

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
OFFICE OF THE INSPECTOR GENERAL**

**OFFICE OF  
CONTRACTING AND PROCUREMENT  
PART ONE**

**REPORT OF INSPECTION**



**CHARLES J. WILLOUGHBY  
INSPECTOR GENERAL**

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**Inspections and Evaluations Division**  
**Mission Statement**

The Inspections and Evaluations (I&E) Division of the Office of the Inspector General is dedicated to providing District of Columbia (D.C.) government decision makers with objective, thorough, and timely evaluations and recommendations that will assist them in achieving efficiency, effectiveness, and economy in operations and programs. I&E goals are to help ensure compliance with applicable laws, regulations, and policies, to identify accountability, recognize excellence, and promote continuous improvement in the delivery of services to D.C. residents and others who have a vested interest in the success of the city.

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GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Office of the Inspector General

Inspector General



August 23, 2006

Mr. Herbert R. Tillery  
Interim Chief Procurement Officer  
Office of Contracting and Procurement  
441 4<sup>th</sup> Street N.W. – Suite 700 S.941  
Washington, D.C. 20001

Dear Mr. Tillery:

Enclosed is our final *Report of Inspection of the Office of Contracting and Procurement, Part One*. Your agency's comments on the 7 findings and 17 recommendations by the inspection team are included, verbatim, in the body of the report following each finding and the associated recommendations.

In accordance with Mayor's Order 2000-105, District agencies are responsible for taking action on all agreed-upon recommendations in this final Report. We are pleased to note your agreement with 13 of our 17 recommendations. This clearly reflects your interest in taking the actions necessary to create a more efficient and better managed OCP.

The OIG has established a process to track agency compliance and to facilitate our follow-up inspection activities. Enclosed are *Compliance Forms* on which to record and report to this Office any actions you take concerning each outstanding recommendation. These forms will assist you in tracking the completion of actions taken by your staff. We track agency compliance with all agreed-upon recommendations made in our reports of inspection, and we request that you and your staff establish response dates on the forms, and advise us of those dates so we can enter them on our copies of the *Compliance Forms*.

In some instances, things beyond your control, such as budget decisions, inhibit setting specific deadlines for complying with certain recommendations. In those instances, we request that you assign *target dates* based on whatever knowledge and experience you have about a particular issue. Please ensure that all *Compliance Forms* are returned to the OIG by the response date, and that reports of "Agency Action Taken" reflect actual completion, in whole or in part, of a recommended action rather than "planned" action. We will work closely with your designated point of contact throughout the compliance process.

Letter to Mr. Herbert R. Tillery  
August 23, 2006  
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We appreciate the cooperation shown by you and your employees during the inspection, and we hope to continue in a cooperative relationship during the follow-up period.

If you have questions or require assistance in the course of complying with our recommendations, please contact me or Alvin Wright, Jr., Assistant Inspector General for Inspections and Evaluations, at (202) 727-2540.

Sincerely,



Charles J. Willoughby  
Inspector General

CJW/ef

Enclosure

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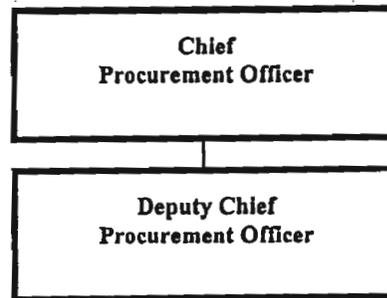
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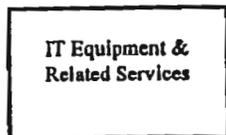
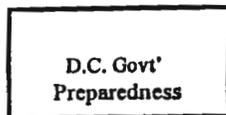
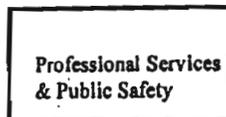
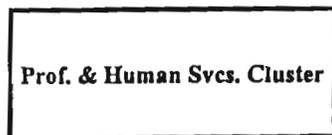
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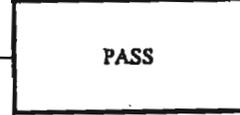
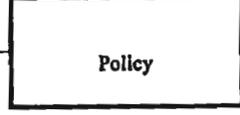
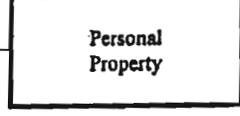
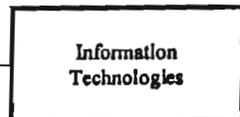
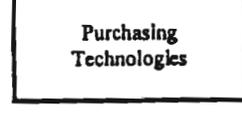
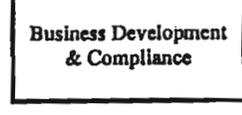
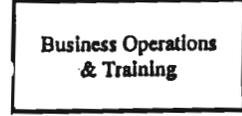
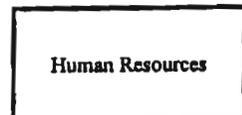
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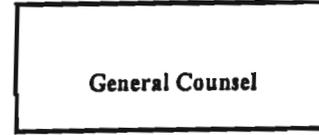
## Operations Division



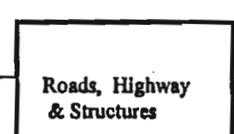
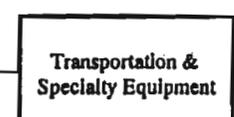
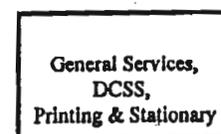
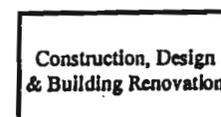
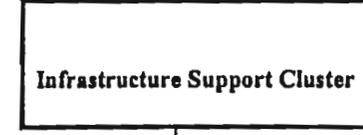
## Support Division



## Legal Division



## Operations Division



# **ACRONYMS**

## ACRONYMS

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AASHTO	American Association of State Highway and Transportation Officials
ACCO	Agency Chief Contracting Officer
CAD	Contract Award Database
CAFR	Comprehensive Annual Financial Report
CCTS	Central Contract Tracking System
CFO	Chief Financial Officer
CIR	Center for Innovation and Reform
COTR	Contracting Officer Technical Representative
CPO	Chief Procurement Officer
DCMR	D.C. Municipal Regulations
DCPS	D.C. Public Schools
DCSS	D.C. Supply Schedule
DDOT	District Department of Transportation
DHS	Department of Human Services
DMV	Department of Motor Vehicles
DOES	Department of Employment Services
DOH	Department of Health
DOMH	Department of Mental Health
DPR	Department of Parks and Recreation
EOM	Executive Office of the Mayor
FEMS	Fire and Emergency Medical Services
FY	Fiscal Year
GSA	General Services Administration

## ACRONYMS

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I&E	Inspections and Evaluations
ID/IQ	Indefinite Delivery/Indefinite Quantity
LSDBE	Local, Small, Disadvantaged Business Enterprise
MLP	Master Lease Program
MPD	Metropolitan Police Department
OAG	Office of the Attorney General
OCA	Office of the City Administrator
OCME	Office of the Chief Medical Examiner
OCP	Office of Contracting and Procurement
OCTO	Office of the Chief Technology Officer
OCFO	Office of the Chief Financial Officer
OLS	Office of Legislative Support
OPM	Office of Property Management
PASS	Procurement Automated Support System
PRC	Procurement Review Committee
SEO	State Education Office
SLA	Service Level Agreement
SOW	Statement of Work
TSE	Transportation and Specialty Equipment
UDC	University of the District of Columbia

# **EXECUTIVE SUMMARY**

## EXECUTIVE SUMMARY

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### Background and Perspective

The District of Columbia's (District) Office of Contracting and Procurement (OCP) has 157 full-time employees, and its fiscal year (FY) 2005 budget was approximately \$12 million. OCP's mission is to:

**provide contracting and procurement services and personal property management to District agencies so they can have the quality goods and services they need to accomplish their missions in a timely and cost effective manner.<sup>1</sup>**

The District's chief procurement officer (CPO) oversees OCP, and its organizational structure consists of three divisions: Operations, Support, and Legal. The Operations Division is organized into two distinct "clusters," Infrastructure Support and Professional and Human Services. Each cluster contains commodity buying groups that procure goods and services for District agencies. Buying groups are led by a commodity manager who directs a staff of assistant commodity managers and other procurement and contracting professionals who are responsible for overseeing the purchase of goods and services.

OCP's Legal Division provides legal advice for the purchase of goods and services, reviews OCP documents, drafts policies and procedures, and advises management on aspects of contracting, compliance with regulations, debarments, and ratifications. The Support Division provides OCP with purchasing technology, business operations, and information technology expertise.

### Scope and Methodology

OIG inspections comply with standards established by the President's Council on Integrity and Efficiency, and pay particular attention to the quality of internal control.<sup>2</sup> Due to the size and diversity of OCP programs and its corresponding responsibilities, our inspection activities have been divided into two parts, and two separate reports will be issued. This report, Part One, covers OCP's management and oversight of the ratification review process,<sup>3</sup> and internal tracking of contracts in excess of \$1 million. In addition, Part One evaluates a sampling of contracts from the Infrastructure Support Cluster to determine whether they were awarded in accordance with District laws and regulations.

The Infrastructure Support Cluster contains the following commodity buying groups:

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<sup>1</sup> See DISTRICT OF COLUMBIA, *Office of Contracting and Procurement*, at [http://www.ocp.dc.gov/ocp/cwp/view,a,3,q,576236,ocpNav\\_GID,1628,ocpNav,132672,\\_.asp](http://www.ocp.dc.gov/ocp/cwp/view,a,3,q,576236,ocpNav_GID,1628,ocpNav,132672,_.asp).

<sup>2</sup> "Internal control" is synonymous with "management control" and is defined by the General Accounting Office as comprising "the plans, methods, and procedures used to meet missions, goals, and objectives and, in doing so, supports performance-based management. Internal control also serves as the first line of defense in safeguarding assets and preventing and detecting errors and fraud." STANDARDS FOR INTERNAL CONTROL IN THE FEDERAL GOVERNMENT, Introduction at 4 (Nov. 1999).

<sup>3</sup> A ratification is an action taken by the CPO or the City Council to authorize payment for goods or services received by the District without a valid written contract.

## EXECUTIVE SUMMARY

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- Transportation and Specialty Equipment;
- Roads, Highways, and Structures;
- D.C. Supply Schedule; and
- Construction, Design, and Building Renovation.

The team's review of procurement files focused on OCP management, operations, and documentation in the following key areas:

- advertisement and competition of procurements;
- sufficiency of analysis and documentation during pre- and post-award activities; and
- procurement planning, focusing on steps taken to ensure that each procurement yielded the best value for the District.

The team interviewed each commodity manager within OCP's Infrastructure Support Cluster, reviewed contract files of OCP's customer agencies, and interviewed contracting officer technical representatives (COTR) in those agencies as needed.

When evaluating the ratification process, the team referred to the D.C. Code and OCP Directive 1800.03, "Ratification of Unauthorized Commitments." Both sources outline OCP's policies and procedures for reviewing and approving ratification requests. The team also evaluated a sampling of approved ratification request files, and interviewed OCP employees responsible for administration and oversight of the ratification process.

During the inspection, the team reviewed OCP's internal policies, procedures, and directives, District procurement laws and regulations, and best practices recommended by the Office of Federal Procurement Policy.<sup>4</sup> For historical context on OCP operations, the team examined past management studies performed by outside entities, including KPMG<sup>5</sup> and the District's Center for Innovation and Reform (CIR).<sup>6</sup>

During the inspection, the team conducted 19 interviews and reviewed 21 procurements. A list of the report's 7 findings and 17 recommendations is at Appendix 1.

### Compliance and Follow-Up

The OIG inspection process includes follow-up with OCP on findings and recommendations. Compliance forms will be sent to OCP along with this report of inspection, and the I&E Division will coordinate with OCP on verifying compliance with recommendations

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<sup>4</sup> Best Practices for Collecting and Using Current and Past Performance Information, May 2000, *available at* [www.acqnet.gov/Library/OFPP/BestPractices/pastperformguide.htm](http://www.acqnet.gov/Library/OFPP/BestPractices/pastperformguide.htm).

<sup>5</sup> The team reviewed KPMG's report titled "World Class Procurement for the District of Columbia," which was issued in two phases. Phase 1, titled "Baseline Assessment," was issued in February 1996, and Phase 2, "Organization and Training," was issued in April 1996.

<sup>6</sup> The Center for Innovation and Reform (CIR), which is part of the Office of the City Administrator, led a review of OCP and presented its assessment, along with recommendations for reform, in a written report titled "Recommendations for Reform" on September 30, 2004.

## EXECUTIVE SUMMARY

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over an established time period. In some instances, follow-up inspection activities and additional reports may be required.

## EXECUTIVE SUMMARY

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### FINDINGS AND RECOMMENDATIONS

#### Key Findings

***OCP is unable to accurately track the approval status of million-plus dollar contracts.*** (Page 13) OCP cannot readily produce an accounting of million-plus dollar contracts (contracts valued in excess of \$1 million) awaiting approval, or that have been submitted to and approved by the City Council. The team experienced delays in obtaining reports on the number of million-plus dollar contracts approved by the City Council in FYs 2004 and 2005, and found that the delays were the result of OCP not having an adequate system for tracking approval status information. It took OCP 5 weeks to compile the FY 2005 report, and the FY 2004 report was an excerpt from the District's Comprehensive Annual Financial Report (CAFR), which is compiled by an independent auditing company at the end of each fiscal year. Without an accurate internal tracking system, District government officials and District stakeholders cannot be assured that all million-plus dollar contracts are properly reviewed, and approved by the City Council. **Recommendations:** (a) That the CPO improve the procedures and database used to track the approval status of million-plus dollar contracts. (b) That the CPO or a designee be able to account for all million-plus dollar contracts executed on behalf of the District, and ensure that all such contracts are submitted to the City Council as required. (c) That the CPO ensure that OCP's Contract Award Database is routinely updated with accurate information about million-plus dollar contracts. (d) That the CPO verify the accuracy of information on million-plus dollar contracts recorded in all locations, particularly databases and reports.

***Between FYs 2004 and 2005, the number and value of unauthorized commitments increased significantly, agencies routinely waited many months before seeking ratification of their unauthorized commitment, and D.C. government employees often were not disciplined for violating procurement regulations.*** (Page 17) The team found that District agencies submitted 19 ratification requests in FY 2004, and 59 in FY 2005. The approved ratifications totaled \$896,184 in FY 2004, and \$34,332,434 in FY 2005. The team also found that District employees are not consistently held accountable for entering into unauthorized commitments, and that OCP has not submitted ratification request reports to the Mayor in a timely fashion. Further, OCP ratification files lacked requisite documentation, and timeframes related to the ratification process were poorly defined. **Recommendations:** (a) That the CPO, Mayor, and the City Council consider establishing penalties for District agencies that repeatedly enter into unauthorized commitments. (b) That the CPO and the City Council consider establishing a minimum form of disciplinary action to be exercised by agency directors against employees responsible for entering into unauthorized commitments. (c) That the CPO outline specific procedures for producing ratification request reports, and assign responsibility for these tasks, to ensure that ratification request reports are delivered to the Mayor each quarter in accordance with OCP directive. (d) That the CPO establish a quality assurance procedure to ensure that ratification files contain proof of vendor payment after ratification requests are approved. (e) That the CPO work with the Mayor's office and the City Council to establish specific timeframes for submission of ratification requests for goods and services procured through unauthorized commitments, and to establish penalties for non-compliance. (f) That the CPO work with the City Council to clarify the rules regarding agencies that submit three or more ratification requests for the same vendor across multiple fiscal years. (g) That the CPO ensure that the Ratification

## EXECUTIVE SUMMARY

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Request Committee follows all rules regarding the review of multiple ratification requests for the same vendor.

