the tenant's initial lease date.

(1A)(A) The Mayor shall include in each government-assisted construction project or contract that receives government assistance totaling \$5 million or more, a provision requiring that:

(i) At least 20% of journey worker hours by trade shall be performed by District residents;

(ii) At least 60% of apprentice hours by trade shall be performed by District residents;

(iii) At least 51% of the skilled laborer hours by trade shall be performed by District residents;
and

(iv) At least 70% of common laborer hours shall be performed by District residents.

(B) Collective bargaining agreements shall not be a basis for a waiver from this requirement.

(C) As part of the employment plan required by subparagraph (F)(ii) of this paragraph, each beneficiary covered by this paragraph shall choose whether all residency work requirements shall be:

(i) Cumulative of all hours worked, including those hours worked by subcontractors at any tier who work on the project or contract; or

(ii) Met by each beneficiary covered by this paragraph and each individual subcontractor at any tier who works on the project or contract.

(D) Each month following the start of the project or contract, beneficiaries covered by this paragraph shall submit to the Department of Employment Services copies of their monthly and cumulative certified payrolls, monthly and cumulative certified payrolls from all subcontractors at any tier working on the project or contract, as well as a report of the total monthly direct and indirect labor costs associated with the project or contract.

(E) Government-assisted construction projects or contracts covered by this paragraph shall be subject to the hiring and reporting requirements set forth in this paragraph until construction is completed and a final certificate of occupancy has been issued.

(F)(i) Bids and proposals responding to a solicitation for a government-assisted project or contract covered by this paragraph shall include an initial employment plan outlining the bidder or offeror's strategy to meet the local hiring requirements as part of its response to the solicitation. These plans shall be evaluated and scored by the Mayor based on the criteria listed in sub-sub-subparagraphs (I), (II), and (III) of this sub-subparagraph. The evaluation shall be worth 10% of the overall score of the bid or proposal. The employment plan shall include the following:

(I) Descriptions of the health and retirement benefits provided to employees who worked on any of the bidder or offeror's past 3 completed projects or contracts;

(II) A description of the bidder or offeror's efforts to provide District residents with ongoing employment and training opportunities after they complete work on the job for which they were initially hired; and

(III) A disclosure of past compliance with the Workforce Act and the Davis-Bacon Act of 1931, approved March 3, 1931 (46 Stat. 1494; 40 U.S.C. § 3141 *et seq.*) ("Davis-Bacon Act"), where applicable, on projects or contracts completed within the last 2 years.

(ii) The winning bidder or offeror shall submit a revised employment plan to the Mayor for approval prior to beginning work associated with the relevant government project or contract. The employment plan shall include:

(I) A projection of the total number of hours to be worked on the project or contract by trade;

(II) A projection of the total number of journey worker hours, by trade, to be worked on the project or contract and the total number of journey worker hours, by trade, to be worked by District residents;

(III) A projection of the total number of apprentice hours, by trade, to be worked on the project or contract and the total number of apprentice hours, by trade, to be worked by District residents;

(IV) A projection of the total number of skilled laborer hours, by trade, to be worked on the project or contract and the total number of skilled laborer hours, by trade, to be worked by District residents;

(V) A projection of the total number of common laborer hours to be worked on the project or contract and the total number of common laborer hours to be worked by District residents;

(VI) A timetable outlining the total hours worked by trade over the life of the project or contract and an associated hiring schedule;

(VII) Descriptions of the skill requirements by job title or position, including industry-recognized certifications required for the different positions;

(VIII) A strategy to fill the hours required to be worked by District residents pursuant to this paragraph, including a component on communicating these requirements to contractors and subcontractors and a component on potential community outreach partnerships with the University of the District of Columbia, the University of the District of Columbia Community College, the Department of Employment Services, Jointly Funded Apprenticeship Programs, or other government-approved, community-based job training providers;

(IX) A remediation strategy to ameliorate any problems associated with meeting these hiring requirements, including any problems encountered with contractors and subcontractors;

(X) The designation of a senior official from the general contractor who will be responsible for implementing the hiring and reporting requirements;

(XI) Descriptions of the health and retirement benefits that will be provided to District residents working on the project or contract;

(XII) A strategy to ensure that District residents who work on the project or contract receive ongoing employment and training opportunities after they complete work on the job for which they were initially hired and a review of past practices in continuing to employ District residents from one project or contract to the next;

(XIII) A strategy to hire graduates of District of Columbia Public Schools, District of Columbia public charter schools, and community-based job training providers, and hard-to-employ residents; and

(XIV) A disclosure of past compliance with the Workforce Act and the Davis-Bacon Act, where applicable, and the bidder or offeror's general District-resident hiring practices on projects or contracts completed within the last 2 years.

(iii) The Mayor shall require all beneficiaries of government-assisted projects or contracts covered by this paragraph that are not awarded through the contracting process to develop and submit to the Department of Employment Services the employment plan required in sub-subparagraph (ii) of this subparagraph.

(iv) Once approved, the employment plan required by sub-subparagraph (ii) of this subparagraph shall not be amended except with the approval of the Mayor.

(G) For the purpose of calculating hours worked by District residents, beneficiaries covered by this paragraph may receive double credit for hours worked by District residents who are certified by the Department of Employment Services as hard to employ as long as they include the resident's hard-to-employ certification as part of the monthly reporting. No more than 15% of the total hours worked by District residents may be comprised of double-credit hours.

(H) For the purpose of calculating hours worked by District residents, beneficiaries covered by this paragraph may count any hours worked by District residents on other completed projects or contracts subject to and in excess of the Workforce Act's hiring requirements that are certified by the Mayor.

(I) Within one year of February 24, 2012, the Mayor shall review the hiring and reporting requirements set forth by this paragraph to determine the appropriateness of each percentage and make relevant findings of the determination in a report to the Council. After the initial submission of this report the Mayor shall regularly, but at least once every 3 years, conduct a new review of the hiring and reporting requirements set forth by this paragraph to determine the appropriateness of each percentage and make relevant findings of the determination in a report to the Council.

(J) The Department of Employment Services shall consider requests from beneficiaries to recommend to the D.C. Apprenticeship Council to alter the ratio of journey worker to apprentice positions as long as the request does not jeopardize the quality or safety of the project or contract and there is a compelling District-resident hiring rationale.

(1B)(A) Within one year of February 24, 2012, the Mayor shall issue rules establishing enhanced hiring and reporting requirements for government-assisted non-construction projects or contracts that receive government assistance totaling \$5 million or more.

(B)(i) These rules shall include industry-specific requirements by percentage of total hours worked for full-time and part-time hourly wage employees and by percentage of full-time and part-time salaried employees, broken out by job category. The proposed rules shall also establish the length of time that these projects or contracts shall comply with the hiring and reporting requirements.

(ii) The proposed rules shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, by resolution, within this 45-day review period, the proposed rules shall be deemed disapproved.

(iii) Until the final rules have been adopted after approval by the Council pursuant to this paragraph and paragraph (1C)(F) of this subsection, government-assisted non-construction projects or contracts that receive government assistance totaling \$5 million or more shall be subject to the hiring and reporting requirements set forth in paragraph (1) of this subsection.

(1C)(A) Once final rules have been adopted after Council approval pursuant to paragraph (1B) of this subsection and subparagraph (F) of this paragraph, the Mayor shall include these District hiring and reporting requirements in each government-assisted non-construction project or contract that receives government assistance totaling \$5 million or more. These government-assisted non-construction

projects or contracts shall be subject to the procedures set forth in this paragraph.

(B)(i) Bids and proposals responding to a solicitation for a government-assisted project or contract covered by this paragraph shall include an initial employment plan outlining the bidder or offeror's strategy to meet the local hiring requirements as part of its response to the solicitation. These plans shall be evaluated and scored by the Mayor based on the criteria listed in sub-sub-paragraphs (I), (II), and (III) of this sub-subparagraph. The evaluation shall be worth 10% of the overall score of the bid or proposal. The employment plan shall include the following:

(I) Descriptions of the health and retirement benefits provided to employees who worked on any of the bidder or offeror's past 3 completed projects or contracts;

(II) A description of the bidder or offeror's efforts to provide District residents with ongoing employment, training, and career advancement opportunities; and

(III) A disclosure of past compliance with the Workforce Act, where applicable, on projects or contracts completed within the past 2 years.

(ii) The winning bidder or offeror shall submit a revised employment plan to the Mayor for approval, before beginning work associated with the project or contract. The revised employment plan shall include:

(I) A projection of the total number of hours to be worked by full-time and part-time hourly wage employees on an annual basis by job category and the total number of hours to be worked by full-time and part-time hourly wage employees who are District residents;

(II) A projection of the total number of full-time and part-time salaried employees on an annual basis by job category and the total number of full-time and part-time salaried employees that will be District residents;

(III) A timetable outlining the total hours worked by full-time and part-time hourly wage employees by job category and the total number of full-time and part-time salaried employees by job category over the duration of the life of the hiring requirements set forth by the Department of Employment Services and an associated hiring schedule which predicts when specific job openings will be available;

(IV) Descriptions of the skill requirements, including industry-recognized certifications required for the different positions;

(V) A strategy to fill the District-resident hiring requirements, including whether the bidder plans to pursue potential community outreach partnerships with the University of the District of Columbia, the University of the District of Columbia Community College, the Department of Employment Services, or other government-approved, community-based job training providers;

(VI) A remediation strategy to ameliorate any problems associated with meeting these hiring requirements;

(VII) The designation of a senior official from the beneficiary who will be responsible for implementing the hiring and reporting requirements;

(VIII) Descriptions of the health and retirement benefits that will be provided to District residents working on the project or contract;

(IX) A strategy to hire graduates of District of Columbia Public Schools, District of Columbia public charter schools, and community-based job training providers, and hard-to-employ residents; and

(X) A disclosure of past compliance with the Workforce Act, where applicable, and the bidder or offeror's general District hiring practices on projects or contracts completed within the past 2 years.

(iii) The Mayor shall require all beneficiaries of government-assisted projects or contracts covered by this paragraph that are not awarded through the contracting process to develop and submit to the Department of Employment Services the employment plan required in sub-subparagraph (ii) of this subparagraph.

(iv) Once approved, the employment plan required by sub-subparagraph (ii) of this subparagraph shall not be amended except with the approval of the Mayor.