***The District has been suspended from GSA's AutoChoice Program due to unpaid invoices.*** (Page 27) The AutoChoice program (AutoChoice) is a General Services Administration (GSA) program for federal agencies that also allows the District to procure emergency and non-emergency vehicles at pre-negotiated prices and terms. However, the Office of the Chief Financial Officer (OCFO) failed to pay several delinquent invoices to GSA, and GSA suspended the District from the program. The team found that because of the suspension, a FY 2003 vehicle purchase cost the District \$244,000 more than it would have cost under the AutoChoice Program. **Recommendation:** That OCP work with the Mayor's office, the OCFO, and GSA to resolve all outstanding AutoChoice invoices so that OCP can resume participation in the AutoChoice Program.

### **Roads, Highways, and Structures Commodity Group**

***Dated language in the DCMR limits use of time-saving software available to OCP for electronic bid submissions.*** (Page 31) Currently, Office of Contracting and Procurement and Department of Transportation employees must manually record construction bids received from contractors, even though they have an electronic construction management system with software that allows contractors to electronically submit bid information. OCP employees stated that this software, the Expedite Bid System (Expedite), has not been used because 27 DCMR § 1504 and OCP's contract language authorize "telegraphic" bids only when bidders do not have sufficient time to submit the required forms, and when prices are subject to frequent changes. This DCMR section is dated July 1988, and does not reflect the District's ability to use current automation and the Internet to receive and process contractor bids. If the Expedite system were fully functional, employees would not have to manually record contractors' bid information, and OCP would not have to maintain voluminous paper contract files. **Recommendations:** (a) That the CPO and OCP General Counsel draft and submit to the Mayor revised language for 27 DCMR § 1504 that will allow OCP to routinely receive bids electronically from contractors. (b) That the CPO and OCP General Counsel draft revised language for invitations for bids (IFBs) that will allow OCP to routinely receive bids electronically from contractors.

***Procurement Review Committee (PRC) members did not have the level of expertise needed to effectively review construction contracts.*** (Page 32) The team was told that members of the PRC were ineffective in reviewing construction contracts processed by the Roads, Highways, and Structures Commodity Group. An effective review of these contracts requires significant subject-matter expertise to both read and understand Statements of Work (SOW), and to review associated technical drawings. OCP employees stated that those selected to be members of the PRC usually did not possess enough technical knowledge to evaluate technical drawings, which resulted in only a partial review of the contracts, and in minor edits to their original language. Consequently, District stakeholders may not receive the best value when goods and services are procured under these contracts. **Recommendation:** That the CPO take steps to ensure that existing and future review and approval procedures (including but not limited to the PRC) for proposed contracting actions dealing with the Roads, Highways, and Structures

## EXECUTIVE SUMMARY

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commodity group incorporate the input and participation of qualified, experienced personnel who are well versed in the subject matter of the procurement(s) being reviewed.

### **D.C. Supply Schedule Commodity Group**

*OCP has not developed unbundling and rotation guidelines for Local, Small, Disadvantaged Business Enterprises (LSDBEs).* (Page 36) Unbundling guidelines assist contracting personnel in determining when it is most appropriate to separate different tasks out of one large contract to create smaller contracts that allow more LSDBEs to perform those tasks. During testimony before the City Council in February 2005, the CPO stated that OCP was developing rotation guidelines for the process, and policy for rotating solicitations or requests for quotes among LSDBEs. These guidelines are aimed at improving opportunities for LSDBEs. The team found, however, that as of September 2005, OCP had not written unbundling and rotation guidelines for LSDBEs. Failure to establish such guidelines may limit the number of contracting opportunities available to LSDBEs. **Recommendation:** That the CPO give high priority to developing and implementing unbundling and rotation guidelines in FY 2007.

*OCP-OCTO conflict has hindered the installation and implementation of the Procurement Automated Support System (PASS) modules.* (Page 37) In 2003, the Office of the Chief Technology Officer (OCTO) purchased and implemented PASS, a computer system designed to automate procurement processes. The software package for PASS contained four system modules: contracting, sourcing, buyer, and analysis. As of this writing, OCTO has only installed the buyer and analysis modules. OCP officials stated that OCTO has the remaining two modules, but is asking OCP for an additional \$2 million to upgrade PASS and install them. The CPO has not consented because the PASS upgrade and installation of the modules were to be included with OCP's purchase of PASS in 2003. The lack of these modules forces contract specialists to enter data into three separate computer systems in order to track purchase orders issued against indefinite delivery/indefinite quantity (ID/IQ) contracts. Although these three systems allow contract specialists to monitor contracts as they approach their maximum value and expiration date, this method is time-consuming and reduces employee productivity. **Recommendation:** That the CPO seek assistance from the Mayor's office in expediting OCTO's installation and implementation of the PASS contracting and sourcing modules.

# **INTRODUCTION**

## INTRODUCTION

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### Background and Perspective

The District of Columbia's (District) Office of Contracting and Procurement (OCP) has 157 full-time employees, and its fiscal year (FY) 2005 budget was approximately \$12 million. OCP's mission is to:

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- Transportation and Specialty Equipment;
- Roads, Highways, and Structures;
- D.C. Supply Schedule; and

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<sup>7</sup> See OCP, *supra* n. 1.

<sup>8</sup> "Internal control" is synonymous with "management control" and is defined by the General Accounting Office as comprising "the plans, methods, and procedures used to meet missions, goals, and objectives and, in doing so, supports performance-based management. Internal control also serves as the first line of defense in safeguarding assets and preventing and detecting errors and fraud." STANDARDS FOR INTERNAL CONTROL IN THE FEDERAL GOVERNMENT, Introduction at 4 (Nov. 1999).

## INTRODUCTION

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- Construction, Design, and Building Renovation.

Part Two of the inspection, to be conducted during FY 2006, will evaluate OCP's management and oversight of the commodity groups within the Professional and Human Services Cluster. In addition, I&E will analyze OCP contracts valued in excess of \$1 million, letter contracts, sole source contracts, and contracts requiring retroactive approval. Part Two will also evaluate the management and oversight of OCP's Support and Legal Divisions, and the approach that OCP took to meet the following FY 2005 strategic goals:

- establishing performance standards for 80 percent of OCP's contracting positions; and
- developing and implementing competency-based training and education courses that address OCP employee skill gaps.<sup>9</sup>

During this inspection, the team reviewed OCP's internal policies, procedures, and directives, District procurement laws and regulations, and best practices recommended by the Office of Federal Procurement Policy.<sup>10</sup> For historical context on OCP operations, the team examined past management studies performed by outside entities, including KPMG<sup>11</sup> and the District's Center for Innovation and Reform (CIR).<sup>12</sup>

The team reviewed contracts from the Infrastructure Support Cluster and focused on OCP's operations and documentation in the following key areas:

- advertisement and competition of procurements;
- sufficiency of analysis and documentation during pre- and post-award activities; and
- procurement planning, focusing steps taken to ensure that each procurement yielded the best value for the District.

The team interviewed each commodity manager within OCP's Infrastructure Support Cluster, reviewed contract files of OCP's customer agencies, and interviewed the contracting officer technical representatives (COTRs) in those agencies, as needed.

When reviewing the ratification process, the team referred to the D.C. Code and OCP Directive 1800.03, "Ratification of Unauthorized Commitments." Both sources outline OCP's policies and procedures for reviewing and approving ratification requests. The team also

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<sup>9</sup>These performance goals were identified during testimony delivered by Herbert R. Tillery, Deputy Mayor for Operations and Interim Chief Procurement Officer for OCP, on February 28, 2005, before the City Council's Committee on Government Operations.

<sup>10</sup> See *Best Practices*, *supra* n. 4.

<sup>11</sup> The team reviewed KPMG's report titled "World Class Procurement for the District of Columbia," which was issued in two phases. Phase 1, titled "Baseline Assessment," was issued in February 1996, and Phase 2, "Organization and Training," was issued in April 1996.

<sup>12</sup> The Center for Innovation and Reform (CIR), which is part of the Office of the City Administrator, led a review of the Office of Contracting and Procurement and presented its assessment of OCP along with recommendations for reform in a written report titled "Recommendations for Reform" on September 30, 2004.

## INTRODUCTION

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evaluated a sampling of approved ratification request files and interviewed OCP employees responsible for administration and oversight of the ratification process.

The team conducted 19 interviews and reviewed 21 procurements. A list of the report's 7 findings and 17 recommendations is included at Appendix 1.

### **Compliance and Follow-Up**

The OIG inspection process includes follow-up with OCP on findings and recommendations. Compliance forms will be sent to OCP along with this report of inspection and the I&E Division will coordinate with OCP on verifying compliance with recommendations over an established time period. In some instances, follow-up inspection activities and additional reports may be required.

**Findings and  
Recommendations:**

**KEY FINDINGS**

## KEY FINDINGS

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### 1. **OCP is unable to accurately track the approval status of million-plus dollar contracts.**

The D.C. Code requires City Council approval for all contracts valued in excess of \$1 million (million-plus dollar contracts.) D.C. Code §2-301.05a states:

**(a) Prior to the award of a multiyear contract or a contract in excess of \$1,000,000 during a 12-month period, the Mayor or executive independent agency or instrumentality shall submit the proposed contract to the Council for review and approval in accordance with the criteria established in this section.**

\* \* \*

**(d) After July 28, 1995, no proposed multiyear contract or lease and no proposed contract or lease worth over \$1,000,000 for a 12-month period may be awarded until after the Council has reviewed and approved the proposed contract or lease as provided in this section.**

D.C. Code §2-301.05a further states that a proposed million-plus dollar contract is deemed approved by the City Council if one of the following occurs:

**(b)(2)(A) During the 10-calendar-day period beginning on the first day (excluding Saturdays, Sundays, and holidays) following its receipt by the Office of the Secretary to the Council, no member of the Council introduces a resolution to approve or disapprove the proposed contract; or**

**(B) If a resolution has been introduced in accordance with subparagraph (A) of this paragraph, the Council does not disapprove the contract during the 45-calendar-day period beginning on the first day (excluding Saturdays, Sundays, and holidays) following its receipt by the Office of the Secretary to the Council.**

According to OCP employees, the review process for approving million-plus dollar contracts involves the coordinated efforts of multiple offices. Once the CPO approves the award package, the following steps are required to complete the approval process:

1. the package is sent to the Office of the Attorney General (OAG) for a legal sufficiency review;
2. upon OAG approval, OCP enters contract information into the Mayor's Intranet Quorum database;
3. the City Administrator and appropriate Deputy Mayor sign off on the package;
4. the Mayor's Chief of Staff and General Counsel review the contract and forward it to the Mayor for signature;

## KEY FINDINGS

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5. the Mayor sends the approved package to the Office of Legislative Support (OLS);
6. OLS transmits the approved package to the City Council;
7. the City Council approves or disapproves the contract; and
8. the City Council's Office of the Secretary notifies OCP of the contract's approval or disapproval.

***a. The database used for managing and transmitting million-plus dollar contracts lacks sufficient summary and analysis capabilities.***

OCP uses an electronic database known as the Intranet Quorum (IQ) to transmit million-plus dollar contracts to approving officials in the Executive Office of the Mayor (EOM) and OLS. The IQ database stores information such as a description of the million-plus dollar contract, a letter to the City Council Chairperson, and OAG's certification of the contract's legal sufficiency. The team asked both OCP and the City Council to provide reports of FY 2004 and FY 2005 million-plus dollar contracts approved or submitted for approval. The team intended to review contracts listed in these reports to determine:

- whether the procurements were executed in accordance with District procurement laws and regulations and OCP's policies and procedures;
- whether steps in the approval process had been properly followed; and
- whether all contracts valued in excess of \$1 million and approved by the CPO had been forwarded to the City Council for review and approval.

OCP was unable to fulfill this request using the IQ database because it cannot analyze information and generate reports such as the one requested by the OIG team. As a result, it took OCP 3 weeks to provide million-plus dollar contract information for FY 2004, and 5 weeks for a complete report on FY 2005. When reviewing the FY 2004 report, the team noted that the information provided by OCP came from the District's Comprehensive Annual Financial Report (CAFR)<sup>13</sup> and not from OCP employees. Generating the FY 2005 report required that each OCP commodity manager identify the million-plus dollar contracts they had submitted or anticipated submitting to the City Council in FY 2005.<sup>14</sup>

The team also found that the City Council lacks a system for quantifying the number of approved million-plus dollar contracts. At the time of the team's request, a City Council employee stated that they do not maintain a database for million-plus dollar contracts and that they could not provide the team with the requested reports. The employee explained that contracts are submitted on a case-by-case basis and that generating a comprehensive listing of million-dollar contracts would be difficult. Consequently, the team could not compare information from the City Council with that submitted by OCP.

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<sup>13</sup> See DISTRICT OF COLUMBIA, *Office of the Chief Financial Officer*, at [http://www.cfo.dc.gov/cfo/cwp/view,a,1322,q,590082,cfoNav,\[33210\],.asp](http://www.cfo.dc.gov/cfo/cwp/view,a,1322,q,590082,cfoNav,[33210],.asp).

<sup>14</sup> Due to the lengthy delays at OCP in providing the requested information, the team did not analyze a sampling of million-plus dollar contracts for this report. The team will conduct this analysis in Part Two of the OCP inspection, and will determine whether the contracts were executed in accordance with District procurement laws and regulations.

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**KEY FINDINGS**

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**Recommendations:**

- a) That the CPO improve the procedures and the database used to track the approval status of million-plus dollar contracts.

Agree \_\_\_\_\_ **X** \_\_\_\_\_ Disagree \_\_\_\_\_

- b) That the CPO or a designee be able to account for all million-plus dollar contracts executed on behalf of the District, and ensure that all such contracts are submitted to the City Council as required.