(C) For the purpose of calculating hours worked and full-time and part-time salaried positions filled by District residents, beneficiaries covered by this paragraph may receive double credit for hours worked and for full-time and part-time salaried positions filled by District residents who are certified by the Department of Employment Services as hard to employ as long as they include the resident's hard-to-employ certification as part of the monthly reporting. No more than 15% of the total hours worked and full-time and part-time salaried positions filled by hard-to-employ District residents may be comprised of double-credit hours or double-credit full-time and part-time salaried positions.

(D) For the purpose of calculating hours worked and full-time and part-time salaried positions filled by District residents, beneficiaries covered by this paragraph may count any hours worked and full-time and part-time salaried positions filled by District residents on other completed projects or contracts subject to and in excess of the Workforce Act's hiring requirements that are certified by the Mayor.

(E) Within one year of the effective date of the rules approved by the Council pursuant to paragraph (1B) of this subsection, the Mayor shall review the hiring and reporting requirements set forth by this paragraph to determine the appropriateness of each percentage and make relevant findings of the determination in a report submitted to the Council. After the initial submission of this report the Mayor shall regularly, but at least once every 3 years, conduct a new review of the hiring and reporting requirements set forth by this paragraph to determine the appropriateness of each percentage and make relevant findings of the determination in a report submitted to the Council.

(F) Within 90 days of the effective date of the rules approved by the Council pursuant to paragraph (1B) of this subsection, the Mayor shall issue rules to implement the provisions of this paragraph. The proposed rules shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within this 45-day review period, the proposed rules shall be deemed approved.

(2) With the submission of the final request for payment from the District, the beneficiary shall:

(A) Document in a report to the Mayor its compliance with paragraph (1), (1A), (1B), or (1C) of this subsection; or

(B) Submit a request to the Mayor for a waiver of compliance with paragraphs (1), (1A), (1B), or (1C) of this subsection, which shall include the following documentation:

(i) Material supporting a good-faith effort to comply;

(ii) Referrals provided by the Department of Employment Services and other referral sources; and

(iii) Advertisement of job openings listed with the Department of Employment Services and other referral sources.

(3)(A) The Mayor may waive the provisions of paragraph (1), (1A), (1B), or (1C) of this subsection if the Mayor finds that:

(i) The Department of Employment Services has certified that a good-faith effort to comply has been demonstrated by the beneficiary;

(ii)(I) The beneficiary is located outside of the Washington Standard Metropolitan Statistical Area;

(II) None of the contract work is performed inside the Washington Standard Metropolitan Statistical Area;

(III) The beneficiary published each job opening or part-time work needed for 7 calendar days in a District newspaper of city-wide circulation; and

(IV) The Department of Employment Services certifies that there are insufficient eligible applicants from the First Source Register that possess the skills required by the positions, or the eligible applicants are not available for part-time work or do not have a means to travel to the onsite job; or

(iii) The beneficiary enters into a special workforce development training or placement arrangement with the Department of Employment Services.

(B) The Department of Employment Services shall consider the following when making a determination of a good-faith effort to comply:

(i) Whether the Department of Employment Services has certified that there is an insufficient number of District residents in the labor market who possess the skills required to fill the positions that were created as a result of the project or contract;

(ii) Whether the beneficiary posted the jobs on the Department of Employment Services job website for a minimum of 10 calendar days;

(iii) Whether the beneficiary posted each job opening or part-time work needed in a District newspaper with city-wide circulation for a minimum of 7 calendar days;

(iv) Whether the beneficiary has substantially complied with the relevant monthly reporting requirements set forth in this section;

(v) For government-assisted projects or contracts covered by paragraph (1A) or (1C) of this subsection, whether the beneficiary has submitted and substantially complied with its most recent employment plan that has been approved by the Department of Employment Services;

and

(vi) Any additional documented efforts.

(4)(A) Willful breach of the employment agreement, or failure to submit the required hiring compliance report pursuant to paragraph (1), (1A), (1B), or (1C) of this subsection, or deliberate submission of falsified data, shall be enforced by the Mayor through the imposition of a monetary fine of 5% of the total amount of the direct and indirect labor costs of the project or contract, in addition to other penalties provided by law.

(B) Failure to meet the required hiring requirements pursuant to paragraph (1), (1A), (1B), or (1C) of this subsection or failure to receive a good-faith waiver pursuant to paragraph (3) of this subsection may result in the Mayor imposing a penalty equal to 1/8 of 1% of the total amount of the direct and indirect labor costs of the project or contract for each percentage by which the beneficiary fails to meet the hiring requirements.

(C) Upon a second violation within a 10-year time frame of the required hiring or reporting requirements set forth within paragraphs (1), (1A), (1B), or (1C) of this subsection or failure to receive a good-faith waiver pursuant to paragraph (3) of this subsection, the Mayor shall debar a person or entity from consideration for award of contracts or subcontracts with the District of Columbia for a period of not more than 5 years.

(D) Upon a second violation within a 10-year time frame of the required hiring or reporting requirements set forth within paragraphs (1), (1A), (1B), or (1C) of this subsection or failure to receive a good-faith waiver pursuant to paragraph (3) of this subsection, the Mayor may deem a person or entity ineligible of consideration for government-assisted projects with the District of Columbia for a period of not more than 5 years.

(5) The beneficiary may appeal any decision of the Mayor regarding a contract pursuant to paragraph (4) of this subsection to the Contract Appeals Board. For those projects that are not awarded through the contracting process, the Mayor shall establish by rule an administrative appeals process that allows the beneficiary to appeal any decision of the Mayor pursuant to paragraph (4) of this subsection.

(6) The provisions of this subsection shall not apply to government-assisted projects or contracts entered into prior to September 6, 2001.

(f) Nonprofit organizations with 50 employees or less shall be exempt from subsection (e) of this section.

(June 29, 1984, D.C. Law 5-93, § 4, 31 DCR 2545; Mar. 17, 1993, D.C. Law 9-210, § 2(c), 40 DCR 19; Sept. 6, 2001, D.C. Law 14-24, § 2, 48 DCR 5793; Apr. 8, 2005, D.C. Law 15-295, § 3, 52 DCR 1479; Feb. 24, 2012, D.C. Law 19-84, § 2(b), 58 DCR 11170.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1163.

Effect of Amendments

D.C. Law 14-24 added subsecs. (c) to (f).

D.C. Law 15-295 rewrote subsec. (f) which had reads follows:

"(f) Nonprofit organizations shall be exempt from subsection (e) of this section."

D.C. Law 19-84, in subsec. (a), substituted "government-assisted project or contract" for "government-assisted project"; rewrote subsecs. (c) and (e); and repealed subsec. (d). Prior to amendment or repeal, subsecs. (c), (d), and (e) read as follows:

"(c) The Chief Procurement Officer and each District Contracting Officer shall transmit each employment agreement to the Department of Employment Services.

"(d) Each beneficiary shall submit to the Department of Employment Services, every month following the execution of the contract, a contract compliance report for the project that includes the:

"(1) Number of employees needed;

"(2) Number of current employees transferred;

"(3) Number of new job openings created;

"(4) Number of job openings listed with the Department of Employment Services;

"(5) Total number of all District residents hired for the reporting period and the cumulative total number of District residents hired; and

"(6) Total number of all employees hired for the reporting period and the cumulative total number of employees hired, including:

"(A) Name;

"(B) Social security number;

"(C) Job title;

"(D) Hire date;

"(E) Residence; and

"(F) Referral source for all new hires.

"(e)(1) The Chief Procurement Officer and each District Contracting Officer shall include in each government-assisted project, totalling \$100,000 or more, the provision that 51% of the new employees hired for the project shall be District residents.

"(2) With the submission of the final request for payment from the District, the beneficiary shall:

"(A) Document in a report to the Contracting Officer its compliance with paragraph (1) of this subsection; or

"(B) Submit a request to the Contracting Officer for a waiver of compliance with paragraph (1) of this subsection and include the following documentation:

"(i) Material supporting a good faith effort to comply;

"(ii) Referrals provided by the Department of Employment Services and other referral sources; and

"(iii) Advertisement of job openings listed with the Department of Employment Services and other referral sources.

"(3) The Contracting Officer may waive the provisions of paragraph (1) of this subsection if the Contracting Officer finds that:

"(A) A good faith effort to comply is demonstrated by the beneficiary;

"(B) The beneficiary is located outside the Washington Standard Metropolitan Statistical Area and none of the contract work is performed inside the Washington Standard Metropolitan Statistical Area;

"(C) The beneficiary enters into a special workforce development training or placement arrangement with the Department of Employment Services; or

"(D) The Department of Employment Services certifies that there are insufficient numbers of District residents in the labor market possessing the skills required by the positions created as a result of the contract.

"(4) Willful breach of the employment agreement, or failure to submit the contract compliance report pursuant to paragraph (2) of this subsection, or deliberate submission of falsified data, may be enforced by the Contracting Officer through the imposition of penalties, including monetary fines of 5% of the total amount of the direct and indirect labor costs of the contract. The payment shall be remitted to the Department of Employment Services for job training programs, subject to appropriations by Congress.

"(5) The beneficiary may appeal any decision of the Contracting Officer pursuant to paragraph (4) of this subsection to the Contract Appeals Board as provided in the contract.

"(6) The provisions of this subsection shall not apply to government-assisted projects entered into prior to September 6, 2001."

Legislative History of Laws

For legislative history of D.C. Law 5-93, see Historical and Statutory Notes following § 2-219.01.

For legislative history of D.C. Law 9-210, see Historical and Statutory Notes following § 2-219.01.

Law 14-24, the "51 Percent District Residents New Hires Amendment Act of 2001", was introduced in Council and assigned Bill No. 14-27, which was referred to the Committee on Public Service. The Bill was adopted on first and second readings on April 3, 2001, and May 1, 2001, respectively. Approved without the signature of the Mayor on May 24, 2001, it was assigned Act No. 14-74 and transmitted to both Houses of Congress for its review. D.C. Law 14-24 became effective on September 6, 2001.

Law 15-295, the "Apprenticeship Requirements Amendment Act of 2004", was introduced in Council and assigned Bill No. 15-884, which was referred to the Committee on Public Services. The Bill was adopted on first and second readings on November 9, 2004, and December 7, 2004, respectively. Signed by the Mayor on December 29, 2004, it was assigned Act No. 15-691 and transmitted to both Houses of Congress for its review. D.C. Law 15-295 became effective on April 8, 2005.

For history of Law 19-84, see notes under § 2-219.01

Delegation of Authority

Delegation of authority pursuant to Law 5-93, see Mayor's Order 86-66, April 22, 1986.

§ 2-219.03A. SPECIAL HIRING AGREEMENTS.

(a) Whenever the Mayor determines that the goal of increasing employment opportunities for District

residents may be better served by establishing hiring goals in specific job categories for specific government-assisted projects or contracts, the Mayor may enter into agreements with beneficiaries or their contractors and subcontractors to provide for increased hiring in specific job categories. Compliance with this agreement shall be deemed compliance with the requirements of this part. Non-compliance with this agreement shall be treated in the same manner as a violation of any other requirement of this part.

(b) The Mayor may direct the Director of each District agency, the Chief Procurement Officer, or each District contracting officer to develop and report on performance goals for each District agency in furtherance of the objectives of this part.

(June 29, 1984, D.C. Law 5-93, § 4a, as added June 8, 2006, D.C. Law 16- 118, § 302(b), 53 DCR 2602; Feb. 24, 2012, D.C. Law 19-84, § 2(c), 58 DCR 11170.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 19-84 substituted "government-assisted project or contract" for "government-assisted project".

Legislative History of Laws

For Law 16-118, see notes following § 2-220.01.

For history of Law 19-84, see notes under § 2-219.01.

Delegation of Authority

Delegation of Authority pursuant to D.C. Law 16-118, the "Way to Work Amendment Act of 2006", see Mayor's Order 2006-122, September 27, 2006 (53 DCR 9313).

§ 2-219.04. REPORTS.

The Mayor shall submit a semiannual report to the Council of the District of Columbia on January 31st and July 31st of each year. The report shall include, for each preceding 6-month period:

- (1) The number of government-assisted projects or contracts for which employment agreements were executed;
- (2) The number of jobs that result from employment agreements;
- (3) The number of District residents actually employed in government-assisted projects or contracts; and
- (4) The number of names of unemployed District residents on the First Source Register.

(June 29, 1984, D.C. Law 5-93, § 5, 31 DCR 2545; Mar. 14, 1985, D.C. Law 5-159, § 5, 32 DCR 30; Mar. 17, 1993, D.C. Law 9-210, § 2(d), 40 DCR 19; Feb. 24, 2012, D.C. Law 19-84, § 2(d), 58 DCR 11170.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1164.

Effect of Amendments

D.C. Law 19-84 substituted "government-assisted project or contract" for "government-assisted project".

Legislative History of Laws

For legislative history of D.C. Law 5-93, see Historical and Statutory Notes following § 2-219.01.

For legislative history of D.C. Law 5-159, see Historical and Statutory Notes following § 2-215.09.

For legislative history of D.C. Law 9-210, see Historical and Statutory Notes following § 2-219.01.

For history of Law 19-84, see notes under § 2-219.01.

§ 2-219.04A. MODERNIZATION OF FIRST SOURCE RECORDKEEPING.

Within 120 days of February 24, 2012, the Department of Employment Services shall provide public access on its website to all employment agreements entered into in 2009 through the present and shall make available online all future employment agreements, their status of compliance, and the project or contract's assigned Contracting Officer or First Source Compliance Officer and their contact information.

(June 29, 1984, D.C. Law 5-93, § 5a, as added Feb. 24, 2012, D.C. Law 19- 84, § 2(e), 58 DCR 11170.)

§ 2-219.04B. ESTABLISHMENT OF A WORKFORCE INTERMEDIARY PILOT PROGRAM.

(a)(1) By April 1, 2012, the Mayor shall establish a workforce intermediary pilot program for Fiscal Year 2012 based on Council and Mayor-approved recommendations made by the Workforce Intermediary Task Force established by the Workforce Intermediary Task Force Establishment Second Emergency Act of 2011, effective October 18, 2011 (D.C. Act 19-167; 58 DCR 8900), or succeeding legislation.

(2) The workforce intermediary pilot program shall act as an intermediary between employers and training providers to provide employers with qualified District resident job applicants.

(3) The workforce intermediary pilot program shall have a start-up budget not to exceed \$2 million, which shall be funded by all funds deposited in the District of Columbia Jobs Trust Fund ("Fund"), established in § 2-219.04c, and other existing local funds.

(4) Thirty days before the end of the pilot program, the Deputy Mayor for Planning and Economic Development, in consultation with the Department of Employment Services and the workforce intermediary, shall develop a progress report and recommendations for continued operations of the workforce intermediary that take into account the Council and Mayor-approved recommendations made by the Workforce Intermediary Task Force.

(June 29, 1984, D.C. Law 5-93, § 5b, as added Feb. 24, 2012, D.C. Law 19- 84, § 2(e), 58 DCR 11170.)

§ 2-219.04C. ESTABLISHMENT OF THE DISTRICT OF COLUMBIA JOBS TRUST FUND.

(a) There is established as a nonlapsing fund the District of Columbia Jobs Trust Fund, which shall be administered by the Deputy Mayor for Planning and Economic Development. The funds in the Fund shall be used solely for the purpose of establishing and operating the workforce intermediary pilot program, established in § 2-219.04b, or any succeeding program. The following shall be deposited into the Fund:

(1) Voluntary and negotiated contributions and donations, including past contributions for similar purposes that have yet to be collected or expended; and

(2) All outstanding monetary fines for breach of this part.

(b) All funds deposited into the Fund, and any interest earned on those funds, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time, but shall be continually available for the uses and purposes set forth in subsection (a) of this section without regard to fiscal year limitation, subject to authorization by Congress.

(June 29, 1984, D.C. Law 5-93, § 5c, as added Feb. 24, 2012, D.C. Law 19- 84, § 2(e), 58 DCR 11170.)

§ 2-219.05. RULES.

(a)(1) Except as provided in § 2-219.03(e)(1B) and (1C), within 180 days of February 24, 2012, the Mayor, pursuant to subchapter I of Chapter 5 of this title, shall issue rules to implement the provisions of the Workforce Act.

(2) The proposed rules shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within this 45-day review period, the rules shall be deemed approved.

(b) Any subsequent rules issued by the Mayor to implement the provisions of this part shall be submitted to the Council for a 45-day period of review in accordance with subsection (a)(2) of this section.

(June 29, 1984, D.C. Law 5-93, § 6, 31 DCR 2545; Feb. 24, 2012, D.C. Law 19-84, § 2(f), 58 DCR 11170.)

PART B. FIRST SOURCE COMPLIANCE.

§ 2-219.31. SHORT TITLE.

This part may be cited as the "First Source Compliance Act of 2008".

(Aug. 16, 2008, D.C. Law 17-219, § 1018, 55 DCR 7598.)

§ 2-219.32. DEFINITIONS.

For the purposes of this part, the term:

(1) "Executive Director" means the Executive Director of the Office of First Source Compliance.

(2) "Office" means the Office of First Source Compliance.

(3) "First Source Employment Agreement" means the requirements of part A of this subchapter.

(Aug. 16, 2008, D.C. Law 17-219, § 1019, 55 DCR 7598.)

§ 2-219.33. ESTABLISHMENT OF THE OFFICE OF FIRST SOURCE COMPLIANCE.

Pursuant to § 1-204.04(b), the Council establishes, as of October 1, 2008, the Office of First Source Compliance, as a single administrative unit within the Department of Employment Services, to enforce, monitor, and ensure compliance with part A of this subchapter, by each beneficiary of government-assisted projects in the District of Columbia.

(Aug. 16, 2008, D.C. Law 17-219, § 1020, 55 DCR 7598.)

§ 2-219.34. FUNCTIONS AND DUTIES.

(a) The Office shall:

(1) Monitor and track each beneficiary of government-assisted projects in the District to ensure compliance with the First Source Employment Agreement;

(2) Ensure that each beneficiary who is presently working on a governmental-assisted project or is bidding on a governmental-assisted project is in compliance with the First Source Employment Agreement;

(3) Require the beneficiary to submit to the Office a report on the 15th of each month on a form proposed by the Mayor; and

(4) Submit to the Council and the Mayor a quarterly report on a form proposed by the Mayor.

(b) The Department of Employment Services shall meet with the Council's Committee on Workforce Development and Government Operations and the members of the affected business community. Based on such meetings, the Department of Employment Services shall prepare recommendations regarding additional proposed functions and duties of the Office and shall submit the recommendations to the Mayor.

(c) Based upon the recommendations submitted to the Mayor pursuant to subsection (b) of this section, on or before October 31, 2008, the Mayor shall submit an act to the Council:

(1) Establishing any additional functions and duties of the Office;

(2)(A) Proposing penalties under § 2-219.03(e)(4), for beneficiaries of government-assisted projects who do not comply with the requirements of part A of this subchapter.

(B) Any monetary penalties proposed shall be used for job-training programs; and

(3) Proposing an appeal process, which may include the Contract Appeals Board appellate process, including its scope, under § 2-219.03(e)(5).

(Aug. 16, 2008, D.C. Law 17-219, § 1021, 55 DCR 7598.)

§ 2-219.35. EXECUTIVE DIRECTOR.

The Office shall be headed by an Executive Director appointed by the Mayor. The Executive Director shall be a resident of the District of Columbia or agree to become a resident of the District of Columbia within 180 days of appointment by the Mayor. The Executive Director shall employ staff as needed, in accordance with annual appropriations.

(Aug. 16, 2008, D.C. Law 17-219, § 1022, 55 DCR 7598.)

PART C. STIMULUS ACCOUNTABILITY.

§ 2-219.51. REPORTING REQUIREMENTS FOR ENTITIES RECEIVING GRANTS UNDER THE FEDERAL RECOVERY ACT.

All nonprofit organizations, companies, associations, contractors, and subcontractors who receive a grant or funding under the American Recovery and Reinvestment Act of 2009, approved February 17, 2009 (Pub. L. No. 111-5; 98 Stat. 1861) ("ARRA"), shall:

- (1) As a condition of the grant or funding, list all jobs that shall be created as a result of the grant or funding on the Department of Employment Services website;
- (2) Provide the list required by paragraph (1) of this section to the Department of Employment Services; and
- (3) Inform the Department of Employment Services of the number of District residents hired for ARRA-funded positions once the positions created as a result of a grant or funding under the ARRA are filled.

(July 23, 2010, D.C. Law 18-194, § 2, 57 DCR 4512.)

§ 2-219.52. REQUIREMENTS OF THE MAYOR.

- (a) The Mayor, through the Department of Employment Services, shall create a listing of all jobs that have become available through grants or funding under the ARRA.
- (b) The Mayor, through the Department of Employment Services, shall maintain a list of ARRA-funded positions that have been filled by District residents. The list of District residents hired as a result of ARRA grants or funding shall be reported to the Council.