Agree \_\_\_\_\_ **X** \_\_\_\_\_ Disagree \_\_\_\_\_

***OCP's Response, As Received:***

*The Office of Contracting and Procurement currently utilizes an automated database system that tracks the approval flow of contracts over \$1 million. This automated system is being utilized by OCP, OLS and other offices within the Executive Office of the Mayor, to track the approval of documents. The automated approval tracking system has been in place for several years and has a procedure manual associated with it. Specifically, OCP and OLS use the system to monitor EOM approval of contracts requiring Council approval. OCP can account for all contracts submitted to OLS. OLS will monitor the system more closely and enter information into the system as the contracts are being sent to the Council, and update the system as approval is obtained from the Council.*

**OIG Response: The OIG believes the original finding statement is correct but has modified the supporting text for improved clarity. In addition, in the draft provided to OCP for comment, the OIG incorrectly referenced OLS when describing the approval process for million-plus dollar contracts. The City Council, not the OLS, lacked a means for tracking million-plus dollar contracts. The finding was revised to reflect this correction, and the OIG stands by its initial recommendations that status tracking capability needs improvement.**

- b. Some data in OCP's FY 2005 million-plus dollar contract report does not correspond to information in its Contract Award Database.***

Title 27 DCMR §1301.1 states:

**Notice of awards of contracts exceeding five hundred thousand dollars (\$500,000) for the Metropolitan Police Department and the Office of the Chief Technology Officer, and exceeding one hundred thousand dollars (\$100,000) for all other agencies, shall be published on the Internet site maintained in accordance with §1300.7, within a reasonable period of time after the contracts are awarded.**

## KEY FINDINGS

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In order to comply with this regulation, OCP has a Contract Award Database (Database) on its website, which provides information about contract awards valued at \$100,000 or more for the current fiscal year. The Database allows the general public to view data such as the contract caption,<sup>15</sup> the contract value, the period of performance, the company that was awarded the contract, and the market type.<sup>16</sup> The team used the Database to verify the accuracy of the information listed in OCP's FY 2005 million-plus dollar contract report. It found, however, that some of the million-plus dollar contract information provided in the report did not correspond to the information found in the Database. Of the 55 million-plus dollar contracts contained in the FY 2005 report, only 17 were identifiable in the Database. Other contracts either could not be found in the Database, or the contract numbers listed in the report did not match numbers in the Database.

### **Recommendations:**

- a) That the CPO ensure that OCP's Contract Award Database is routinely updated with accurate information about million-plus dollar contracts.

Agree \_\_\_\_\_ **X** \_\_\_\_\_ Disagree \_\_\_\_\_

### ***OCP's Response, as Received:***

*Title 27 of the District of Columbia Municipal Regulations, Chapter 13, Section 1301.1, requires that Notice of Awards for contracts of One Hundred Thousand Dollars and above be published on the OCP Intranet within a reasonable period of time. The OCP policy directive 9003.00 requires that contracting and procurement personnel submit a Notice of Awards of all contracts for One Hundred Thousand Dollars and above within twenty-four (24) hours after the award of a contract. The Contracting Officer has the responsibility to ensure and validate the accuracy of the contract award data prior to the submission for electronic posting to the OCP website.*

*Additionally, FY 2007 performance standards are in place to evaluate all 1102 series (contracting and procurement) personnel on the contract management and other post-award activities, including the timeliness and accuracy of information entered into all database systems.*

- b) That the CPO verify the accuracy of information on million-plus dollar contracts recorded in all locations, particularly databases and reports.

Agree \_\_\_\_\_ **X** \_\_\_\_\_ Disagree \_\_\_\_\_

### ***OCP's Response, as Received:***

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<sup>15</sup> The contract caption is a brief description of the goods or services being solicited.

<sup>16</sup> "Market type" identifies the procurement method used. Examples of market type include a blanket purchase agreement, the use of the federal or District supply schedule, or a sole source contract.

## KEY FINDINGS

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*Timeliness and accuracy of information entered into all database systems are included in FY 2007 performance standards for all 1102 series personnel. This will help ensure that the contract management and other post-award activities are correctly captured in the database systems. Additionally, individuals responsible for monitoring these systems will review the information entered on a regular basis and compare systems for accuracy.*

2. **During FYs 2004 and 2005, the number and value of unauthorized commitments increased significantly, agencies routinely waited many months before seeking ratification of their unauthorized commitments, and DC government employees often were not disciplined for violating procurement regulations.**

According to District regulations, only the CPO and contracting officers designated by the CPO have contracting authority for the procurement of goods and services. This authority includes entering into, administering, and terminating contracts. Laws and regulations also prohibit District employees from entering into oral agreements with vendors to provide goods or services to the District government without a valid, written contract.

Each year, OCP is presented with cases where District government employees have entered into unauthorized commitments to procure goods and/or services from a contractor. At the request of the Mayor, the City Council approved D.C. Law 14-281, the Procurement Practices Vendor Payment Authorization Amendment Act of 2002,<sup>17</sup> effective April 4, 2003, which amended the Procurement Practices Act of 1985 to authorize the CPO to authorize payment for supplies and services received without a valid, written contract.

In order to pay vendors that have provided goods or services without a valid contract, District agencies must seek approval for unauthorized commitments by submitting a ratification request (see Appendix 2) to OCP. The request package consists of a set of explanatory documents requiring the CPO's approval. The CPO is authorized to approve ratifications that do not exceed \$100,000 or that are the first two requests submitted on a vendor's behalf. The City Council's approval is required if the CPO has previously considered two ratification requests for that same vendor or if the value of the request equals \$100,000 or more. In August 2003, OCP issued Procurement Policy and Procedure Directive 1800.03, "Ratification of Unauthorized Commitments," that explained procedures for ratifying unauthorized commitments.

The team's review of ratification requests focused on the:

- number and source of ratification requests;
- value of ratified contracts;
- compliance with ratification process documentation requirements;
- timeliness of agencies' ratification requests; and
- frequency of disciplinary action taken by agency heads against employees who enter into unauthorized contracts.

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<sup>17</sup> See D.C. Code § 2-301.05(d)(Supp. 2004).

## KEY FINDINGS

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- a. From FY 2004 to FY 2005, the number of unauthorized commitments requiring CPO or City Council ratification increased over 200%.*

The team reviewed OCP's ratification request reports, which list the approval status of all ratification requests. The reports showed that OCP received 19 ratification requests from District agencies in FY 2004 and 59 in FY 2005, a 210 percent increase. Ratification requests from the Department of Health and the State Education Office accounted for much of the FY 2005 increase.

The table on the following page shows the number of ratification requests that were submitted to OCP during FYs 2004 and 2005.

**KEY FINDINGS**

**Table 1: Ratification Requests Submitted for Review and Approval in FY 2004 and FY 2005**

District Agency	No. of Ratifications Submitted in FY 2004	No. of Ratifications Submitted in FY 2005
<b>D.C. Public Schools (DCPS)</b>	1 <sup>18</sup>	3
<b>District Department of Transportation (DDOT)</b>	-	1
<b>Department of Human Services (DHS)</b>	2 <sup>19</sup>	4 <sup>20</sup>
<b>Department of Mental Health (DMH)</b>	1 <sup>21</sup>	5 <sup>22</sup>
<b>Department of Motor Vehicles (DMV)</b>	2	-
<b>Department of Employment Services (DOES)</b>	-	1
<b>Department of Health (DOH)</b>	2	13
<b>Department of Parks and Recreation (DPR)</b>	1	4 <sup>23</sup>
<b>D.C. Fire and Emergency Medical Services (FEMS)</b>	1	-
<b>Metropolitan Police Department (MPD)</b>	-	1
<b>Office of the Attorney General (OAG)</b>	-	3 <sup>24</sup>
<b>Office of the City Administrator (OCA)</b>	2	4
<b>Office of the Chief Medical Examiner (OCME)</b>	1 <sup>25</sup>	-
<b>Office of Contracting and Procurement (OCP)</b>	3 <sup>26</sup>	1
<b>Office of the Chief Technology Officer (OCTO)</b>	1	6
<b>Office of Property Management (OPM)</b>	1 <sup>27</sup>	1
<b>State Education Office (SEO)</b>	-	12 <sup>28</sup>
<b>University of the District of Columbia (UDC)</b>	1 <sup>29</sup>	-
<b>TOTAL</b>	<b>19</b>	<b>59</b>

Source: OCP August 15, 2005, Ratification Request Report.

In FY 2004, approved ratification requests were valued at \$896,184. In FY 2005, the value of approved ratification requests jumped to \$34,332,434. It should be noted that \$33,009,215 of the FY 2005 amount is attributed to one agency, OCTO. From FY 2004 to FY 2005, the total value of approved ratification requests (excluding OCTO's ratification requests from both years) increased by 56 percent. The CPO, upon authority outlined in D.C. Code §2-

<sup>18</sup> This request was withdrawn.

<sup>19</sup> One request was approved; no action was taken on the other request.

<sup>20</sup> Two requests were approved; the status of the other two requests was unclear.

<sup>21</sup> No action was taken on this request; it was re-submitted in FY 2005.

<sup>22</sup> One request was approved, one request was disapproved, no action was taken on two requests, and the status of one request was unclear.

<sup>23</sup> One request was approved, two requests were disapproved, and the status of one was unclear.

<sup>24</sup> Two requests were approved and one request was disapproved.

<sup>25</sup> The report stated the request was approved but listed the amount of the approval as "\$0.00."

<sup>26</sup> One request was approved and no action was taken on the other two requests.

<sup>27</sup> The status of this request was unclear.

<sup>28</sup> One request was withdrawn.

<sup>29</sup> This request was withdrawn.

## KEY FINDINGS

301.05(d)(1)-(6) and OCP Directive 1800.03, § 5.3.3, approved these ratifications presumably based, in part, on his certification that:

- there was a benefit received;
- the benefit was received at a fair and reasonable price; and
- the Chief Financial Officer (CFO) had certified that appropriated funds were available to pay the amount requested.

The table below represents the value of all ratifications approved during FYs 2004 and 2005.

**Table 2: Value of Ratification Requests Approved during FYs 2004 and 2005**

District Agency	Amount of Money That District Agencies Spent in FY 2004 on Approved Ratifications	Amount of Money That District Agencies Spent in FY 2005 on Approved Ratifications
<b>DCPS</b>	-	\$129,969.16 <sup>30</sup>
<b>DDOT</b>	-	\$14,033.92
<b>DHS</b>	\$50,000.00	\$108,422.71
<b>DMH</b>	-	\$53,914.16
<b>DMV</b>	\$67,333.76	-
<b>DOES</b>	-	\$196,307.39
<b>DOH</b>	\$573,760.00	\$444,428.53
<b>DPR</b>	\$25,000.00	\$97,356.41
<b>FEMS</b>	\$98,688.80	-
<b>MPD</b>	-	\$31,050.00
<b>OAG</b>	-	\$25,250.11
<b>OCA</b>	\$29,809.34	\$57,805.29
<b>OCP</b>	\$1,591.68	\$1,250.00
<b>OCTO</b>	\$50,000.00	\$33,009,214.63
<b>OPM</b>	-	\$97,000.00
<b>SEO</b>	-	\$66,431.61
<b>TOTAL</b>	<b>\$896,183.58</b>	<b>\$34,332,433.92</b>

Source: OCP August 15, 2005, Ratification Request Report.

The approval of ratification requests may require that agencies reprogram money within their budgets in order to cover the cost of the ratification. Reducing the budget of an agency program in order to compensate for unauthorized expenditures could have adverse effects on the agency's mission by limiting performance capabilities and preventing the agency from meeting its

<sup>30</sup> In a Ratification Request Report submitted to the OIG on August 4, 2005, OCP stated that a ratification request from DCPS was approved on July 6, 2005 in the amount of \$7,787,508. In the report dated August 15, 2005, OCP stated this same request was disapproved on March 16, 2005.

## KEY FINDINGS

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performance goals.<sup>31</sup> In addition, obligating funds not budgeted for may result in an agency exceeding its quarterly budget and violating the District's Anti-Deficiency Act.<sup>32</sup>

### **Recommendation:**

That the CPO, Mayor and the City Council consider establishing penalties for District agencies that repeatedly enter into unauthorized commitments.

Agree \_\_\_\_\_ Disagree   X  

### ***OCP's Response, as Received:***

*D.C. Official Code § 2-301.05(d)(1) sets forth penalties for District personnel who enter into unauthorized commitments. The current law is strong enough and should be enforced by those persons supervising the employees who make unauthorized commitments.*

**OIG Response:** The OIG stands by its recommendation as written.

***b. District employees are not consistently held accountable for entering into unauthorized commitments.***

D.C. Code § 2-301.05(d)(2)(Supp.2004) states:

**After April 12, 1997, no District employee shall enter into an oral agreement with a vendor to provide goods or services to the District government without a valid written contract. . . .**

D.C. Code § 2-301.05(d)(4)(A)(i)(Supp.2004) further states:

**The Chief Procurement Officer shall not approve or disapprove the [ratification] request until he or she has received written notification of the disciplinary action taken by the relevant personnel authority against the employee who authorized payment or delivery of supplies or services without a valid written contract. . . .**

As of August 3, 2005, OCP's ratification report documented that 49 ratification requests had been approved in FY 2005. The report documents the type of disciplinary action taken by using one of the following categories: responsible employee is no longer with agency, employee

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<sup>31</sup> District agencies establish performance goals each fiscal year in order to improve management, operations, and service delivery.

<sup>32</sup> The District's Anti-Deficiency Act, effective April 4, 2003, and is intended to prevent overspending by District agencies. D.C. Code § 47-355.02 states that, "[a] District agency. . . . employee may not: (1) [m]ake or authorize an expenditure or obligation exceeding an amount available in an appropriation or fund [or] (2)[i]nvolve the District in a contract or obligation for the payment of money before an appropriation is made unless authorized by law. . . ."

## KEY FINDINGS

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received a written reprimand, employee received a verbal reprimand, and information provided did not provide proof of disciplinary action.<sup>33</sup> In assessing the report, the team learned that:

- of the 49 approved ratification requests, disciplinary action was taken against the employee responsible for the unauthorized commitment in only 10 instances;
- there were 14 approved ratification requests where the information reviewed did not provide proof that disciplinary action occurred;
- OCP officials stated that no disciplinary action could be taken against the responsible employee in 24 of the 49 approved ratification requests because the employee was no longer with the agency; and
- agency directors appear to be less likely to take disciplinary action against the responsible employee when the value of the ratification request is under \$10,000. This occurred in 9 of the 11 ratification request packages valued at \$10,000 or less.

The *Agency Director Ratification Request and Certification* form and the *Agency Representative Ratification Request* form are used by District agencies to explain why an unauthorized commitment occurred. They are submitted to OCP as part of the ratification request package. The team noted that when one agency director was asked to explain why an unauthorized procurement action took place, she wrote on her form:

**The procurement action was not authorized due to unclear procurement procedures. The former [agency] leadership did not ensure that training was a priority for employees, therefore creating confusion over procedures and guidance for the proper procurement of goods and services. Further, the agency experienced a period of high leadership turnover.**

When the agency representative for this ratification responded to the question, “Has the employee responsible for this ratification request received written notification of the disciplinary action taken against them?” she wrote, “No. Employees were notified in writing and through training of proper procurement procedures. However, the problem was so widespread that it was clear that this was not a malicious act of any one employee.”

The CPO cannot force agency directors to discipline employees who entered into unauthorized commitments, nor can the CPO deny the approval of a ratification request on the basis that agency directors chose not to take disciplinary action against the responsible employees. If disciplinary action is not enforced, however, the ratification process does not act as a deterrent for future violations because neither the employee nor the agency director is held accountable for entering into unauthorized commitments.

### **Recommendation:**

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<sup>33</sup> According to OCP, no disciplinary action was required for one of the ratifications because the procurement was initiated and approved by D.C. Council resolution.

**KEY FINDINGS**

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That the CPO and the City Council consider establishing a minimum form of disciplinary action to be exercised by agency directors against employees responsible for entering into unauthorized commitments.

Agree \_\_\_\_\_ Disagree   **X**  

***OCP's Response, as Received:***

*D.C. Official Code 2-301.05(d)(1) sets forth penalties for District personnel who enter into unauthorized commitments. The current law is strong enough and should be enforced by those persons supervising the employees who make unauthorized commitments.*

**OIG Response:** The OIG stands by its recommendation as written.

***c. OCP has not submitted ratification request reports to the Mayor in a timely manner, as required by OCP Directive 1800.03.***

OCP Directive 1800.03, § 5.7.1 states:

**[A] ratification request report shall be submitted by the CPO to the Mayor, for transmittal to the Council, at least four (4) times each year which report shall include the number of persons disciplined under subsections 5.2.2(a) and 5.2.3(a).**

The team was told that OCP did not submit a ratification request report to the Mayor in FY 2004. An OCP employee stated that OCP informed the City Council that a report for FY 2004 would not be issued to the Mayor and the City Council; however, they could not provide the team with documentation of this correspondence. The employee further stated that as of August 2005 no reports had been issued for FY 2005. During follow-up meetings, OCP provided the team with memoranda dated September 15, 2005, and November 16, 2005, that had been sent from the CPO to the City Council. These documents reported the number of employees who had received ratification-related disciplinary action during FYs 2004 and 2005. The CPO acknowledged that this information had not been provided to the Mayor and the City Council previously, and stated that he had taken measures to ensure that quarterly reports would be submitted in the future.

**Recommendation:**

That the CPO outline specific procedures for producing ratification request reports, and assign responsibility for these tasks, to ensure that ratification request reports are delivered to the Mayor each quarter in accordance with OCP Directive 1800.03, § 5.7.1.

Agree   **X**   Disagree \_\_\_\_\_

***OCP's Response, as Received:***

## KEY FINDINGS

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*The Office of Contracting and Procurement has revised its ratification policy. The format for ratification reports has been specified along with the individual who is responsible for monitoring the ratification process to ensure that all reports are produced in a timely manner. Since OCP's last acknowledgement to the Office of the Inspector General, OCP has consistently delivered on-time ratification reports to the Council and to the Mayor.*

***d. OCP ratification files lack documentation that vendors were paid for goods or services after the ratification requests were approved.***

OCP Directive 1800.03, § 5.5.5(e) states that after a ratification request has been approved, the agency chief contracting officer (ACCO)<sup>34</sup> shall:

**Forward the pre-encumbered purchase request and any other necessary document(s) authorizing the vendor to be paid to the Agency Chief Financial Officer (CFO); and**

**Close out the ratification request file, ensuring that all appropriate documentation is attached, including a copy of the payment voucher, the date the check was forwarded to the vendor, and the check amount.**

The team reviewed a small sample (12 percent) of the FY 2005 ratification request files that had received final approval as of August 3, 2005, in order to determine whether they contained the documentation required by OCP's Directive 1800.03. The team found that none of the files contained documentation verifying that vendors had received payment. An OCP employee explained that contracting officers have not been submitting payment vouchers or dated checks to OCP following approval of the ratification and payment. As a result, OCP cannot provide evidence that payment has been rendered. OCP apparently assumes that vendors have been paid following CPO approval because the vendors no longer request payment for the goods or services referenced in the ratification.

**Recommendation:**

That the CPO establish a quality assurance procedure to ensure that ratification files contain proof of vendor payment after ratification requests are approved.

Agree \_\_\_\_\_ Disagree   X  

***OCP's Response, as Received:***

*It is not the Office of Contracting and Procurement's responsibility to make payments or to follow up on a payment that should have been made; that is the function of the Chief Financial Officer. All references to OCP ensuring that payment have been made to a vendor, or OCP*

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<sup>34</sup> The job title ACCO was used under OCP's previous organizational structure. The title is now known as a commodity manager and the person who holds it is an OCP employee who has authority to enter into and terminate contracts.

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## KEY FINDINGS

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*ratification files containing proof of payment have been deleted from the agency's revised ratification policy.*

**OIG Response: The OIG acknowledges that OCP has recently updated its ratification request policies and procedures. The policy directive, however, was not updated until after the completion of inspection activity. The new directive, effective August 9, 2006, no longer requires that OCP ensure payment has been made to vendors or that OCP ratification files contain proof of payment. OCP's response failed to address why contracting officers had not retained payment documentation in the ratification request files prior to the policy change, and why the documentation requirement has been dropped.**

*e. There is no established timeframe during which agencies must submit initial and revised ratification requests for goods and services procured through unauthorized commitments.*

The team reviewed OCP's ratification request report containing information for FYs 2004 and 2005. The report revealed that, on average, during FY 2004, agencies submitted ratification requests 15 months after the unauthorized commitment occurred. During FY 2005, requests were submitted an average of 11 months after the unauthorized commitment occurred.<sup>35</sup>

Once the initial ratification request is reviewed by an OCP Ratification Request Committee (Committee), Directive 1800.03, § 5.5.4(e) states that the Committee can either approve, deny, or return the request. In practice, however, the Committee categorizes its actions as: approved, conditionally approved, no action, or disapproved. In situations where the ratification request is not approved, the Committee informs the agency director or agency representative of the elements within the package that need to be revised, and whether additional documents are needed in order for the ratification request to be approved. Once the package is revised, the agency can resubmit it for approval.

The team found that OCP Directive 1800.03 does not establish a timeframe in which agencies must submit an initial ratification request to OCP for review and approval, nor are there established timeframes for agencies to submit revised ratification request packages. As a result, agency directors who do not submit packages in a timely manner further delay the ratification and payment processes, and make the District vulnerable to potential legal action. In addition, agency directors may not be able to promptly identify and discipline responsible employees as mandated in OCP Directive 1800.03, § 5.3.2, because the employees may have left the agency.

### **Recommendation:**

That the CPO work with the Mayor's office and the City Council to establish specific timeframes for submission of ratification requests for goods and services procured through unauthorized commitments and penalties for non-compliance with these timeframes.

Agree \_\_\_\_\_ **X** \_\_\_\_\_ Disagree \_\_\_\_\_ **X** \_\_\_\_\_

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<sup>35</sup> This data was obtained from OCP's August 15, 2005, report.

## KEY FINDINGS

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### ***OCP's Response, as Received:***

*Agree - Based on past practices, the OCP has an established time frame for agency submission of revised ratification materials, once initial review of the ratification package has taken place.*

*Disagree - The CPO is not in a position to implement a statute of limitation for the initiation of the ratification process to the OCP, after the making of an unauthorized commitment.*

**OIG Response: The OIG understands that the CPO can neither unilaterally impose a statute of limitation nor control the period of time it takes an agency to identify an unauthorized commitment. It is the OIG's hope, however, that the CPO, EOM, and the City Council would work together to strengthen statutory requirements so that District agencies are consistently motivated to promptly identify unauthorized commitments and submit them to OCP for approval.**

- f. D.C. Code and OCP Directives do not clearly define timeframes for required City Council consideration of a third ratification request by an agency for the same vendor.*

D.C. Code § 2-301.05 and OCP Directive 1800.03 do not specify whether City Council consideration is required if a third ratification request is made on behalf of the same vendor in the same fiscal year, or across multiple fiscal years. For example, if the CPO approves two ratification requests for a vendor during FY 2005, and another ratification request is made for the same vendor in FY 2006, would the FY 2006 ratification request constitute a third request on behalf of that vendor and require City Council consideration? Or would the FY 2006 request simply be the first request for that vendor in FY 2006, and require only CPO approval? Without this clarification, agencies may be able to submit three or more ratification requests to OCP on behalf of the same vendors without their having to be reviewed and approved by the City Council.

### **Recommendation:**

That the CPO work with the City Council to clarify the rules regarding agencies that submit three or more ratification requests for the same vendor across multiple fiscal years.

Agree \_\_\_\_\_ Disagree   X  

### ***OCP's Response, as Received:***

*OCP's interpretation of the D.C. Official Code §2-301.05 has been clear and consistent since the effective date of the law. OCP's interpretation is that the number of reportable ratifications transcends both fiscal year and calendar year. Therefore, any ratification is reportable once the initial threshold has been exceeded.*

## KEY FINDINGS

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OIG Response: **The OIG stands by its recommendation as written. The OIG acknowledges that OCP's interpretation of the Code is the more conservative approach, but still recommends that OCP request clarification of the Code so that interpretation is not necessary.**

*g. OCP's Ratification Request Committee circumvented the rule requiring City Council approval of an agency's third ratification request for the same vendor.*

D.C. Code § 2-301.05(d)(6)(Lexis through D.C. Law 16-51) requires City Council consideration of more than two ratification requests submitted on behalf of the same vendor. During a review of the FY 2005 ratification request report, the team found that 3 of a District agency's 11 ratification requests were for services acquired from the same vendor. The Ratification Request Committee reviewed the second and third requests on the same day, and suggested that the agency combine them into one package, so that there would be two requests instead of three. This action circumvented the D.C. Code's requirement for City Council review and approval of a vendor's third ratification request.

Failure to ensure that multiple ratification requests on behalf of the same vendor are forwarded to the City Council violates the D.C. Code § 2-301.05 and OCP Directive 1800.03.

**Recommendation:**

That the CPO ensure that the Ratification Request Committee follows all rules regarding the review of multiple ratification requests for the same vendor.

Agree \_\_\_\_\_ **X** \_\_\_\_\_ Disagree \_\_\_\_\_

**3. The District has been suspended from GSA's AutoChoice Program due to unpaid invoices.**

The Transportation and Specialty Equipment (TSE) Commodity Group is responsible for procuring vehicles for District agencies under the authority of the Mayor. All contracts are awarded through competitive bids, and examples of these procurements include passenger vehicles, police vehicles, fire trucks, helicopters, and refuse trucks. The TSE also arranges maintenance and repairs on elevators, generators, air conditioners, and fire extinguishers.

The team selected several TSE contracts for review and evaluation, and found that the contracts were advertised fairly and contained adequate documentation of the procurement history. There were instances, however, when the District did not receive the best value for the procured goods because the District was restricted from using a federal supply schedule.<sup>36</sup> Title 27 DCMR § 2103.4 states:

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<sup>36</sup> The Federal Supply Schedule program provides federal agencies with a simplified process of acquiring commercial supplies and services in varying quantities at a discounted rate.

## KEY FINDINGS

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**Except as required by § 2100.1, the use of federal supply schedules shall be mandatory when the contracting officer determines that both of the following apply:**

- a. The supplies or services on the federal schedule will meet the District's minimum requirements; and**
- b. The federal schedule price is lower than the price that can be obtained with a new contract.**

The AutoChoice Program (AutoChoice) is a General Services Administration (GSA), federal supply schedule program that allows federal agencies and the District government to procure emergency and non-emergency vehicles at pre-negotiated discount prices and terms. When federal agencies use the AutoChoice program to procure vehicles, they must verify that funding is available for the purchase. In the event that the agency is delinquent in submitting payment for the vehicle, GSA is able to deduct the cost of the vehicle from the agency's budget. Since the District is not a federal agency, GSA does not have this capability when the District becomes delinquent in paying its invoices.

On August 18, 2005, the inspection team held a telephone conference with representatives from GSA to determine the status of several outstanding invoices for vehicle purchases that the Office of the Chief Financial Officer (OCFO) had not paid.

GSA provided the inspectors with an invoice statement dated August 3, 2005, showing that the OCFO had an outstanding balance due of \$262,535.47. Several delinquent invoices dated back to 2001 and 2002. As a result, GSA suspended the District's use of the AutoChoice program. This suspension had a significant impact on the TSE commodity group's ability to procure subcompact sedans and pick-up trucks for the Department of Public Works. Instead of using the AutoChoice program, OCP had to issue an invitation-for-bids (IFB), and this procurement method cost the District \$241,000 more than AutoChoice would have cost. The greatest impact of the District's suspension from the AutoChoice program was the price paid to purchase pick-up trucks. The District paid \$940,032 for 32 full-sized trucks, which was \$208,469 more than GSA's price of \$731,563.

GSA has, however, allowed MPD and FEMS to continue purchasing emergency vehicles under AutoChoice. GSA officials stated that they did not want to jeopardize the District's ability to procure emergency vehicles vital to MPD and FEMS operations.

GSA officials stated that participation in the AutoChoice program is provided as a courtesy so the District can procure vehicles at a discount. The OCFO has been working with GSA to resolve the delinquencies, but as of this writing, the invoices have not been reconciled. Suspension from AutoChoice forces the TSE commodity group to use alternative procurement methods to obtain vehicles, often at a higher cost to the District.

### **Recommendation:**

**KEY FINDINGS**

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That OCP work with the Mayor's office, the OCFO, and GSA to resolve all outstanding AutoChoice invoices so that OCP can resume participation in the AutoChoice Program.

Agree  Disagree

***OCP's Response, as Received:***

*All issues have been resolved; the program has been reinstated since May 2006.*

**Findings and  
Recommendations**

**Roads, Highways, and  
Structures Commodity Group**

## ROADS, HIGHWAYS, AND STRUCTURES COMMODITY GROUP

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The inspection of the Infrastructure Support Cluster included an examination of contracts from its commodity buying groups: Roads, Highways, and Structures and D.C. Supply Schedule. The team sought to determine whether these groups were complying with contracting policies and procedures, and whether contract files contained appropriate documentation of the following steps in the procurement process:

- public advertising of procurements in accordance with 27 DCMR § 1300.4;
- completion of a cost/price analysis prior to the award of a contract;
- determination that the procured goods or services were obtained at a price that was most advantageous to the District; and
- sufficient documentation of the analyses conducted during pre- and post-award activity. This includes documentation such as the basic requirements for doing business with OCP, business clearance memoranda (BCM), determinations and findings (D&Fs), and information regarding the history of the contract action or activity and the business decision process.