(July 23, 2010, D.C. Law 18-194, § 3, 57 DCR 4512.)

SUBCHAPTER X-A. LIVING WAGE REQUIREMENTS.

§ 2-220.01. SHORT TITLE.

This subchapter may be cited as the "Living Wage Act of 2006".

(June 8, 2006, D.C. Law 16-118, § 101, 53 DCR 2602.)

§ 2-220.02. DEFINITIONS.

For purposes of this subchapter, the term:

- (1) "Affiliated employee" means any individual employed by a recipient who received compensation directly from government assistance or a contract with the District of Columbia government ("District Government"), including any employee of a contractor or subcontractor of a recipient who performs services pursuant to government assistance or contract.
- (2) "Contract" means a written agreement between a recipient and the District government.
- (3) "Government assistance" means a grant, loan, or tax increment financing that results in a financial benefit from an agency, commission, instrumentality, or other entity of the District government.
- (4) "Living wage" means an hourly wage rate of \$11.75 per hour, regardless of whether health care benefits are provided.
- (5) "Recipient" means any individual, sole proprietorship, partnership, association, joint venture, limited liability company, corporation, or any other form of business that enters into a contract with or receives government assistance from the District government.

(June 8, 2006, D.C. Law 16-118, § 102, 53 DCR 2602.)

§ 2-220.03. LIVING WAGE PAYMENT.

- (a) All recipients of contracts or government assistance in the amount of \$100,000 or more shall pay their affiliated employees no less than the living wage. All subcontractors of recipients of these contracts that receive funds of \$15,000 or more shall pay their affiliated employees no less than the living wage; provided, that this receipt of funds is from the contract funds received by the recipient from the District government. All subcontractors of recipients of government assistance shall pay their affiliated employees the living wage if the subcontractor receives \$50,000 or more from a recipient; provided, that this receipt of funds is from government assistance received by the recipient from the District of Columbia.
- (b) The living wage shall be paid to employees of the District government commencing March 1, 2006; provided, that the wage of any such employee established under an existing collective bargaining agreement or by the recipients of a federal law or grant shall continue as long as that agreement, law, or grant remains in effect.
- (c) The Department of Employment Services shall adjust this rate for the previous calendar year, on an annual basis by the annual average increase, if any, in the Consumer Price Index for all Urban Consumers in the Washington Metropolitan Statistical Area published by the Bureau of Labor Statistics of the United

States Department of Labor up to 3%. This adjustment shall begin the 1st of January occurring at least one year following June 8, 2006. The Department shall calculate the adjustment to the nearest multiple of \$.05 and shall publish the adjusted rate not later than March 1 of each year. Any annual adjustment in excess of 3% shall be approved by the Mayor.

(d) The Mayor shall publish any adjustment to the living wage rate in the District of Columbia Register no later than 45 days after the rate is adjusted.

(e) Repealed.

(June 8, 2006, D.C. Law 16-118, § 103, 53 DCR 2602; Mar. 25, 2009, D.C. Law 17-353, § 318(a), 56 DCR 1117.)

§ 2-220.04. CONTENTS OF CONTRACT; NOTICE TO SUBCONTRACTORS.

(a) All contracts and government assistance subject to this subchapter shall include the requirements under §§ 2-220.03, 2-220.06, 2-220.07, and 2-220.08.

(b) Each recipient of a contract or government assistance shall notify each subcontractor subject to this subchapter of the requirements as provided under subsection (a) of this section. The notification shall be in writing.

(June 8, 2006, D.C. Law 16-118, § 104, 53 DCR 2602.)

§ 2-220.05. EXEMPTIONS.

The following types of contracts, government assistance, and employment shall be exempt from the requirement of this subchapter:

- (1) Contracts or other agreements that are subject to higher wage level determinations required by federal law;
- (2) Existing and future collective bargaining agreements, provided, that the future collective bargaining agreement results in the employee being paid no less than the established living wage;
- (3) Contracts for electricity, telephone, water, sewer or other services delivered by a regulated utility;
- (4) Contracts for services needed immediately to prevent or respond to a disaster or eminent threat to public health or safety declared by the Mayor;
- (5) Contracts or other agreements awarded to recipients that provide trainees with additional services including, but not limited to, case management and job readiness services; provided, that the trainees do not replace employees subject to this subchapter;
- (6) An employee under 22 years of age employed during a school vacation period, or enrolled as a full-time student, as defined by the respective institution, who is in high school or at an accredited institution of higher education and who works less than 25 hours per week; provided, that he or she does not replace employees subject to this subchapter;
- (7) Tenants or retail establishments that occupy property constructed or improved by receipt of government assistance from the District of Columbia; provided, that the tenant or retail establishment did not receive direct government assistance from the District;
- (8) Employees of nonprofit organizations that employ not more than 50 individuals and qualify for taxation exemption pursuant to section 501(c)(3) of the Internal Revenue Code of 1954, approved August 16, 1954 (68A Stat. 163; 26 U.S. C. § 501(c)(3));
- (9) Medicaid provider agreements for direct care services to Medicaid recipients; provided, that the direct care service is not provided through a home care agency, a community residence facility, or a group home for persons with intellectual disabilities, as those terms are defined in § 44-501; and
- (10) Contracts or other agreements between managed care organizations and the Health Care Safety Net Administration or the Medicaid Assistance Administration to provide health services.

(June 8, 2006, D.C. Law 16-118, § 105, 53 DCR 2602; Mar. 2, 2007, D.C. Law 16-191, § 111, 53 DCR 6794; Sept. 26, 2012, D.C. Law 19-169, § 5(a), 59 DCR 5567.)

§ 2-220.06. NOTICE.

Each recipient and subcontractor of a recipient shall provide to each affiliated employee covered by this subchapter a fact sheet concerning the payment and enforcement requirements under §§ 2-220.03 and 2-220.08, and shall also post a notice concerning these requirements in a conspicuous site in its place of business. The Mayor shall provide the fact sheet and notice to each recipient which shall include:

- (1) Notice of the living wage hourly rate;
- (2) A summary of the requirements under §§ 2-220.03 and 2-220.07; and
- (3) Information concerning the enforcement of this subchapter including the name, address, and telephone number of the individual or entity to which complaints of noncompliance should be made.

(June 8, 2006, D.C. Law 16-118, § 106, 53 DCR 2602.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 16-118, see notes following § 2-220.01.

§ 2-220.07. RECORDS.

All recipients and subcontractors shall retain payroll records created and maintained in the regular course of business under District of Columbia law for a period of at least 3 years from the payroll date for employees subject to § 2-220.03.

(June 8, 2006, D.C. Law 16-118, § 107, 53 DCR 2602.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 16-118, see notes following § 2-220.01.

§ 2-220.08. ENFORCEMENT.

The payment of wages required under this subchapter shall be consistent with and subject to the provisions of Chapter 13 of Title 32.

(June 8, 2006, D.C. Law 16-118, § 108, 53 DCR 2602.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 16-118, see notes following § 2-220.01.

§ 2-220.09. WAIVER.

The Mayor may exempt a recipient from the requirements of this subchapter, subject to approval by the Council. Any entity requesting a waiver shall be required to demonstrate that the provisions of this subchapter will pose a significant financial hardship on the recipient that will result in the layoff of a substantial number of employees, substantial downsizing, or the inability to meet payroll. All requests for waivers shall be written and state the rationale for the request. Any waiver granted by the Mayor shall be subject to Council review and approval, by act.

(June 8, 2006, D.C. Law 16-118, § 109, 53 DCR 2602.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 16-118, see notes following § 2-220.01.

§ 2-220.10. RULES.

The Mayor shall issue rules to implement the provisions of this subchapter.

(June 8, 2006, D.C. Law 16-118, § 110, 53 DCR 2602.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 16-118, see notes following § 2-220.01.

§ 2-220.11. APPLICABILITY.

(a) The requirements of this subchapter shall apply to contracts and agreements for government assistance ("agreement") entered into after June 8, 2006, and shall not apply to any existing agreement entered into prior to that date. Where an agreement is renewed or extended after that date, that renewal or extension shall be deemed a new agreement and shall trigger coverage under this subchapter if the terms of the renewed or extended agreement otherwise meet the requirements for coverage under this subchapter.

(b) Notwithstanding the requirements of § 2-220.05(9), a home care agency, community residence facility, or group home for persons with intellectual disabilities shall not be required to pay a living wage until implementing rules are published in the District of Columbia Register and any necessary state plan amendments are approved.

(June 8, 2006, D.C. Law 16-118, § 111, 53 DCR 2602; Sept. 26, 2012, D.C. Law 19-169, § 5(b), 59 DCR 5567.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 19-169, in subsec. (b), substituted "persons with intellectual disabilities" for "mentally retarded persons".

Legislative History of Laws

For Law 16-118, see notes following § 2-220.01.

For history of Law 19-169, see notes under § 2-220.05.

SUBCHAPTER XI. QUICK PAYMENT PROVISIONS.

§ 2-221.01. DEFINITIONS.

For the purposes of this subchapter, the term:

(1) "Business concern" means any person engaged in a trade or business and nonprofit entities operating as contractors.

(1A) "Contractor" means any entity that has a direct contract with a District agency, as that term is defined in paragraph (3) of this section.

(2) "Designated payment office" means the place named in the contract for forwarding the invoice for payment or, in certain instances, for approval.

(3) "District agency" means any office, department, division, board, commission, or other agency of the District government, including, unless otherwise provided, an independent agency, required by law or by the Mayor or the Council to administer any law or any rule adopted under the authority of a law. For the purposes of this definition, the term "independent agency" means any agency of government not subject to the administrative control of the Mayor and includes, but is not limited to, the Superior Court of the District of Columbia, District of Columbia Court of Appeals, Council of the District of Columbia, Board of Elections and Ethics, Armory Board, Zoning Commission, Convention Center Board of Directors, District of Columbia Board of Education, and Public Service Commission.

(4) "Proper invoice" means an invoice which contains or is accompanied by substantiating documentation required by regulation or contract.

(5) "Subcontractor" means any entity that furnishes labor, material, equipment, or services to a contractor in performance of the contractor's contract with a District agency.

(Mar. 15, 1985, D.C. Law 5-164, § 2, 32 DCR 555; Mar. 20, 1992, D.C. Law 9-81, § 2(a), 39 DCR 681; Apr. 12, 1997, D.C. Law 11-259, § 307(a), 44 DCR 1423.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1171.

Legislative History of Laws

Law 5-164, the "District of Columbia Government Quick Payment Act of 1984," was introduced in Council and assigned Bill No. 5-120, which was referred to the Committee on Government Operations. The Bill was adopted on first and second readings on December 4, 1984 and December 18, 1984, respectively. Signed by the Mayor on January 11, 1985, it was assigned Act No. 5-229 and transmitted to both Houses of Congress for its review.

Law 9-81, the "District of Columbia Government Quick Payment Act of 1984 Amendment Act of 1992," was

introduced in Council and assigned Bill No. 9-156, which was referred to the Committee on Government Operations. The Bill was adopted on first and second readings on December 3, 1991, and January 7, 1992, respectively. Signed by the Mayor on January 28, 1992, it was assigned Act No. 9-139 and transmitted to both House of Congress for its review. D.C. Law 9-81 became effective on March 20, 1992.

For legislative history of D.C. Law 11-259, see Historical and Statutory Notes following § 2-213.02.

Delegation of Authority

Delegation of authority under D.C. Law 5-164, see Mayor's Order 85-119, July 18, 1985.

§ 2-221.02. RULES AND REGULATIONS GOVERNING INTEREST PENALTY PAYMENTS BY DISTRICT AGENCIES; COMPUTATION AND PAYMENT OF PENALTIES.

(a)(1) In accordance with rules and regulations issued by the Mayor of the District of Columbia ("Mayor"), each agency of the District of Columbia government ("District"), under the direct control of the Mayor, which acquires property or services from a business concern but which does not make payment for each complete delivered item of property or service by the required payment date shall pay an interest penalty to the business concern in accordance with this section on the amount of the payment which is due.

(2) Each rule or regulation issued pursuant to paragraph (1) of this subsection shall:

(A) Specify that the required payment date shall be:

(i) The date on which payment is due under the terms of the contract for the provision of the property or service; or

(ii) 30 calendar days, excluding legal holidays, after receipt of a proper invoice for the amount of the payment due, if a specific date on which payment is due is not established by contract;

(B)(i) Specify, in the case of any acquisition of meat or of a meat food product, a required payment date which is not later than 7 calendar days, excluding legal holidays, after the date of delivery of the meat or meat food product; and

(ii) Specify, in the case of any acquisition of a perishable agricultural commodity, a required payment date which is not later than 10 calendar days, excluding legal holidays, after the date of delivery of the perishable agricultural commodity pursuant to this subchapter;

(C) Specify separate required payment dates for contracts under which property or services are provided in a series of partial executions or deliveries, to the extent that the contract provides for separate payment for partial execution or delivery; and

(D) Require that, within 15 days after the date on which any invoice is received, District agencies notify the business concern in writing of any defect in the invoice or delivered goods, property or services or impropriety of any kind which would prevent the running of the time period specified in subparagraph (A)(ii) of this paragraph.

(b)(1) Interest penalties on amounts due to a business concern under this subchapter shall be due and payable to the concern for the period beginning on the day after the required payment date and ending on the date on which payment of the amount is made, except that no interest penalty shall be paid if payment for the complete delivered item of property or service concerned is made on or before: (A) the 3rd day after the required payment date, in the case of meat or a meat product, described in subsection (a)(2)(B)(i) of this section; (B) the 5th day after the required payment date, in the case of an agricultural commodity, described in subsection (a)(2)(B)(ii) of this section; or (C) the 15th day after the required payment date in the case of any other item. Interest, computed at a rate of not less than 1%, shall be determined by the Mayor by regulation.

(1A) Each contract executed pursuant to Chapter 3 of Title 2 shall include in the solicitation a description of the contractor's rights and responsibilities under the chapter.

(1B) Paragraphs (1) and (1A) of this subsection shall apply to claims arising after October 7, 1998.

(2) Any amount of an interest penalty which remains unpaid at the end of any 30-day period shall be added to the principal amount of the debt and thereafter interest penalties shall accrue on the added amount.

(c) This section does not authorize the appropriation of additional funds for the payment of interest penalties required by this section. A District agency shall pay any interest penalty required by this section out of funds made available for the administration or operation of the program for which the penalty was incurred.

(d) Any contract awarded by a District agency shall include:

(1) A payment clause that obligates the contractor to take one of the 2 following actions within 7 days of receipt of any amount paid to the contractor by the District agency for work performed by any

subcontractor under a contract:

- (A) Pay the subcontractor for the proportionate share of the total payment received from the District agency that is attributable to the subcontractor for work performed under the contract; or
 - (B) Notify the District agency and the subcontractor, in writing, of the contractor's intention to withhold all or part of the subcontractor's payment with the reason for the nonpayment;
- (2) An interest clause that obligates the contractor to pay interest to the subcontractor or supplier as provided in subsection (b)(1) and (2) of this section; and
- (3) A clause that obligates the contractor to include in any subcontract a provision that requires each subcontractor to include the payment and interest clauses required under paragraphs (1) and (2) of this subsection in a contract with any lower-tier subcontractor or supplier.
- (e)(1) A contractor's obligation to pay an interest charge to a subcontractor pursuant to subsection (d)(2) of this section shall not constitute an obligation of the District agency.
- (2) A contract modification shall not be made for the purpose of providing reimbursement for any interest charge pursuant to subsection (d)(2) of this section.
- (3) A cost reimbursement claim shall not include any amount for reimbursement for any interest charge pursuant to subsection (d)(2) of this section.
- (f)(1) A dispute between a contractor and subcontractor relating to the amount or entitlement of a subcontractor to a payment or a late payment interest penalty under the provisions of this subchapter does not constitute a dispute to which the District of Columbia is a party. The District of Columbia may not be interpleaded in any judicial or administrative proceeding involving such a dispute.
- (2) This subsection shall not limit or impair any contractual, administrative, or judicial remedies otherwise available to a contractor or subcontractor in the event of a dispute involving late payment or nonpayment by a prime contractor or deficient subcontract performance or nonperformance by a subcontractor.

(Mar. 15, 1985, D.C. Law 5-164, § 3, 32 DCR 555; Mar. 20, 1992, D.C. Law 9-81, § 2(b), 39 DCR 681; Mar. 26, 1999, D.C. Law 12-175, § 902(a), 45 DCR 7193; Apr. 20, 1999, D.C. Law 12-264, § 7(a), 46 DCR 2118.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1172.

Temporary Amendments of Section

For temporary (225 day) amendment of section, see § 2(a) of the Quick Payment Temporary Amendment Act of 1998 (D.C. Law 12-159, October 7, 1998, law notification 45 DCR 7577).

Emergency Act Amendments

For temporary amendment of section, see § 2(a) of the Quick Payment Emergency Amendment Act of 1998 (D.C. Act 12-379, June 5, 1998, 45 DCR 4468).

Legislative History of Laws

For legislative history of D.C. Law 5-164, see Historical and Statutory Notes following § 2-221.01.

For legislative history of D.C. Law 9-81, see Historical and Statutory Notes following § 2-221.01.

Law 12-175, the "Fiscal Year 1999 Budget Support Act of 1998," was introduced in Council and assigned Bill No. 12-618, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 5, 1998, and June 2, 1998, respectively. Signed by the Mayor on June 23, 1998, it was assigned Act No. 12-399 and transmitted to both Houses of Congress for its review. D.C. Law 12-175 became effective on March 26, 1999.

Law 12-264, the "Technical Amendments Act of 1998," was introduced in Council and assigned Bill No. 12-804, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 10, 1998, and December 1, 1998, respectively. Signed by the Mayor on January 7, 1999, it was assigned Act No. 12-626 and transmitted to both Houses of Congress for its review. D.C. Law 12-264 became effective on April 20, 1999.

Miscellaneous Notes

Issuance of rules and regulations under Law 5-164: Section 8(b) of D.C. Law 5-164 provided that the rules and regulations required under the act shall be issued not later than 120 days after March 15, 1985.

§ 2-221.03. INTEREST PENALTY FOR FAILURE TO PAY DISCOUNTED PRICE WITHIN SPECIFIED PERIOD.

(a) If a business concern offers a District agency a discount from the amount otherwise due under a contract for property or services in exchange for payment within a specified period of time, the District agency may make payment in an amount equal to the discounted price only if payment is made within the specified period of time.

(b) Each District agency which violates subsection (a) of this section shall pay an interest penalty on any amount which remains unpaid in violation of subsection (a) of this section. The interest penalty shall accrue on the unpaid amount in accordance with the regulations issued pursuant to § 2- 221.02, except that the required payment date with respect to the unpaid amount shall be the last day of the specified period of time described in subsection (a) of this section.

(Mar. 15, 1985, D.C. Law 5-164, § 4, 32 DCR 555.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1173.

Legislative History of Laws

For legislative history of D.C. Law 5-164, see Historical and Statutory Notes following § 2-221.01.

§ 2-221.04. FILING OF CLAIMS; DISPUTED PAYMENTS.

(a)(1) Claims for interest penalties which a District agency has failed to pay in accordance with the requirements of §§ 2-221.02 and 2-221.03 shall be filed with the contracting officer for a decision. Interest penalties under this subchapter shall not continue to accrue: (A) after the filing of an appeal for the penalties with the Contract Appeals Board; or (B) for more than one year.

(2) The contracting officer shall issue a decision within 60 days from the receipt of any claim submitted under this subchapter.

(3) Within 90 days from the receipt of a decision of the contracting officer, the contractor may appeal the decision to the Contract Appeals Board.

(4) The contractor shall file a claim for interest penalties and any amendments to such claim within 90 days after the principal is paid, except that if the contractor notifies the contracting officer in writing of the contractor's intent to file a claim within the 90-day period, the contractor shall be allowed 180 days after the principal is paid to file such claim.

(b) Except as provided in § 2-221.03 with respect to disputes concerning discounts, this subchapter shall not be construed to require interest penalties on payments which are not made by the required payment date by reason of a dispute between a District agency and a business concern over the amount of that payment or other allegations concerning compliance with a contract. Claims concerning any dispute, and any interest which may be payable with respect to the period while the dispute is being resolved, shall be subject to the ruling of the Contract Appeals Board.

(c)(1) With respect to any claim arising from a payment between March 15, 1985, and October 7, 1998, the contractor shall file a claim for interest penalties and any amendments to such claim with the contracting officer within 180 days of October 7, 1998.