The Roads, Highways, and Structures Commodity Group is responsible for awarding contracts that allow the District to maintain its transportation infrastructure. This includes the maintenance of roadways, bridges, sidewalks, streetlights, and tree-planting services. It also secures parking spaces for District agencies and rents meeting facilities. The commodity manager stated that on average, 90 percent of their contracting and procurement requests come from the District Department of Transportation (DDOT), and the remaining 10 percent comes from the Department of Health, the Department of Parks and Recreation, and the Department of Consumer and Regulatory Affairs.

Since DDOT is the primary customer for the Roads, Highways, and Structures Commodity Group, the team selected several DDOT contracts to review and evaluate. This review revealed that the contracts appear to have been fairly advertised, contained adequate documentation of steps taken during the procurement process, and yielded the best value for the District. The team noticed, however, that the commodity group's system for recording and retaining bid information from contractors does not function as intended.

#### **4. Dated language in the DCMR limits use of time-saving software available to OCP for electronic bid submissions.**

Currently, OCP and DDOT employees must manually record the receipt of construction bids submitted by contractors, even though they have software that would allow contractors to submit bid information electronically. During the fourth quarter of FY 2004, the District purchased and implemented an electronic construction management system from the American Association of State Highway and Transportation Officials. One of the system's components is the Expedite Bid System (Expedite), which allows construction contractors to submit bids electronically, and stores data on contract costs. OCP employees stated that Expedite has not been used because of limitations imposed by the DCMR on electronic bid submissions. Title 27 DCMR § 1504.2 states that “[t]elegraphic bids shall not be considered unless permitted by the IFB [invitation for bid].” This section of the DCMR was last updated in 1988, prior to

**ROADS, HIGHWAYS, AND STRUCTURES  
COMMODITY GROUP**

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widespread use of the Internet. In addition, the current wording of OCP's invitation for bids does not address electronic bid submission.

**Recommendations:**

- a) That the CPO and OCP General Counsel draft and submit to the Mayor revised language for Title 27 of the DCMR that will allow OCP to routinely receive bids electronically from contractors.

Agree \_\_\_\_\_ **X** \_\_\_\_\_ Disagree \_\_\_\_\_

***OCP's Response, as Received:***

*The OCP is in the process of developing changes to 27 DCMR that address the authority of the District to receive electronic bids. While an obstacle to implementing electronic bidding has been an issue of legal authority and agency authority, it should be noted that other factors would impact DDOT's ability to implement electronic bidding in the short term. These factors are:*

- 1. Review of existing hardware and upgrading where necessary to accommodate implementation plan;*
- 2. Additional training of DDOT staff in the new software to be used;*
- 3. Training and granting of web access to contractors for bid submission;*
- 4. Renegotiation of the software agreement to accommodate the additional access and training requirement; and*
- 5. A formal policy decision for DDOT to move forward with implementation in isolation of a broader District-wide plan.*

- b) That the CPO and OCP General Counsel draft revised language for IFBs that will allow OCP to routinely receive bids electronically from contractors.

Agree \_\_\_\_\_ **X** \_\_\_\_\_ Disagree \_\_\_\_\_

***OCP's Response, as Received:***

*See above.*

5. **Procurement Review Committee (PRC) members did not have the level of expertise needed to effectively review construction contracts.**

Title 27 DCMR § 1010.6 authorizes the CPO to establish the PRC, and it states:

**[t]he Director may establish a Procurement Review Committee (the "PRC"), in accordance with § 1011, to assist in the Director's review of contracts entered into or proposed to be**

## ROADS, HIGHWAYS, AND STRUCTURES COMMODITY GROUP

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**entered into by contracting officers on behalf of an agency to ensure compliance with applicable laws, rules, and procedures.**

OCP Directive 4000.01 “Business Clearance Review and Approval Procedures” §4.6.1 stated<sup>37</sup> that the PRC shall:

- a. Review proposed contract actions within OCP. The review shall supplement the normal supervisory and contracting officer review process; and**
- b. Ensure that proposed contract actions are in the best interest of the District of Columbia government, comply with established procurement policies and procedures, and foster the training of contracting personnel.**

Section 4.6.2 of the directive states:

**Members of the PRC shall include:**

- i. The [commodity manager] CM or [assistant commodity manager] ACM responsible for the contract action;**
- ii. The Contract Specialist responsible for the contract action;**
- iii. The CPO or his or her designee, who shall serve as the Chairperson;**
- iv. The General Counsel or his or her designee;**
- v. At least two (2) of OCP’s experienced contracting personnel; and**
- vi. Subject matter experts from other areas of OCP as deemed appropriate by the Chairperson**

The team was told that the PRC was not effective in reviewing construction contracts of the Roads, Highways, and Structures Commodity Group. An effective review of these contracts requires significant subject-matter expertise to read and understand the Statement of Work (SOW), as well as to review the associated technical drawings. OCP employees stated that personnel selected as members of the PRC usually did not possess enough knowledge to evaluate the technical drawings, and provide only a partial review of these contracts and minor edits to the original language. Consequently, District stakeholders may not have received the best value when goods and services are procured under these contracts.

It is important to note that according to OCP directive 4000.02, which superseded OCP directive 4000.01, the PRC no longer plays a regular role in the review of proposed contract

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<sup>37</sup> OCP Directive 4000.01 was superseded by Directive 4000.02 after this inspection was completed.



**Findings and  
Recommendations**

**D.C. SUPPLY SCHEDULE  
COMMODITY GROUP**

## D.C. SUPPLY SCHEDULE COMMODITY GROUP

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According to OCP's website:

**The D.C. Supply Schedule (DCSS) is the city's multiple award schedule procurement program for providing commercial products and services to District government agencies . . . . Competitive contracts are awarded to hundreds of suppliers who can provide thousands of products and services to meet recurring needs of these government agencies.<sup>39</sup>**

The DCSS is designed in part to provide employment opportunities for District residents by increasing the number of government contracts that are awarded to Local, Small, Disadvantaged Business Enterprises (LSDBEs) located in the District. The DCSS consists of 16 distinct schedules, each of which provides contracting opportunities for specific services and products.

When LSDBEs are approved for the DCSS, OCP can award them Indefinite Delivery/Indefinite Quantity (ID/IQ) contracts with a maximum value of \$999,999. In order to procure goods or services from these approved vendors, District agencies issue purchase orders (POs) against the vendor's ID/IQ contract. POs are documents that specify the goods or services being procured from the vendor, the price, and the terms and conditions of the order. The sum of these POs, however, cannot exceed the ID/IQ contract's maximum value. Approved LSDBEs are not guaranteed that they will receive orders during the course of their ID/IQ contract, but they are guaranteed a payment equal to the contract's minimum value.<sup>40</sup>

Although LSDBEs do not have to compete to be listed on the DCSS, they must compete to be awarded a purchase order (PO). The procurement process for companies on the DCSS begins when a District agency initiates a requisition for the procurement of goods or services. Requisitions contain details of the proposed PO and are issued through the Procurement Automated Support System (PASS), a computer system designed to automate procurement processes, such as generating requisitions and issuing payments to vendors. PASS allows contracting personnel to track a requisition, online, through every step of the procurement process. This process is paperless and allows contracting specialists to obtain all approvals, including cross-agency approvals, online.<sup>41</sup> Once the requisition is approved, a PO is issued for goods or services.

### **6. OCP has not developed unbundling and rotation guidelines for LSDBEs.**

Title 27 DCMR § 1802.8 states:

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<sup>39</sup> See *OCP*, supra n. 1.

<sup>40</sup> The team learned that the DCSS commodity group has completed an analysis of the 16 schedules, and is seeking approval from the City Council to modify ID/IQ minimum and maximum contract values so that they are reflective of past performance.

<sup>41</sup> For an explanation of PASS see DISTRICT OF COLUMBIA, *Office of the Chief Technology Officer*, at [www.octo.dc.gov/octo/lib/octo/newsroom/2003/april/ASMP\\_april.pdf](http://www.octo.dc.gov/octo/lib/octo/newsroom/2003/april/ASMP_april.pdf).

**D.C. SUPPLY SCHEDULE  
COMMODITY GROUP**

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**A contracting officer shall, to the greatest extent practicable under the circumstances, maximize competition for small purchases and shall not limit solicitations to suppliers of well known and widely distributed makes or brands, or solicit on a personal preference basis.**

During testimony before the City Council in February 2005, the CPO stated that OCP was developing initiatives to improve opportunities for LSDBEs. Two of these initiatives included establishing “unbundling” and “rotation” guidelines. The CPO stated during his testimony that unbundling guidelines “will help contracting personnel determine when it’s most appropriate to separate different tasks out of a contract, creating smaller contracts that will allow LSDBEs to perform those services directly.” At the time of this testimony, the CPO also stated that contract specialists “rotate vendors on an ad hoc basis.” According to the CPO, establishing rotation guidelines would formalize the process and policy for rotating solicitations or requests for quotes among the LSDBE community.

The team found that OCP had not established written unbundling and rotation guidelines for LSDBEs. OCP is currently evaluating options available to accomplish this task, and the target completion date was April 2006. Without such guidelines, OCP cannot assure that LSDBEs have an equal opportunity to compete for and be awarded contracts. Failure to establish unbundling guidelines may limit the number of contracting opportunities available to LSDBEs because contract specialists have no guidance on how to separate tasks out of a contract.

**Recommendation:**

That the CPO give high priority to developing and implementing unbundling and rotation guidelines in FY 2007.

Agree \_\_\_\_\_ **X** \_\_\_\_\_ Disagree \_\_\_\_\_ **X** \_\_\_\_\_

***OCP’s Response, as Received:***

*Agree - The Office of Contracting and Procurement has given high priority to developing and implementing guidelines for unbundling.*

*Disagree – The Office of Contracting and Procurement has reviewed the feasibility of establishing rotation guidelines, and has concluded that contracting and sourcing modules contain that functionality.*

**7. OCP-OCTO conflict hinders installation and implementation of PASS modules.**

DCSS vendors receive ID/IQ contracts, which require routine monitoring to ensure that contract values are not exceeded and that OCP employees are aware of expiration dates. The Office of the Chief Technology Officer (OCTO) purchased PASS in 2003, and it contained four

**D.C. SUPPLY SCHEDULE  
COMMODITY GROUP**

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system modules: contracting, sourcing, buyer, and analysis. As of this writing, OCTO had only installed and implemented the buyer and analysis modules. OCP officials stated that OCTO has the contracting and sourcing modules, but is asking OCP for an additional \$2 million to install them and to upgrade PASS. A PASS upgrade is required for the successful implementation of the two modules. The CPO has not consented to OCTO's request, because these services were to be included with the original purchase of the PASS system in 2003.

Failure to utilize the contracting and sourcing modules forces contract specialists to enter data into three separate computer systems in order to track purchase orders (POs) issued against ID/IQ contracts. Although these computer systems allow contract specialists to monitor contracts as they approach their maximum value and expiration date, using three separate systems to track ID/IQ contracts is time-consuming and reduces employee productivity. In addition, not being able to use the contracting and sourcing modules prevents OCP employees from using the most efficient tools to process requisitions and POs.

**Recommendation:**

That the CPO seek assistance from the Mayor's office in expediting OCTO's installation and implementation of the PASS contracting and sourcing modules.

Agree \_\_\_\_\_ **X** \_\_\_\_\_ Disagree \_\_\_\_\_

# Appendices

## APPENDICES

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- Appendix 1:** List of Findings and Recommendations
- Appendix 2:** OCP Ratification Request Directive 1800.03

# Appendix 1

## LIST OF FINDINGS AND RECOMMENDATIONS

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### Key Findings:

- 1) **OCP is unable to accurately track the approval status of million-plus dollar contracts.**
  - a) **The database used for managing and transmitting million-plus dollar contracts lacks sufficient summary and analysis capabilities.**

#### Recommendations:

- (1) That the CPO improve the procedures and database used to track the approval status of million-plus dollar contracts.
  - (2) That the CPO or a designee be able to account for all million-plus dollar contracts executed on behalf of the District, and ensure that all such contracts are submitted to the City Council as required.
- b) **Some data in OCP's FY 2005 million-plus dollar contract report does not correspond to information in its Contract Award Database.**

#### Recommendations:

- (1) That the CPO ensure that OCP's Contract Award Database is routinely updated with accurate information about million-plus dollar contracts.
  - (2) That the CPO verify the accuracy of information on million-plus dollar contracts recorded in all locations, particularly databases and reports.
- 2) **Between FYs 2004 and 2005, the number and value of unauthorized commitments increased significantly, agencies routinely waited many months before seeking ratification of their unauthorized commitments, and DC government employees often were not disciplined for violating procurement regulations.**
    - a) **From FY 2004 to FY 2005, the number of unauthorized commitments requiring CPO or City Council ratification increased over 200%.**

#### Recommendation:

That the CPO, Mayor and the City Council consider establishing penalties for District agencies that repeatedly enter into unauthorized commitments.

- b) **District employees are not consistently held accountable for entering into unauthorized commitments.**

#### Recommendation:

## LIST OF FINDINGS AND RECOMMENDATIONS

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That the CPO and the City Council consider establishing a minimum form of disciplinary action to be exercised by agency directors against employees responsible for entering into unauthorized commitments.

- c) **OCP has not submitted ratification request reports to the Mayor in a timely manner, as required by OCP Directive 1800.03.**

Recommendation:

That the CPO outline specific procedures for producing ratification request reports, and assign responsibility for these tasks, to ensure that ratification request reports are delivered to the Mayor each quarter in accordance with OCP Directive 1800.03 § 5.7.1.

- d) **OCP ratification files lack documentation that vendors were paid for goods or services after the ratification requests were approved.**

Recommendation:

That the CPO establish a quality assurance procedure to ensure that ratification files contain proof of vendor payment after ratification requests are approved.

- e) **There is no established timeframe during which agencies must submit initial and revised ratification requests for goods and services procured through unauthorized commitments.**

Recommendation

That the CPO work with the Mayor's office and the City Council to establish specific timeframes for submission of ratification requests for goods and services procured through unauthorized commitments, and to establish penalties for non-compliance.

- f) **D.C. Code and OCP Directives do not clearly define timeframes for required City Council consideration of a third ratification request by an agency for the same vendor.**

Recommendation:

That the CPO work with the City Council to clarify the rules regarding agencies that submit three or more ratification requests for the same vendor across multiple fiscal years.

- g) **OCP's Ratification Request Committee circumvented the rule requiring City Council approval of an agency's third ratification request for the same vendor.**

Recommendation:

## LIST OF FINDINGS AND RECOMMENDATIONS

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That the CPO ensure that the Ratification Request Committee follows all rules regarding the review of multiple ratification requests for the same vendor.

3) **The District has been suspended from GSA's AutoChoice Program due to unpaid invoices.**

Recommendation:

That OCP work with the Mayor's office, the OCFO, and GSA to resolve all outstanding AutoChoice invoices so that OCP can resume participation in the AutoChoice Program.