(2) The 180 days specified in paragraph (1) of this subsection shall be extended to 270 days to file a claim if the contractor notifies the contracting officer in writing of the contractor's intent to file a claim for interest penalties within 180 days of October 7, 1998.

(3) A claim filed by a contractor may be amended at any time prior to the issuance of a decision by the contracting officer.

(d) Subsection (a) of this section shall apply to claims arising after October 7, 1998.

(Mar. 15, 1985, D.C. Law 5-164, § 5, 32 DCR 555; Mar. 26, 1999, D.C. Law 12-175, § 902(b), 45 DCR 7193; Apr. 20, 1999, D.C. Law 12-264, § 7(b), 46 DCR 2118.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1174.

Temporary Amendments of Section

For temporary (225 day) amendment of section, see § 2(b) of the Quick Payment Temporary Amendment Act of 1998 (D.C. Law 12-159, October 7, 1998, law notification 45 DCR 7577).

Emergency Act Amendments

For temporary amendment of section, see § 2(b) of the Quick Payment Emergency Amendment Act of 1998 (D.C. Act 12-379, June 5, 1998, 45 DCR 4469).

Legislative History of Laws

For legislative history of D.C. Law 5-164, see Historical and Statutory Notes following § 2-221.01.

For legislative history of D.C. Law 12-175, see Historical and Statutory Notes following § 2-221.02.

For legislative history of D.C. Law 12-264, see Historical and Statutory Notes following § 1-221.02.

§ 2-221.05. REQUIRED REPORTS.

(a) Each district agency shall file with the Mayor and the Chief Financial Officer a detailed report on any interest penalty payments made pursuant to this subchapter during the preceding fiscal year.

(b) The report shall include the numbers, amounts, and frequency of interest penalty payments, and the reasons the payments were not avoided by prompt payment, and shall be delivered to the Mayor and the Chief Financial Officer within 60 days after the conclusion of each fiscal year.

(c) The Chief Financial Officer shall submit to the Mayor and the Council within 120 days after the conclusion of each fiscal year a report on District agency compliance with the requirements of this subchapter. The report shall include a summary of the report submitted by each District agency pursuant to this section and an analysis of the progress made in reducing interest penalty payments by that agency from previous years.

(Mar. 15, 1985, D.C. Law 5-164, § 6, 32 DCR 555; Apr. 12, 1997, D.C. Law 11-259, § 307(b), 44 DCR 1423; Oct. 22, 2009, D.C. Law 18-61, § 2, 56 DCR 6597.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1175.

Effect of Amendments

D.C. Law 18-61, in subsecs. (a), (b), and (c), substituted "Chief Financial Officer" for "Director of the Office of Contracting and Procurement".

Legislative History of Laws

For legislative history of D.C. Law 5-164, see Historical and Statutory Notes following § 2-221.01.

For legislative history of D.C. Law 11-259, see Historical and Statutory Notes following § 2-213.02.

Law 18-61, the "Quick Payment Amendment Act of 2009", as introduced in Council and assigned Bill No. 18-1, which was referred to the Committee on Government Operations and the Environment. The Bill was adopted on first and second readings on June 30, 2009, and July 14, 2009, respectively. Signed by the Mayor on July 28, 2009, it was assigned Act No. 18-157 and transmitted to both Houses of Congress for its review. D.C. Law 18-61 became effective on October 22, 2009.

§ 2-221.06. DETERMINATION OF RECEIPT AND PAYMENT DATES; CONSTRUCTION OF RENTAL CONTRACTS.

(a) An invoice shall be deemed to have been received by an agency on (1) the date on which the agency's designated payment office actually receives a proper invoice, or (2) the date on which the agency accepts the property or service concerned, whichever is later.

(b)(1) District agencies shall mail or otherwise deliver checks to a business concern on or about the same day that the checks are dated.

(2) If a District agency makes a payment by check on or about same day as the date of the check, then the payment shall be considered made on the date on which a check for payment is dated.

(c) A contract for the rental of real or personal property is a contract for the acquisition of that property.

(Mar. 15, 1985, D.C. Law 5-164, § 7, 32 DCR 555.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1176.

Legislative History of Laws

For legislative history of D.C. Law 5-164, see Historical and Statutory Notes following § 2-221.01.

SUBCHAPTER XII. EMPLOYEES OF DISTRICT CONTRACTORS AND INSTRUMENTALITY WHISTLEBLOWER PROTECTION.

§ 2-223.01. DEFINITIONS.

For purposes of this subchapter, the term:

- (1) "Contract" means any contract for goods or services between the District government and another entity but excludes any collective bargaining agreement.
- (2) "Contributing factor" means any factor which, alone or in connection with other factors, tends to affect in any way the outcome of the decision.
- (3) "Employee" means:
 - (A) Any person who is a former or current employee of or an applicant for employment by an instrumentality of the District government not covered by Chapter 6 of Title 1;
 - (B) Any person who is a former or current employee of any entity that has a contract with the District government to supply goods or services and who is engaged in performing such contract; or
 - (C) Any person who is a security officer and is or was employed in that capacity by a person who or entity that provides security services.
- (4) "Illegal order" means a directive to violate or to assist in violating a federal, state, or local law, rule, or regulation.
- (5) "Instrumentality" means a quasi-governmental entity that operates in part with District funds, including, but not limited to, the District of Columbia Water and Sewer Authority, established by § 34-2202.02(a); the Health and Hospitals Public Benefits Corporation, established by Chapter 11 of Title 44; the Public Service Commission, established by § 34-801; the Washington Convention and Sports Authority established by § 10-1202.04; the Committee to Promote the District of Columbia; the National Capital Revitalization Corporation, established by § 2-1219.02; and the Washington Metropolitan Area Transit Authority, established by subchapter IV of Chapter 11 of Title 9.
- (6) "Prohibited personnel action" includes but is not limited to: recommended, threatened, or actual termination, demotion, suspension, or reprimand; involuntary transfer, reassignment or detail; referral for psychiatric or psychological counseling; failure to hire or promote or take other favorable personnel action; or in any other manner retaliating against an employee because that employee has made a protected disclosure or refuses to comply with an illegal order, as those terms are defined in this section.
- (6A) "Prohibited procurement action" includes any recommended, threatened, or actual proceeding, based wholly or in part on a protected disclosure made by an employee, officer, or owner of a contractor:
 - (A) Terminate a contract by default or convenience without adequate and documented justification;
 - (B) Unreasonably delay or withhold payment on legitimate vouchers or claims of a contractor;
 - (C) Impose conditions or requirements on the contractor not required by the contract;
 - (D) Take any action designed to or having the effect of impeding a contractor's performance; or
 - (E) Take any other action designed to or having the effect of injuring the business or reputation of a contractor.
- (7) "Protected disclosure" means any disclosure of information, not specifically prohibited by statute, by an employee to a supervisor or to a public body that the employee reasonably believes evidences:
 - (A) Gross mismanagement in connection with the administration of a public program or the execution of a public contract;
 - (B) Gross misuse or waste of public resources or funds;
 - (C) Abuse of authority in connection with the administration of a public program or the execution of a public contract;
 - (D) A violation of a federal, state, or local law, rule, or regulation, or of a term of a contract between the District government and a District government contractor which is not of a merely technical or minimal nature; or
 - (E) A substantial and specific danger to the public health and safety.

(8) "Public body" means:

(A) The United States Congress, the Council, any state legislature, the District of Columbia Office of the Inspector General, the Office of the District of Columbia Auditor, the District of Columbia Financial Responsibility and Management Assistance Authority, or any member or employee of one of these bodies;

(B) The federal, the District of Columbia, or any state or local judiciary, any member or employee of these judicial branches, or any grand or petit jury;

(C) Any federal, District of Columbia, state, or local regulatory, administrative, or public agency or authority or instrumentality of one of these agencies or authorities;

(D) Any federal, District of Columbia, state, or local law enforcement agency, prosecutorial office, or police or peace officer;

(E) Any federal, District of Columbia, state, or local department of an executive branch of government; or

(F) Any division, board, bureau, office, committee, commission or independent agency of any of the public bodies described in subparagraphs (A) through (E) of this paragraph.

(8A) "Security officer" means an individual appointed under § 5-129.02, and shall have the same meaning as provided in section 2100 of Title 17 of the District of Columbia Municipal Regulations.

(9) "Supervisor" means any individual employed by a District instrumentality, a District government contractor, or a person who or entity that employs security officers who has authority to do the following:

(A) To hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them, or to evaluate their performance, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of authority is not of a merely routine or clerical nature, but requires the use of independent judgment; or

(B) To effectively recommend or to take remedial or corrective action for the violation of a law, rule, regulation or contract term that an employee may allege or report pursuant to this subchapter.

(10) "Whistleblower" means an employee or contractor who makes or is perceived to have made a protected disclosure as that term is defined in this section.

(Oct. 7, 1998, D.C. Law 12-160, § 202, 45 DCR 5147; Nov. 16, 2006, D.C. Law 16-187, § 201(a), 53 DCR 6722; Mar. 3, 2010, D.C. Law 18-111, § 2082(c), 57 DCR 181; Mar. 11, 2010, D.C. Law 18-117, § 3(a), 57 DCR 896.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1177.1.

Effect of Amendments

D.C. Law 16-187, in par. (3), deleted "or" from the end of subpar. (A), substituted "; or" for a period at the end of subpar. (B), and added subpar. (C); added par. (8A); and, in par. (9), substituted "District instrumentality, a District government contractor, or a person who or entity that employs security officers" for "District instrumentality or by a District government contractor".

D.C. Law 18-111, in par. (5), substituted "Washington Convention and Sports Authority" for "Washington Convention Center Authority".

D.C. Law 18-117 added par. (6A); and, in par. (10), substituted "an employee or contractor" for "an employee".

Emergency Act Amendments

For temporary addition of subchapter V [1981 Ed.], see §§ 202-208 of the Whistleblower Reinforcement Emergency Amendment Act of 1998 (D.C. Act 12-400, July 13, 1998, 45 DCR 5158), and see §§ 202-208 of the Whistleblower Reinforcement Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-464, October 28, 1998, 45 DCR 7821).

For temporary (90 day) amendment of section, see § 2082(c) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) amendment of section, see § 2082(c) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

Legislative History of Laws

Law 12-160, the "Whistleblower Reinforcement Act of 1998," was introduced in Council and assigned Bill No. 12-191, which was referred to the Committee on Government Operations. The Bill was adopted on first and

second readings on May 5, 1998, and June 2, 1998, respectively. Signed by the Mayor on June 23, 1998, it was assigned Act No. 12-398 and transmitted to both Houses of Congress for its review. D.C. Law 12-160 became effective on October 7, 1998.

Law 16-187, the "Enhanced Professional Security Amendment Act of 2006", was introduced in Council and assigned Bill No. 16-102, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on June 6, 2006, and July 11, 2006, respectively. Signed by the Mayor on July 25, 2006, it was assigned Act No. 16-465 and transmitted to both Houses of Congress for its review. D.C. Law 16-187 became effective on November 16, 2006.

For Law 18-111, see notes following § 2-218.50.

Law 18-117, the "Whistleblower Protection Amendment Act of 2009", was introduced in Council and assigned Bill No. 18-233, which was referred to the Committee on Government Operations and the Environment. The bill was adopted on first and second readings on December 1, 2009, and December 15, 2009, respectively. Signed by the Mayor on January 11, 2010, it was assigned Act No. 18-265 and transmitted to both Houses of Congress for its review. D.C. Law 18-117 became effective on March 11, 2010.

Miscellaneous Notes

Employees of District Contractors and Instrumentality Whistleblower Protection Act of 1998: Section 201 of Title II of D.C. Law 12-160 provided that Title II may be cited as the "Employees of District Contractors and Instrumentality Whistleblower Protection Act of 1998."

For whistleblower protection for employees of contracts and instrumentalities, see § 2-223.01 et seq.

§ 2-223.02. PROHIBITIONS.

(a) A supervisor shall not threaten to take or take a prohibited personnel action or otherwise retaliate against an employee because of the employee's protected disclosure or because of an employee's refusal to comply with an illegal order.

(b) A District government official or employee having the responsibility to evaluate, award, authorize payments, terminate, or otherwise administer a contract for goods or services between the District government and a contractor shall not threaten to take or take a prohibited procurement action against a contractor, or a contractor competing for a contract, based wholly or in part on a protected disclosure made by an employee, officer, or owner of the contractor to a public body.

(Oct. 7, 1998, D.C. Law 12-160, § 203, 45 DCR 5147; Mar. 11, 2010, D.C. Law 18-117, § 3(b), 57 DCR 896.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1177.2.

Effect of Amendments

D.C. Law 18-117 rewrote the section, which had read as follows:

"A supervisor shall not threaten to take or take a prohibited personnel action or otherwise retaliate against an employee because of the employee's protected disclosure or because of an employee's refusal to comply with an illegal order."

Emergency Act Amendments

For temporary addition of subchapter, see note to § 2-223.01.

Legislative History of Laws

For legislative history of D.C. Law 12-160, see Historical and Statutory Notes following § 2-223.01.

For Law 18-117, see notes following § 2-223.01.

§ 2-223.03. ENFORCEMENT.

(a) An employee aggrieved by a violation of § 2-223.02 may bring a civil action before a court or a jury in the Superior Court of the District of Columbia seeking relief and damages, including but not limited to injunction, reinstatement to the same position held before the prohibited personnel action or to an equivalent position, and reinstatement of the employee's seniority rights, restoration of lost benefits, back pay and interest on back pay, compensatory damages, reasonable costs, and attorney fees. A civil action shall be filed within 3 years after a violation occurs or within one year after the employee first becomes aware of the violation, whichever occurs first.

(a-1) A government contractor aggrieved by a violation of § 2-223.02(b) may bring a civil action before a court or a jury in the Superior Court of the District of Columbia seeking relief and damages, including an injunction, compensatory damages, reasonable costs, and attorney fees. A civil action shall be filed within 2 years after a violation occurs or within one year after the contractor first becomes aware of the violation, whichever occurs first.

(b) In a civil action or administrative proceeding, once it has been demonstrated by a preponderance of the evidence that an activity proscribed by § 2-223.02 was a contributing factor in the alleged prohibited personnel action against an employee, the burden of proof shall be on the employing District instrumentality or contractor, or the person or entity that employed the security officer, to prove by clear and convincing evidence that the alleged action would have occurred for legitimate, independent reasons even if the employee had not engaged in activities protected by this section.

(c) Notwithstanding any other provision of law, a violation of § 2-223.02 constitutes a complete affirmative defense for a whistleblower to a prohibited personnel action in an administrative review, challenge, or adjudication of that action.

(d) An employee who prevails in a civil action at the trial level shall be granted the equitable relief provided in the decision effective upon the date of the decision, absent a stay.

(Oct. 7, 1998, D.C. Law 12-160, § 204, 45 DCR 5147; Nov. 16, 2006, D.C. Law 16-187, § 201(b), 53 DCR 6722; Mar. 11, 2010, D.C. Law 18-117, § 3(c), 57 DCR 896.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1177.3.

Effect of Amendments

D.C. Law 16-187, in subsec. (b), substituted "District instrumentality, a District government contractor, or a person who or entity that employs security officers" for "District instrumentality or by a District government contractor".

D.C. Law 18-117, in subsec. (a), substituted "A civil action shall be filed within 3 years after a violation occurs or within one year after the employee first becomes aware of the violation, whichever occurs first" for "A civil action shall be filed within 1 year after a violation occurs or within 1 year after the employee first becomes aware of the violation"; and added subsec. (a-1).

Emergency Act Amendments

For temporary addition of subchapter, see note to § 2-223.01.

Legislative History of Laws

For legislative history of D.C. Law 12-160, see Historical and Statutory Notes following § 2-223.01.

For Law 16-187, see notes following § 2-223.01.

For Law 18-117, see notes following § 2-223.01.

§ 2-223.04. DISCIPLINARY ACTION; FINE.

(a) As part of the relief ordered in an administrative, arbitral or judicial proceeding, a supervisor employed by a District instrumentality who is found to have violated § 2-223.02 shall be subject to appropriate disciplinary action, up to and including dismissal.

(b) As part of the relief ordered in a judicial proceeding, a supervisor employed by a District instrumentality who is found to have violated § 2-223.02 shall be subject to a civil fine not to exceed \$1000.

(Oct. 7, 1998, D.C. Law 12-160, § 205, 45 DCR 5147; Nov. 16, 2006, D.C. Law 16-187, § 201(c), 53 DCR 6722.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1177.4.

Effect of Amendments

D.C. Law 16-187 substituted "a supervisor employed by a District instrumentality" for "any supervisor" throughout the section.

Emergency Act Amendments

For temporary addition of subchapter, see note to § 2-223.01.

For legislative history of D.C. Law 12-160, see Historical and Statutory Notes following § 2-223.01.

For Law 16-187, see notes following § 2-223.01.

§ 2-223.05. ELECTION OF REMEDIES.

(a) The institution of a civil action pursuant to § 2-223.03(a) shall preclude an employee from pursuing any administrative remedy for the same cause of action from an arbitrator pursuant to a negotiated grievance and arbitration procedure or an employment contract.

(b) No civil action shall be brought, pursuant to § 2-223.03(a) if the aggrieved employee has had a final determination on the same cause of action from an arbitrator pursuant to a negotiated grievance and arbitration procedure or an employment contract.

(Oct. 7, 1998, D.C. Law 12-160, § 206, 45 DCR 5147.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1177.5.

Emergency Act Amendments

For temporary addition of subchapter, see note to § 2-223.01.

Legislative History of Laws

For legislative history of D.C. Law 12-160, see Historical and Statutory Notes following § 2-223.01.

§ 2-223.06. POSTING OF NOTICE.

District instrumentalities shall conspicuously display notices of employee protections and obligations under this subchapter in each personnel office and in other public places, and shall use all other appropriate means to keep all employees informed, including but not limited to the inclusion of annual notices of employee protections and obligations under this subchapter with employee tax reporting documents. District government contractors shall inform all employees engaged in performing District government contracts of their rights under this subchapter. A person who or entity that employs security officers shall inform those employees of their rights under this subchapter.

(Oct. 7, 1998, D.C. Law 12-160, § 207, 45 DCR 5147; Nov. 16, 2006, D.C. Law 16-187, § 201(d), 53 DCR 6722.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1177.6.

Effect of Amendments

D.C. Law 16-187 added the sentence: "A person who or entity that employs security officers shall inform those employees of their rights under this subchapter."

Emergency Act Amendments

For temporary addition of subchapter, see note to § 2-223.01.

Legislative History of Laws

For legislative history of D.C. Law 12-160, see Historical and Statutory Notes following § 2-223.01.

For Law 16-187, see notes following § 2-223.01.

§ 2-223.07. APPLICABILITY.

(a) This subchapter shall apply to actions taken after July 13, 1998.

(b) This subchapter shall apply to employees of the WMATA when the Commonwealth of Virginia and the State of Maryland enact similar provisions for WMATA whistleblowers.

(Oct. 7, 1998, D.C. Law 12-160, § 208, 45 DCR 5147.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1177.7.

Emergency Act Amendments

For temporary addition of subchapter, see note to § 2-223.01.

Legislative History of Laws

For legislative history of D.C. Law 12-160, see Historical and Statutory Notes following § 2-223.01.

SUBCHAPTER XIII. REPEALED AND EXPIRED PROVISIONS.

PART A. GENERAL.

§ 2-225.01. RIGHT OF MAYOR TO CONTRACT.[REPEALED]

(June 11, 1878, 20 Stat. 103, ch. 180, § 3; Feb. 21, 1986, D.C. Law 6-85, § 1103(b), 32 DCR 7396.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1101.

1973 Ed., § 1-801.

Legislative History of Laws

Law 6-85 was introduced in Council and assigned Bill No. 6-191, which was referred to the Committee on Government Operations. The Bill was adopted on first and second readings on November 5, 1985 and November 19, 1985, respectively. Signed by the Mayor on December 3, 1985, it was assigned Act No. 6-110 and transmitted to both Houses of Congress for its review.

§ 2-225.02. CONTRACTS IN WHICH MAYOR PERSONALLY INTERESTED TO BE VOID.[REPEALED]

(R.S., D.C., § 82; June 20, 1874, 18 Stat. 116, ch. 337, § 2; June 11, 1878, 20 Stat. 103, ch. 180, § 2; Feb. 21, 1986, D.C. Law 6-85, § 1103(j), 32 DCR 7396.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1102.

1973 Ed., § 1-802.

Legislative History of Laws

For legislative history of D.C. Law 6-85, see Historical and Statutory Notes following § 2-225.01.