### **Roads, Highways, and Structures Commodity Group:**

4) **Dated language in the DCMR limits use of time-saving software available to OCP for electronic bid submissions.**

Recommendations:

- (1) That the CPO and OCP General Counsel draft and submit to the Mayor revised language for Title 27 of the DCMR that will allow OCP to routinely receive bids electronically from contractors.
- (2) That the CPO and OCP General Counsel draft revised language for IFBs that will allow OCP to routinely receive bids electronically from contractors.

5) **Procurement Review Committee (PRC) members did not have the level of expertise needed to effectively review construction contracts.**

Recommendation:

That the CPO take steps to ensure that existing and future review and approval procedures (including but not limited to the PRC) for proposed contracting actions dealing with the Roads, Highways, and Structures commodity group incorporate the input and participation of qualified, experienced personnel who are well versed the subject matter being reviewed.

### **D.C. Supply Schedule Commodity Group:**

6) **OCP has not developed unbundling and rotation guidelines for LSDBEs.**

Recommendation:

That the CPO give high priority to developing and implementing unbundling and rotation guidelines in FY 2007.

7) **OCP-OCTO conflict hinders installation and implementation of PASS modules.**

## LIST OF FINDINGS AND RECOMMENDATIONS

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### Recommendation:

- (1) That the CPO seek assistance from the Mayor's office in expediting OCTO's installation and implementation of the PASS contracting and sourcing modules.

## Appendix 2



## PROCUREMENT POLICY & PROCEDURE DIRECTIVE

**SUBJECT: RATIFICATION OF UNAUTHORIZED COMMITMENTS**

**ORIGINATING OFFICE: Policy and Procedures Unit**

1. **PURPOSE:** The purpose of this policy directive is to establish procedures for the ratification of unauthorized commitments.
2. **AUTHORITY:**
  - 2.1 Section 202 of the *District of Columbia Procurement Practices Act of 1985 (PPA)*, effective February 21, 1986 (D.C. Law 6-85; D.C. Official Code § 2-301.01), as amended by the *Procurement Reform Amendment Act of 1996 (PRAA)*, effective April 9, 1997 (D.C. Law 11-259; D.C. Official Code §§ 2-301.01 *et seq.*).
  - 2.2 The *Procurement Practices Vendor Payment Authorization Amendment Act of 2002*, effective April 4, 2003 (D.C. Law 14-281; D.C. Official Code § 2-301.05(d)).
3. **APPLICABILITY:** This policy directive shall apply to all agencies of the District government that contract pursuant to the provisions of the PPA, as amended.
4. **DEFINITIONS:**
  - 4.1 **Agency Director.** The term *Agency Director* includes the principal officer, director or commissioner of an office, department, board, commission or other entity within the District government, or the principal executive officer of an independent agency of the District government.
  - 4.2 **Agency Chief Contracting Officer.** An *Agency Chief Contracting Officer (ACCO)* is the OCP employee authorized in writing by the Chief Procurement Officer to engage in procurement actions on behalf of the District government.

- 4.3 **Chief Procurement Officer.** The term *Chief Procurement Officer* (CPO) refers to the position established in section 105 of the PPA [D.C. Official Code §§ 2-301.05(a) and (b)].
- 4.4 **Ratification.** A *ratification* is the action by the CPO to authorize payment for goods or services received by the District without a valid written contract.
- 4.5 **Ratification Request.** The completed documents that must be approved by either the CPO or Council in order to pay a vendor for an unauthorized commitment.
- 4.6 **Ratification Requests Subject to CPO Final Approval.** The CPO is authorized to take final action on ratification requests that either do not exceed \$100,000 or are the first two (2) requests submitted on a vendor's behalf. An agency's ratification request package for CPO approval shall contain the original and six (6) copies of the following:
- (a) A transmittal or cover letter from the agency to the CPO;
  - (b) Completed *OCP Forms A* through *C*;
  - (c) A copy of the original contract, if any;
  - (d) Invoices;
  - (e) Timesheets, if any;
  - (f) Receipts, if any;
  - (g) Relevant correspondence, if any;
  - (h) Determinations and Findings;
  - (i) A pre-encumbered purchase request indicating the following: "*Appropriated funds are available and have been encumbered, and payment should be made subject to the CPO's approval of the ratification request.*"; and
  - (j) Any other pertinent documents substantiating the ratification request.
- 4.7 **Ratification Requests Subject to Council Final Approval.**
- (a) The Council shall consider:

- (i) Ratification requests exceeding \$100,000; or
  - (ii) All ratification requests submitted on a vendor's behalf once the CPO has considered the first two (2).
- (b) An agency's ratification request package for Council approval shall contain the original and six (6) copies of the following:
- (i) The documents required under subsection 4.6; and
  - (ii) The *Legislative Transmittal Documents* completed by the agency, including a transmittal letter to the Council Chairman from the Mayor; a memorandum from the Agency Director to the Chief Financial Officer (CFO) requesting a fiscal impact statement; and a proposed bill. (Appendix E)

4.8 **Unauthorized Commitment.** An *unauthorized commitment* is the receipt of goods or services without a valid written contract by the District government.

## 5. POLICY AND PROCEDURE STATEMENT:

### 5.1 Contracting Authority.

5.1.1 **Exclusive Contracting Authority.** By delegation from the Mayor, and in accordance with the PPA, as amended, the CPO is the exclusive contracting authority for procurements in the District.

5.1.2 **Delegations from the Chief Procurement Officer.** Only an individual to whom authority is delegated in writing from the CPO may engage in procurement actions on behalf of an agency that obligate the District government.

5.1.3 In accordance with the PPA, as amended, each District government contract shall comply with all applicable laws and regulations.

### 5.2 General Rules Prohibiting Unauthorized Commitments.

5.2.1 No District employee shall authorize payment for the value of goods or services received without a valid written contract.

- (a) **Exception.** This provision does not apply to a payment required by court order, a final decision of the Contract Appeals Board, or an approval by the CPO in accordance with subsections 5.2.4 and 5.2.5 of this policy directive.

5.2.2 No District employee shall enter into an oral agreement with a vendor to provide goods or services to the District government without a valid written contract.

- (a) **Termination of the Responsible Employee.** Any violation of this subsection shall be cause for the employee's termination. [D.C. Official Code § 2-301.05(d)(2).]

5.2.3 Except as authorized by subsections 5.3.2 and 5.3.3 of this policy directive, any vendor who enters into an oral agreement with a District employee to provide goods or services to the District government without a valid written contract shall not be paid.

- (a) **Termination of a Supervisor.** If a District employee, at the direction of a supervisor, entered into the oral agreement, the supervisor shall be terminated. [D.C. Official Code § 2-301.05(d)(3).]

5.3 **General Rules Concerning the Ratification of Unauthorized Commitments by the CPO.**

5.3.1 The CPO shall review and verify an Agency Director's ratification request.

5.3.2 **Proof of Disciplinary Action.** The CPO shall either approve or disapprove each ratification request provided that he or she has received written notification describing the disciplinary action taken by the relevant personnel authority against the employee who authorized the payment or delivery of goods or services without a valid written contract. If the CPO is the relevant personnel authority, he or she shall describe in writing the disciplinary action taken prior to approving or disapproving the payment request. [See *OCP Form B, subsection (e)*]

- (a) **Unauthorized Commitments of the Chief Procurement Officer.** If the employee who authorized payment or delivery of goods and services without a valid written contract is the CPO, the matter shall be referred to the Mayor for appropriate disciplinary action. The Mayor shall state in writing the disciplinary action taken before the CPO may approve or disapprove the payment request.

- (b) **Responsible Employee's Right of Privacy.** Any information required by this policy directive concerning disciplinary action imposed against the responsible employee shall maintain the employee's privacy by not identifying his or her name, title, grade or address.

**5.3.3 Limitations on the Chief Procurement Officer's Ratification Authority.**

The CPO or his or her designee may authorize payment for goods or services received without a valid written contract if:

- (a) **Benefit Received.** The goods or services have been provided to and accepted by the District government, or the District government otherwise has obtained or will obtain a benefit resulting from the provision of goods or services without a valid written contract.
- (b) **Fair and Reasonable Price.** The ACCO has determined that the price for the goods or services provided without a valid written contract is fair and reasonable.
- (c) **Recommended Payment.** The ACCO has recommended payment for the goods or services provided without a valid written contract.
- (d) **Available Funds.** The CFO, or his or her designee, has certified that appropriated funds are available to pay the amount requested.
- (e) **Ratification Requests Within the CPO's Authority.** The dollar value of the goods or services provided to and accepted by the District government does not exceed \$100,000, or the request being reviewed is either the first or second request considered by the CPO on the vendor's behalf.
- (f) **Other Procedures or Limitations.** The request for payment for the goods or services received without a valid written contract is in accordance with other procedures or limitations prescribed by the CPO.

**5.3.4 Transmittal of Ratification Requests to the Council.**

- (a) An agency shall forward its original ratification request package to the CPO for review prior to its transmittal to the Council.
  - (i) The CPO shall be responsible for forwarding the original ratification request package to the Council.

- (ii) An ACCO shall be responsible for forwarding a copy of the original ratification request package, including the *Legislative Transmittal Documents*, to the agency's Deputy Mayor.
- (iii) An ACCO shall be responsible for notifying the Agency Director and the vendor of the Council's decision in writing.

#### 5.4 Avoidance of Unauthorized Commitments.

5.4.1 The following affirmative steps should be taken by an Agency Director to prevent the receipt of goods and services without a valid written contract:

- (a) **Procurement Planning.** An Agency Director should conduct proper procurement planning to ensure that contractual arrangements for necessary goods and services are made in a timely manner.
- (b) **Agency Notification.** An Agency Director should post the *Agency Director Notification Memorandum* (Appendix K) within the agency to inform employees that purchasing goods and services without a valid written contract is prohibited.
- (c) **Disciplinary Action.** An Agency Director should ensure that the appropriate disciplinary action is initiated against the employee responsible for an unauthorized commitment pursuant to subsections 5.2.2, 5.2.3 and 5.2.4(b) and (c) of this policy directive.

#### 5.5 Ratification Request Preparation, Transmittal and Approval Process.

##### 5.5.1 Agency Representative Request and Certification Form.

- (a) **Preparation.** The *Agency Representative Ratification Request and Certification Form (OCP Form A)* (Appendix B) shall be prepared by the agency representative with knowledge of the facts and circumstances surrounding the initiation, the facilitation, the authorization or the making of the unauthorized commitment.
- (b) *OCP Form A* shall include:
  - (i) A statement indicating why the responsible employee (not identified by name, title, grade or address) did not follow normal contract procedures to procure the goods and services in question;

- (ii) A statement describing the government requirement or need that caused the unauthorized commitment to be made;
  - (iii) A statement describing the goods and services provided to and accepted by the government, or the benefit received;
  - (iv) A statement indicating the dollar value of the goods or services provided to and accepted by the government or the benefit received;
  - (v) A statement describing any other pertinent facts and information pertaining to the procurement action;
  - (vi) The signature of an agency representative (other than the responsible employee) with knowledge of the facts and circumstances surrounding the initiation, the facilitation, the authorization or the making of the unauthorized commitment; and
  - (vii) Copies of all relevant documents substantiating the transaction including those listed in subsection 4.6(d) through (k) of this policy directive.
- (c) **Transmittal.** Once completed, *OCP Form A* filed shall be placed in the ratification request file, which file shall be transferred to the Agency Director.
- (d) **Ratification Request Committee Meeting Participation.** The agency representative (other than the responsible employee and the ACCO) shall be required to attend the Ratification Request Committee meeting to discuss the completed form.

**5.5.2 Agency Director Ratification Request and Certification Form.**

- (a) **Preparation.** An *Agency Director Ratification Request and Certification Form (OCP Form B)* (Appendix C) shall be prepared by the agency that received the goods or services in question.
- (b) *OCP Form B* shall:
  - (i) Verify and attest to the fact that goods or services were received by the agency.

- (ii) Verify and attest to the fact that the amount claimed by the vendor is fair, reasonable and consistent with the agreement to provide the goods or services for which payment is claimed and agreed upon.
  - (iii) Describe any disciplinary action taken by the relevant personnel authority against the responsible employee without identifying their name, title, grade or address.
  - (iv) Include a written description of the steps taken by the Agency Director to prevent a recurrence of unauthorized commitments in the future.
  - (v) Include the number of unauthorized commitments that do not exceed \$100,000 submitted on behalf of the vendor by the agency since April 4, 2003.
  - (vi) Include the number of unauthorized commitments exceeding \$100,000 submitted on behalf of the vendor by the agency since April 4, 2003.
  - (vii) Include a statement from the Agency's Chief Financial Officer verifying that appropriated funds are available to pay the requested amount.
- (c) **Transmittal.** Once completed, *OCP Form B* shall be placed in the ratification request file, which file shall be transferred to the agency ACCO.
- (d) **Deadline for Transmitting the Ratification Request File to an ACCO.**
- (i) An ACCO must receive the original, complete ratification request file by the close of business on the Wednesday before a regularly scheduled Ratification Request Committee meeting in order for the request to be considered at the next meeting.

**5.5.3 Agency Chief Contracting Officer Findings and Determination Statement.**

- (a) **Preparation.** The ACCO shall:
  - (i) Complete the *Agency Chief Contracting Officer Findings and Determination Statement (OCP Form C)* (Appendix D) for the agency that received the goods or services in question; and

- (ii) Attend the ratification request meeting to discuss the completed forms.
- (b) *OCP Form C* shall include the following information:
  - (i) Whether the unauthorized commitment could have resulted in a properly executed contract.
  - (ii) Whether funds are available to pay for the goods and services, as certified by the agency's Chief Financial Officer.
  - (iii) Whether the price to be paid for the goods and services is fair and reasonable, and the basis for the determination.
  - (iv) Any other relevant information that should be taken into consideration in determining whether the ratification request should be approved or denied.
- (c) Once completed, *OCP Form C* shall be placed in the ratification request file.

**5.5.4 OCP Ratification Request Committee.**

- (a) There is hereby established by the CPO an OCP Ratification Request Committee (Committee).
- (b) **Membership.** The Committee shall consist of the following members:
  - (i) One (1) Chairperson as designated by the CPO;
  - (i) Three (3) OCP senior staff members as designated by the CPO; and
  - (ii) One (1) representative from the Office of the General Counsel.
- (c) **Meetings.** The Committee shall:
  - (i) Hold two (2) regular monthly meetings on the first and third Wednesday of each month at 2:00 p.m. at times and in places set by the Chairperson. (Appendix F)
  - (ii) The Chairperson may schedule additional meetings as necessary.

- (iii) The ACCO shall transmit the original and six (6) copies of a ratification request package to the CPO's Executive Assistant by the close of business on the Friday before a regularly scheduled Committee meeting in order to be considered at the next meeting.
  - (iv) The Committee Chair, with the assistance of the CPO's Executive Assistant, shall be responsible for scheduling Committee meetings.
- (d) **Ratification Request Committee Filings.** To be properly filed with the Ratification Request Committee, a ratification request package to be considered by the CPO shall contain:
- (i) The original documents described in subsections 4.6 and 4.7 and six (6) copies; and
  - (ii) A Ratification Request Database identification and date/time-stamp provided by OCP.
- (e) **Responsibility.** The Committee shall review and separately consider each ratification request within the CPO's authority, and recommend to the CPO whether a request should be approved, denied or returned.
- (f) **Factors To Be Considered.** The Committee shall consider each of the following factors before recommending the approval or denial of a ratification request:
- (i) The facts and circumstances of each request.
  - (ii) Whether goods or services have been provided to and accepted by the District government without a valid written contract.
  - (iii) Whether the District government has obtained or will obtain a benefit resulting from the provision of goods or services without a valid written contract.
  - (iv) Whether the ACCO has determined that the price paid for the goods or services was fair and reasonable.
  - (v) Whether the ACCO has recommended payment.
  - (vi) Whether the agency CFO, or his or her designee, has certified that appropriated funds are available to pay the requested amount.

- (vii) Whether the relevant personnel authority imposed an appropriate disciplinary action against the responsible employee.
  - (viii) Whether appropriate remedial action was undertaken by the agency to prevent a recurrence of unauthorized commitments in the future.
  - (ix) Whether the ratification request is in accordance with any other procedures or limitations prescribed by the CPO.
- (g) **Ratification Request Committee Vote.** A vote by the Committee recommending approval or denial of a ratification request:
- (i) Shall be by a majority of the members present and voting;
  - (ii) Shall be forwarded to the CPO for final action;
  - (iii) Shall not bind the CPO from taking any specific action; and
  - (iv) Shall be documented by completing the *OCP Ratification Request Committee Recommendation Form*. (**OCP Form F**) (Appendix G)

#### 5.5.5 Chief Procurement Officer Final Determinations.

- (a) The CPO shall review a ratification request within his or her authority that has been forwarded by the Committee to determine whether it should be ratified.
- (b) **Agency Director and Vendor Notification of the CPO's Final Decision.** Once the CPO makes a final decision approving or denying a ratification request, he or she shall:
  - (i) Complete either the *Chief Procurement Officer Ratification Request Final Determination Approval Memorandum (OCP Form G)* (Appendix H), or the *Chief Procurement Officer Ratification Request Final Determination Disapproval Memorandum (OCP Form H)* (Appendix I);
  - (ii) Return the original ratification request file to the Committee Chairperson;
  - (iii) Direct the Committee Chairperson to return the original ratification request file to the ACCO; and

- (iv) Direct the ACCO to inform the Agency Director and the vendor of the final decision.
- (e) **Approved Ratification Requests.** After a ratification request has been approved, the ACCO shall:
  - (i) Forward a copy of the CPO's final determination memorandum to the Agency Director;
  - (ii) Advise the vendor of the approval in writing;
  - (iii) Forward the pre-encumbered purchase request and any other necessary document(s) authorizing the vendor to be paid to the agency CFO; and
  - (iv) Close out the ratification request file, ensuring that all appropriate documentation is attached, including a copy of the payment voucher, the date the check was forwarded to the vendor, and the check amount.
- (f) **Denied Ratification Requests.** After a ratification request has been denied by the CPO, the ACCO shall:
  - (v) Forward a copy of the CPO's final determination memorandum to the Agency Director; and
  - (vi) Advise the vendor of the denial in writing.

#### 5.6 Ratification Request File Storage.

- 5.6.1 An ACCO shall be responsible for properly storing the original ratification request file once the CPO renders a final decision.

#### 5.7 Ratification Request Reports.

- 5.7.1 A ratification request report shall be submitted by the CPO to the Mayor, for transmittal to the Council, at least four (4) times each year which report shall include the number of persons disciplined under subsections 5.2.2(a) and 5.2.3(a).
- 5.7.2 A ratification request report shall not identify the name, title, grade or address of the employee responsible for the ratification request.

6. **FORMS AND APPENDICES:**

- 6.1 **Appendix A:** Lists of documents included in an agency's ratification request package for consideration by the Chief Procurement Officer and the Council.
- 6.2 **Appendix B:** *The Agency Representative Ratification Request and Certification Form. (OCP Form A)*
- 6.3 **Appendix C:** *The Agency Director Ratification Request and Certification Form. (OCP Form B)*
- 6.4 **Appendix D:** *The Agency Chief Contracting Officer Findings and Determination Statement. (OCP Form C)*
- 6.5 **Appendix E:** Sample *Legislative Transmittal Documents*, including:
  - (a) A sample transmittal letter to the Council Chairman from the Mayor (*Attachment 1E*);
  - (b) A sample memorandum from the Agency Director to the Chief Financial Officer requesting a fiscal impact statement (*Attachment 2E*); and
  - (c) A proposed bill (*Attachment 3E*).
- 6.6 **Appendix F:** Sample *Notice of OCP Ratification Request Committee Meeting Notice. (OCP Form D)*
- 6.7 **Appendix G:** *OCP Ratification Request Committee Recommendation Form. (OCP Form E)*
- 6.8 **Appendix H:** Sample *Chief Procurement Officer Ratification Request Final Determination Approval Memorandum. (OCP Form F)*
- 6.9 **Appendix I:** Sample *Chief Procurement Officer Ratification Request Final Determination Disapproval Memorandum. (OCP Form G)*
- 6.10 **Appendix J:** Sample *Chief Procurement Officer Ratification Request Transmittal Memorandum. (OCP Form H)*
- 6.11 **Appendix K:** Sample *Agency Director Notification Memorandum* advising agency employees that purchasing goods or services without a valid written contract is

prohibited.

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6.12 **Appendix L:** *“What You Should Know About the Ratification Process.”*

7. **AMENDS OR SUPERSEDES:** This policy directive supersedes previous OCPD 1800.00 (effective July 1, 2000), OCPD 1800.01 (effective January 28, 2002), and OCPD 1800.02 (effective May 2, 2002).
8. **EFFECTIVE DATE:** This policy directive shall become effective on August 11, 2003.
9. **EXPIRATION DATE:** This policy directive shall expire on August 11, 2005.

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Jacques Abadie, III, CPCM  
District of Columbia Chief Procurement Officer  
Office of Contracting and Procurement

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Date

**OCPD 1800.03**  
**Appendix A**

*Lists of Documents included in an  
Agency's Ratification Request Package  
(2 pages)*



## RATIFICATION REQUESTS CONSIDERED BY THE CHIEF PROCUREMENT OFFICER

**If the ratification request does not exceed \$100,000, or is the first or second request considered by the CPO on a vendor's behalf, submit the original and six (6) copies of the following:**

- a) A transmittal or cover letter from the agency to the CPO.
- b) OCP Form A (*Agency Representative Ratification Request and Certification Form*).
- c) OCP Form B (*Agency Director Ratification Request and Certification Form*).
- d) OCP Form C (*Agency Chief Contracting Officer Findings and Determination Statement*).
- e) A copy of the original contract, if any.
- f) A copy of the invoices.
- g) A copy of the timesheets, if any.
- h) A copy of the receipts, if any.
- i) A copy of all relevant correspondence and memoranda.
- j) A copy of the Determinations and Findings.
- k) A pre-encumbered purchase request indicating that "*Appropriated funds are available and payment should be made subject to the CPO's approval of the ratification request.*"
- l) A copy of any other pertinent documents substantiating the ratification request.

*Please check each item before submitting your ratification request package.  
Do not file this document with your official package.*



## RATIFICATION REQUESTS CONSIDERED BY THE COUNCIL

**If the ratification request exceeds \$100,000 or if more than two (2) requests have previously been considered by the CPO on the vendor's behalf, submit the original and six (6) copies of the following documents for Council review:**

- \_\_\_ a) The *Legislative Transmittal Documents* completed by the agency, including a transmittal letter to the Council Chairman from the Mayor; a draft memorandum from the Agency Director to the Chief Financial Officer requesting a fiscal impact statement; and a proposed bill. (Appendix E)
- \_\_\_ b) A transmittal or cover letter from the agency to the CPO.
- \_\_\_ c) OCP Form A (*Agency Representative Ratification Request and Certification Form*).
- \_\_\_ d) OCP Form B (*Agency Director Ratification Request and Certification Form*).
- \_\_\_ e) OCP Form C (*Agency Chief Contracting Officer Findings and Determination Statement*).
- \_\_\_ f) A copy of the original contract, if any.
- \_\_\_ g) A copy of the invoices.
- \_\_\_ h) A copy of the timesheets, if any.
- \_\_\_ i) A copy of the receipts, if any.
- \_\_\_ j) A copy of all relevant correspondence and memoranda.
- \_\_\_ k) A copy of the Determinations and Findings.
- \_\_\_ l) A pre-encumbered purchase request indicating the following: "*Appropriated funds are available and have been encumbered, and payment should be made subject to the CPO's approval of the ratification request.*"; and
- \_\_\_ m) A copy of any other pertinent documents substantiating the ratification request.

*Please check each item before submitting your ratification request package.  
Do not file this document with your official package.*

**OCPD 1800.03**  
**Appendix B**

*OCP Form A*  
*Agency Representative Ratification Request and Certification Form*  
*(2 pages)*

**AGENCY REPRESENTATIVE RATIFICATION REQUEST AND  
CERTIFICATION FORM**

I \_\_\_\_\_, hereby certify that the \_\_\_\_\_  
*(Agency Representative)* *(Agency Name)*

received the following goods or services from \_\_\_\_\_ :  
*(Name of Vendor)*

\_\_\_\_\_  
*(Description of goods or services)*

The above-described goods were received by the agency on or about \_\_\_\_\_  
*(Date)*

or the above-described services were received by the agency from \_\_\_\_\_  
*(Date)*

through \_\_\_\_\_.  
*(Date)*

The total cost of the goods or services is \_\_\_\_\_.  
*(Enter Amount)*

**CIRCUMSTANCES REGARDING THE NEED FOR THIS RATIFICATION ACTION:**

a) Describe why the normal procurement procedures were not followed.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

b) Describe the specific District government requirement or need that caused the transaction to be made.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

c) Describe the benefit received by the District government as a result of the transaction.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- d) Has the employee responsible for this ratification request received written notification of the disciplinary action taken against them?  YES  NO

If "yes", please describe the disciplinary action taken against the employee (without including their name, title, grade or address). If "no", why?

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- e) Please provide any other pertinent facts or information.

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- f) Are there any shipping records, invoices, orders, or requests for payment or other documentary evidence of the transaction?  YES  NO

Is the documentary evidence attached to this form?  YES  NO

**PREPARER CERTIFICATION**

I, the agency representative with knowledge of the facts and circumstances surrounding the initiation, the facilitation, the authorization or the making of the unauthorized commitment, further certify that the information, circumstances and details described above are complete, accurate and true, and hereby request that the Chief Procurement Officer approve this ratification request for the goods and services received.

\_\_\_\_\_  
*Print Name of Agency Representative*

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
Date

**OCPD 1800.03**  
**Appendix C**

*OCP Form B*  
*Agency Director Ratification Request and Certification Form*  
*(2 pages)*

**AGENCY DIRECTOR RATIFICATION REQUEST AND  
CERTIFICATION FORM**

I, \_\_\_\_\_, hereby certify, based upon the certification of  
*(Agency Director)*

\_\_\_\_\_, that the \_\_\_\_\_,  
*(Agency Representative)* *(Agency Name)*

received the following goods or services from \_\_\_\_\_;  
*(Vendor Name)*

\_\_\_\_\_  
*(Description of goods or services)*

The above-described goods were received by the agency on or about \_\_\_\_\_  
*(Date)*

or the above-described services were received by the agency from \_\_\_\_\_  
*(Date)*

through \_\_\_\_\_.  
*(Date)*

I further certify, based upon the certification of \_\_\_\_\_,  
*(Agency Representative)*

that the amount requested to pay the vendor, \_\_\_\_\_, is fair, reasonable  
*(Dollar amount)*

and consistent with the agreement to provide the goods or services for which payment is  
claimed and agreed upon.

**CIRCUMSTANCES REGARDING THE NEED FOR THIS RATIFICATION ACTION:**

- a) The reasons(s) why the goods or services were requested or authorized.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- c) The reason(s) why the procurement action was/were not authorized? \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

d) Steps taken to prevent unauthorized commitments in the future.

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e) Describe the disciplinary action taken against the employee responsible for this ratification request. (Do not include the employee's name, title, grade or address.)

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f) Has the employee responsible for this ratification request received written notification of the disciplinary action taken against him or her?  YES  NO

g) Provide the number of unauthorized commitments not exceeding \$100,000 submitted by your agency on the vendor's behalf since April 4, 2003. \_\_\_\_\_

h) Provide the number of unauthorized commitments exceeding \$100,000 submitted by your agency on the vendor's behalf since April 4, 2003. \_\_\_\_\_

**AGENCY DIRECTOR CERTIFICATION**

I further certify that my agency has budget authority to pay the above-stated amount. Upon being notified by the Chief Procurement Officer that the unauthorized commitment has been ratified, my agency will promptly prepare and forward the appropriate payment document(s) to the agency Chief Financial Officer.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Agency Director

**AGENCY CHIEF FINANCIAL OFFICER/CONTROLLER CERTIFICATION**

I (  ) agree (  ) disagree that the agency has sufficient appropriated funds to pay the requested amount upon the Chief Procurement Officer's ratification of the unauthorized commitment.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Agency CFO/Controller

**OCPD 1800.03**  
**Appendix D**

*OCP Form C*  
*Agency Chief Contracting Officer Findings and Determination Statement*  
**(1 page)**

**AGENCY CHIEF CONTRACTING OFFICER  
FINDINGS AND DETERMINATION STATEMENT**

I, \_\_\_\_\_, hereby certify, based upon the information  
*(Agency Chief Contracting Officer)*  
provided by \_\_\_\_\_ for \_\_\_\_\_,  
*(Agency Representative)* *(Agency Name)*

pertaining to the following goods or services: \_\_\_\_\_  
\_\_\_\_\_  
*(Description of goods or services)*

from \_\_\_\_\_ received by the agency on or about \_\_\_\_\_,  
*(Vendor Name)* *(Date)*

have determined that:

a) The unauthorized commitment (\_\_\_\_) **could** (\_\_\_\_) **could not** have resulted in a properly executed contract.

\_\_\_\_\_  
\_\_\_\_\_

b) Appropriated funds (\_\_\_\_) **are** (\_\_\_\_) **are not** available as certified by the Agency Chief Financial Officer.

\_\_\_\_\_  
\_\_\_\_\_

c) The price to be paid for the goods or services (\_\_\_\_) **is** (\_\_\_\_) **is not** fair and reasonable. The basis for this determination is as follows:

\_\_\_\_\_  
\_\_\_\_\_

d) There (\_\_\_\_) **is** (\_\_\_\_) **is no** other relevant information that should be taken into consideration in determining appropriate action on the ratification request.