§ 2-225.03. CONTRACT REQUIREMENTS.[REPEALED]

(R.S., D.C., § 80; June 20, 1874, 18 Stat. 116, ch. 337, § 2; June 11, 1878, 20 Stat. 103, ch. 180, § 2; Feb. 21, 1986, D.C. Law 6-85, § 1103(j), 32 DCR 7396.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1103.

1973 Ed., § 1-803.

Legislative History of Laws

For legislative history of D.C. Law 6-85, see Historical and Statutory Notes following § 2-225.01.

§ 2-225.04. FORMAL CONTRACTS WITH BOND NOT REQUIRED FOR CONTRACTS LESS THAN \$2,000.[REPEALED]

(June 26, 1912, 37 Stat. 168, ch. 182; Aug. 3, 1968, 82 Stat. 629, Pub. L. 90-455, § 4; Feb. 21, 1986, D.C. Law 6-85, § 1103(e), 32 DCR 7396.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1108.

1973 Ed., § 1-806.

Legislative History of Laws

For legislative history of D.C. Law 6-85, see Historical and Statutory Notes following § 2-225.01.

§ 2-225.05. ADVERTISEMENT FOR PURCHASES AND CONTRACTS REQUIRED; EXCEPTIONS.[REPEALED]

(R.S. § 3709; Aug. 2, 1946, 60 Stat. 809, ch. 744, § 9(a); June 30, 1949, 63 Stat. 403, ch. 288, title VI, § 602(f); Sept. 5, 1950, 64 Stat. 583, ch. 849, §§ 6(a), (b), 8(c); Aug. 28, 1958, 72 Stat. 967, Pub. L. 93-356, § 1; Mar. 29, 1977, D.C. Law 1-95, § 11(c), 23 DCR 9532b; April 12, 1997, D.C. Law 11-259, § 405, 44 DCR 1423.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1110.

Legislative History of Laws

For legislative history of D.C. Law 11-259, see Historical and Statutory Notes following § 2-213.02.

§ 2-225.06. COST OF ADVERTISING.[REPEALED]

(May 30, 1908, 35 Stat. 493, ch. 227; Feb. 21, 1986, D.C. Law 6-85, § 1103(f), 32 DCR 7396.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1111.

1973 Ed., § 1-809.

Legislative History of Laws

For legislative history of D.C. Law 6-85, see Historical and Statutory Notes following § 2-225.01.

§ 2-225.07. APPROPRIATIONS FOR ADVERTISING AND PUBLICATION OF NOTICES.[REPEALED]

(Oct. 26, 1973, 87 Stat. 509, Pub. L. 93-140, § 25 (d); Feb. 21, 1986, D.C. Law 6-85, § 1103(a), 32 DCR 7396.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1112.

1973 Ed., § 1-809a.

Legislative History of Laws

For legislative history of D.C. Law 6-85, see Historical and Statutory Notes following § 2-225.01.

§ 2-225.08. SEPARATE CONTRACTS FOR MATERIAL AND LABOR.[REPEALED]

(July 5, 1884, 23 Stat. 125, ch. 227; Feb. 21, 1986, D.C. Law 6-85, § 1103(i), 32 DCR 7396.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1113.

1973 Ed., § 1-810.

Legislative History of Laws

For legislative history of D.C. Law 6-85, see Historical and Statutory Notes following § 2-225.01.

§ 2-225.09. OPERATION OF DISTRICT QUARRY.[REPEALED]

(Mar. 3, 1905, 33 Stat. 892, ch. 1406; April 12, 1997, D.C. Law 11-259, § 406, 44 DCR 1423.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1114.

1973 Ed., § 1-811.

Legislative History of Laws

For legislative history of D.C. Law 11-259, see Historical and Statutory Notes following § 2-213.02.

§ 2-225.10. PURCHASING SITES FOR SCHOOLS AND PUBLIC BUILDINGS; USE OF AGENTS; ENLARGEMENT OF SCHOOL BUILDINGS.[REPEALED]

(Mar. 2, 1889, 25 Stat. 802, ch. 370; June 6, 1900, 31 Stat. 568, ch. 789; Feb. 21, 1986, D.C. Law 6-85, §§ 1103(g), (h).)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1115.

1973 Ed., § 1-812.

Legislative History of Laws

For legislative history of D.C. Law 6-85, see Historical and Statutory Notes following § 2-225.01.

§ 2-225.11. TESTING OF BUILDING MATERIALS BY BUREAU OF STANDARDS.[REPEALED]

(Mar. 4, 1913, 37 Stat. 945, ch. 150; Feb. 21, 1986, D.C. Law 6-85, § 1103(d), 32 DCR 7396.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1116.

1973 Ed., § 1-813.

Legislative History of Laws

For legislative history of D.C. Law 6-85, see Historical and Statutory Notes following § 2-225.01.

§ 2-225.12. AUTHORIZATION TO TEST MATERIALS IN LABORATORY OF DEPARTMENT OF TRANSPORTATION.[REPEALED]

(June 29, 1932, 47 Stat. 354, ch. 308; Feb. 21, 1986, D.C. Law 6-85, § 1103(c), 32 DCR 7396.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1117.

1973 Ed., § 1-814.

Transfer of Functions

The functions of the Department of Transportation were transferred to the Department of Public Works by Reorganization Plan No. 4 of 1983, effective March 1, 1984.

Legislative History of Laws

For legislative history of D.C. Law 6-85, see Historical and Statutory Notes following § 2-225.01.

§ 2-225.13. SLUDGE REMOVAL.[REPEALED]

(Mar. 24, 1950, 64 Stat. 35, ch. 74, § 1; April 12, 1997, D.C. Law 11-259, § 407, 44 DCR 1423.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1121.

1973 Ed., § 1-817a.

Legislative History of Laws

For legislative history of D.C. Law 11-259, see Historical and Statutory Notes following § 2-213.02.

§ 2-225.14. AUCTION OF PROPERTY UNFIT FOR SERVICE; PROCEEDS.[REPEALED]

(Mar. 3, 1883, 22 Stat. 470, ch. 95, § 1; April 12, 1997, D.C. Law 11-259, § 408, 44 DCR 1423.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1123.

1973 Ed., § 1-818.

Legislative History of Laws

For legislative history of D.C. Law 11-259, see Historical and Statutory Notes following § 2-213.02.

§ 2-225.15. EXCHANGE OF EQUIPMENT IN PAYMENT FOR NEW EQUIPMENT.[REPEALED]

(June 26, 1912, 37 Stat. 147, ch. 182; April 12, 1997, D.C. Law 11-259, § 409, 44 DCR 1423.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1124.

1973 Ed., § 1-819.

Legislative History of Laws

For legislative history of D.C. Law 11-259, see Historical and Statutory Notes following § 2-213.02.

§ 2-225.16. CONTRACTS FOR INSPECTION, MAINTENANCE AND REPAIR OF FIXED EQUIPMENT.[REPEALED]

(Oct. 12, 1968, 82 Stat. 1004, Pub. L. 90-573, § 1; April 12, 1997, D.C. Law 11-259, § 410, 44 DCR 1423.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 1-1129.

1973 Ed., § 1-824.

Legislative History of Laws

PART B. EQUAL OPPORTUNITY FOR LOCAL, SMALL, AND DISADVANTAGED BUSINESS ENTERPRISES.[EXPIRED]

§§ 2-225.21 TO 2-225.27. FINDINGS; DEFINITIONS; DISTRICT GOVERNMENT CONTRACTING WITH LOCAL BUSINESS ENTERPRISES; QUARTERLY AGENCY REPORTS ON CONTRACTS; COUNCIL REVIEW OF GOALS; ASSISTANCE PROGRAMS FOR LOCAL BUSINESS ENTERPRISE CONTRACTORS, DISADVANTAGED BUSINESS ENTERPRISE CONTRACTORS, AND SMALL BUSINESS ENTERPRISE CONTRACTORS; CERTIFICATE OF REGISTRATION; FUNCTIONS OF THE COMMISSION; RULES AND REGULATIONS BY MAYOR.[EXPIRED]

(Mar. 17, 1993, D.C. Law 9-217, §§ 2 to 8, 42 DCR 2209.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., §§ 1-1152 to 1-1152.6.

Temporary Amendments of Section

For temporary (225 day) amendment of section, see § 2 of the Equal Opportunity for Local, Small, and Disadvantaged Business Enterprises Act of 1992 (D.C. Law 9-217, March 17, 1993, law notification 40 DCR 143).

For temporary (225 day) amendment of section, see § 2 of the Equal Opportunity for Local, Small, and Disadvantaged Business Enterprises Temporary Amendment Act of 1996 (D.C. Law 11-114, May 1, 1996, law notification 43 DCR 2594).

For temporary (225 day) amendment of section, see §§ 2 to 8 of the Equal Opportunity for Local, Small, and Disadvantaged Business Enterprises Temporary Act of 1996 (D.C. Law 11-267, May 8, 1997, law notification 44 DCR 2986).

For temporary (225 day) amendment of section, see §§ 2 to 8 of the Equal Opportunity for Local, Small, and Disadvantaged Business Enterprises Temporary Act of 1998 (D.C. Law 12-102, April 30, 1998, law notification 45 DCR 2793).

Temporary Addition of Section

For temporary (225 day) addition of sections, see §§ 2 to 8 of the Equal Opportunity for Local, Small, and Disadvantaged Business Enterprises Temporary Act of 1992 (D.C. Law 9-152, September 15, 1992, law notification 39 DCR 5023).

Emergency Act Amendments

For temporary reenactment and amendment, on an emergency basis, of the provisions of the Equal Opportunity for Local, Small, and Disadvantaged Business Enterprises Act of 1992, see §§ 2-8 of the Equal Opportunity for Local, Small, and Disadvantaged Business Enterprises Congressional Review Emergency Act of 1997 (D.C. Act 12-65, April 3, 1997, 44 DCR 2437), and see §§ 2-8 of the Equal Opportunity for Local, Small, and Disadvantaged Business Enterprises Congressional Review Emergency Act of 1998 (D.C. Act 12-347, May 6, 1998, 45 DCR 2988).

Legislative History of Laws

Law 9-217, the "Equal Opportunity for Local, Small, and Disadvantaged Business Enterprises Act of 1992" was approved on December 29, 1992, assigned Act. No. 9-347 and transmitted to both Houses of Congress for its review. D.C. Law 9-218 became law on March 17, 1993.

Miscellaneous Notes

Expiration of Law 9-217: Section 9(b) of D.C. Law 9-217 provided that the act shall expire 2 years from the date of its taking effect. D.C. Law 9-217 became effective on March 17, 1993.