\_\_\_\_\_  
\_\_\_\_\_

**CERTIFICATION OF AGENCY CHIEF CONTRACTING OFFICER:**

I hereby certify that the information provided above is accurate and complete.

\_\_\_\_\_  
Date

\_\_\_\_\_  
ACCO Signature  
OCPD 1800.03/OCP Form C/ 1 of 1/rev. 8/11/03)

OCPD 1800.03  
Appendix E

**LEGISLATIVE TRANSMITTAL DOCUMENTS**

*Sample Transmittal Letter to the Council Chairman from the Mayor (Attachment 1E)*  
*Sample Memorandum from the Agency Director to the Chief Financial Office*  
*Requesting a Fiscal Impact Statement (Attachment 2E);*  
*Proposed Bill (Attachment 3E)*  
**(4 pages)**

*Sample Transmittal Letter to the Council Chairman from the Mayor*

[Date]

The Honorable Linda W. Cropp  
Chairman  
Council of the District of Columbia  
1350 Pennsylvania Avenue, N.W., Suite 504  
Washington, D.C. 20004

Dear Chairman Cropp:

Enclosed for consideration and approval by the Council of the District of Columbia is proposed legislation to approve payment to [ABC, Inc.] for [goods/services] received without a valid written contract.

This payment request is being transmitted for Council approval pursuant to the "*Procurement Practices Vendor Payment Authorization Amendment Act of 2002*," effective April 4, 2003 (D.C. Law 14-281; D.C. Official Code § 2-301.05(d)). That law requires Council review and approval of payments for [goods/services] received without a valid written contract if the request exceeds \$100,000 or if the Chief Procurement Officer has previously considered two (2) requests for that same vendor.

The payment request is for [\$101,000]. Because the request exceeds \$100,000, and is the third such request submitted on behalf of [ABC, Inc.] since April 4, 2003, Council approval is required. Approval of this request would allow the vendor to be paid for [information technology services] provided to the [Department of XYZ] without a valid written contract.

I urge you to take prompt and favorable action on the enclosed legislation.

Sincerely,

Anthony A. Williams

Enclosures

AAW/nh

*Sample Memorandum from the Agency Director to the Chief Financial Officer  
Requesting a Fiscal Impact Statement*

**MEMORANDUM**

**TO:** Dr. Natwar Gandhi  
Chief Financial Officer

**FROM:** Agency Director  
XYZ Agency

**DATE:**

**SUBJECT:** Request for Fiscal Impact Statement for the “[ABC, Inc.] Payment Authorization Act of 2003”

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I hereby request a fiscal impact statement for the attached proposed bill entitled the “[ABC, Inc.] Payment Authorization Act of 2003”. The bill is being transmitted to the Council pursuant to the “*Procurement Practices Vendor Payment Authorization Amendment Act of 2002*,” effective April 4, 2003) D.C. Law 14-281; D.C. Official Code § 2-301.05(d)). That law requires Council review and approval of payments for goods or services received without a valid written contract if the request exceeds \$100,000 or if the Chief Procurement Officer has previously considered two (2) requests for that same vendor.

This payment request is for [\$101,000], and is the third such request submitted on behalf of [ABC, Inc.] since April 4, 2003. Approval of this request would allow the vendor to be paid for [information technology services] provided to the [Department of XYZ] without a valid written contract.

Please feel free to contact [ ] at [ ] if you need additional information.

Attachment

---

Chairman Linda W. Cropp,  
at the request of the Mayor

A BILL

---

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

---

Chairman Linda W. Cropp, at the request of the Mayor, introduced the following bill that was referred to the Committee on \_\_\_\_\_.

To authorize payment to **[ABC, Inc.]** for **[goods/services]** provided to the **[Department of XYZ]** without a valid written contract.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “[**ABC, Inc.**] Payment Authorization Act of 2003”.

Sec. 2. Pursuant to D.C. Official Code § 2-301.05(d) of the Procurement Practices Vendor Payment Authorization Amendment Act of 2002, effective April 4, 2003 (D.C. Law 14-281), the Council hereby authorizes the **[Department of XYZ]** to pay **[ABC, Inc. \$101,000]** for **[goods/services]** received on **[April 5, 2003]** without a valid written contract.

Sec. 3. The Council adopts the fiscal impact statement provided by the Chief Financial Officer as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

**OCPD 1800.03**  
**Appendix F**

**Sample**  
***OCP Ratification Request Committee Meeting***  
***Notice (OCP Form D)***  
**(1 page)**

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Office of Contracting and Procurement



MEMORANDUM

TO: Agency Chief Contracting Officer, OCP  
FROM: Rosalia Rojas, Executive Assistant, OCP  
SUBJECT: OCP Ratification Request Committee Meeting Notice  
DATE: August 11, 2003

---

The OCP Ratification Request Committee has scheduled a meeting to consider the following ratification requests filed by the [agency name]:

<u>ID Number</u>	<u>Vendor Name</u>	<u>Requested Amount</u>
1	ABC, Inc.	\$ 60,163.63

The meeting will be held on September 10, 2003, at 2:00 pm, in the Office of Contracting and Procurement, Room 700S (South Conference Room), at 441 4<sup>th</sup> Street, NW.

Also, please be advised that:

- 1) The Agency Chief Contracting Officer's attendance is required, and a failure to appear will result in the postponement of the Committee's consideration.
- 2) The attendance of an agency representative (other than the responsible employee) with knowledge of the facts and circumstances surrounding the initiation, the facilitation, the authorization or the making of the unauthorized commitment, is required, and a failure to appear will result in the postponement of the Committee's consideration.
- 3) Any new or additional documentary information supporting the request should be brought to the meeting.
- 4) Your agency Chief Financial Officer should be informed of the meeting date, time and location, but is not required to attend.

Please feel free to contact me at (202) 724-4683 if you have any questions regarding this matter.

---

441 4th Street N.W., Suite 700-South, Washington, D.C. 20001 (202) 727-0252 Fax: (202) 724-5673

OCPD 1800.03  
Appendix G

**Sample**  
***OCP Ratification Request Committee Recommendation Form***  
***(OCP Form E)***  
**(1 page)**

**OCP Ratification Request Committee  
Recommendation Form**

ID No.:

Date:

Amt. Requested:

Amt. Approved:

**AGENCY:**

**AGENCY REPRESENTATIVE:**

**ACCO:**

**VENDOR:**

*Number of unauthorized commitments under \$100,000 submitted by the agency on behalf of the vendor since 4/4/03:*

*Number of unauthorized commitments exceeding \$100,000 submitted by the agency on behalf of the vendor since 4/4/03:*

- YES**     *Are there any new facts, issues or circumstances relevant to the requested action? If yes, describe.*
- NO**

- YES**     *Has remedial action been taken to prevent recurrence? If yes, describe.*
- NO**

- YES**     *Was an adverse personnel action taken against the responsible employee?*
- NO**

**RECOMMENDATION:**

**EXPLANATION:**

- APPROVAL**
- CONDITIONAL APPROVAL**
- DISAPPROVAL**
- NO ACTION**

**COMMITTEE MEMBERS/VOTE**

<i>Printed Name</i>	<i>Signature</i>	<i>Agency</i>	<i>Yes</i>	<i>No</i>

**OCPD 1800.03**  
**Appendix H**

**Sample**  
***Chief Procurement Officer Ratification Request Final Determination***  
***Approval Memorandum***  
***(OCP Form F)***  
**(1 page)**

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Office of Contracting and Procurement



MEMORANDUM

**TO:** Agency Director  
Department of XYZ

**FROM:** Jacques Abadie III, CPCM  
Chief Procurement Officer

**SUBJECT:** Approval of Ratification Request #1 (ABC, Inc.)

**DATE:** August 11, 2003

---

The purpose of this memorandum is to inform you that, upon reviewing the recommendation of OCP's Ratification Request Committee, I have approved the ratification request submitted by the Department of XYZ on behalf of ABC, Inc. for \$60,163.63.

Pursuant to OCP Directive 1800.03, the ratification request file will be returned to Jane Roe, your Agency Chief Contracting Officer. Ms. Roe will inform ABC, Inc. that the request has been approved, and will process the pre-encumbered purchase order and any other documents needed to ensure that the vendor is paid.

Please feel free to contact me at (202) 724-0252 if you have any questions.

cc: Agency Chief Contracting Officer (OCP)  
OCP Ratification Request File

OCPD 1800.03  
Appendix I

**Sample**  
***Chief Procurement Officer Ratification Request Final Determination***  
***Disapproval Memorandum***  
***(OCP Form G)***  
**(1 page)**

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Office of Contracting and Procurement



MEMORANDUM

**TO:** Agency Director  
Department of XYZ

**FROM:** Jacques Abadie III, CPCM  
Chief Procurement Officer  
Office of Contracting and Procurement

**SUBJECT:** Disapproval of Ratification Request #3 (ABC, Inc.)

**DATE:** April 11, 2003

---

Please be advised that the ratification request filed by your agency on behalf of ABC, Inc. in the amount of \$61,163.63 has been denied. The request was denied because:

- The CPO concurs with the Ratification Request Committee recommendation to deny the request.
- Insufficient documentation has been submitted to support the request.
- The Chief Financial Officer has denied the request.
- Approval would violate District law or regulations.
- Approval would result in payment of an unallowable cost.
- There is no evidence that remedial action has been taken to prevent recurrence.
- Food, travel and/or lodging cannot be approved.
- Other: \_\_\_\_\_

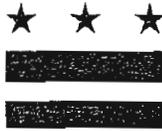
The original ratification request file has been returned to Jane Roe, your Agency Chief Contracting Officer, who will advise the vendor of the denial.

cc: Jane Roe, Agency Chief Contracting Officer (OCP)  
OCP Ratification Request File

OCPD 1800.03  
Appendix J

**Sample**  
***Chief Procurement Officer Ratification Request Transmittal Memorandum***  
***(OCP Form H)***  
**(1 page)**

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Office of Contracting and Procurement



**MEMORANDUM**

**TO:** Agency Director  
Department of XYZ

**FROM:** Jacques Abadie III, CPCM  
Chief Procurement Officer

**SUBJECT:** Transmittal of Ratification Request Package to the Council

**DATE:** August 11, 2003

---

The purpose of this memorandum is to inform you that your agency's ratification request submitted on behalf of ABC, Inc. for \$101,000 was forwarded to the Mayor for transmittal to the Council as required by the *Procurement Practices Vendor Payment Authorization Amendment Act of 2002*, effective April 4, 2003 (D.C. Law 14-281; D.C. Official Code § 2-301.05(d)). That law requires the Council to review and approve ratification requests exceeding \$100,000, as well as any ratification request for a vendor if the Chief Procurement Officer has previously approved two (2) requests on that vendor's behalf.

Please feel free to contact me at (202) 727-0252 if you have any questions.

cc: Agency Chief Contracting Officer (OCP)  
OCP Ratification Request File

OCPD 1800.03  
Appendix K

Sample  
*Agency Director Notification Memorandum*  
regarding the prohibition against purchases of goods and services  
without a valid written contract  
(1 page)

## Sample Notification Memorandum

**TO:** Agency Staff

**FROM:** Agency Director

**SUBJECT:** Prohibition Against Purchases of Goods or Services Without a Valid Written Contract

**DATE:** August 11, 2003

---

The District of Columbia Procurement Practices Act of 1985 (PPA), as amended by the *Procurement Reform Amendment Act of 1996* (D.C. Law 11-259), and the *Procurement Practices Vendor Payment Authorization Amendment Act of 2002* (D.C. Law 14-281), makes the District's Chief Procurement Officer (CPO) the exclusive contracting authority for procurements in agencies under the Mayor's authority. As such, the CPO is authorized to delegate contracting authority to either a contracting officer or contract specialist.

The PPA also imposes limitations on the way in which goods and services may be procured on behalf of the District. For example, the PPA generally provides that:

- No District employee shall authorize payment for the value of goods or services received without a valid written contract. (This prohibition does not apply to a payment required by court order, a final decision of the Contract Appeals Board, or approval by the CPO.)
- No District employee shall enter into an oral agreement with a vendor to provide goods or services to the District government without a valid, written contract. Any violation of this prohibition shall be cause for the employee's termination.
- Any vendor who enters into an oral agreement with a District employee to provide goods or services to the District government without a valid written contract shall not be paid. If the oral agreement was entered into by a District employee at the direction of a supervisor, the supervisor shall be terminated.
- The CPO may authorize payment for goods or services received without a valid written contract if: (i) the payment request does not exceed \$100,000; and (ii) no more than two (2) such requests have been submitted on a vendor's behalf to the CPO.
- Unauthorized commitments above \$100,000 and those submitted after the first two (2) have been considered by the CPO shall be forwarded to the Mayor (by the CPO) for transmittal to the Council for its review and approval.
- The purpose of this memorandum is to remind all employees that goods and services should be procured without a properly executed contract or purchase order. Any employee in this agency name who fails to comply with the District's procurement laws and regulations must be subjected to an adverse personnel action in accordance with District personnel rules that could include a reprimand, suspension or termination.
- The CPO cannot consider an agency's ratification request to approve an unauthorized commitment until he receives written notification of the disciplinary action taken against the

responsible employee. (Due to the right of privacy and personnel regulations, the employee's name, title, grade and address cannot be disclosed to the public.)

Please feel free to contact \_\_\_\_\_ with my office at (202) \_\_\_\_\_ if you have any questions regarding this important issue.

OCPD 1800.03  
Appendix L

*“What You Should Know About the Ratification Process”*  
(4 pages)



## WHAT YOU SHOULD KNOW ABOUT THE RATIFICATION PROCESS

1. **RATIFICATION REQUEST COMMITTEE MEETING SCHEDULE.** The Committee Chair, with the assistance of the CPO's Executive Assistant, will be responsible for scheduling Committee meetings.
2. **RETURNED RATIFICATION REQUEST PACKAGES.** Ratification requests must be reviewed carefully before they are filed. If a request is returned after a meeting is scheduled because documents are missing or it is otherwise improperly filed, the meeting will be rescheduled for consideration at a later date. *This will needlessly delay the consideration of your ratification request.*
3. **COPIES OF THE RATIFICATION REQUEST.** The ACCO must transmit the *original and six (6) copies* of a ratification request package to the CPO's Executive Assistant.
4. **TYPES OF RATIFICATION REQUESTS.** There are two (2) types of ratification requests:
  - (a) CPO-approved ratification requests; and
  - (b) Council-approved ratification requests.
5. **CPO-APPROVED RATIFICATIONS.**
  - (a) The CPO will consider ratification requests that either do not exceed \$100,000 or are the first two (2) requests submitted on a vendor's behalf.
  - (b) An agency's ratification request considered by the CPO must contain the original and six (6) copies of:
    - (i) A transmittal or cover letter from the agency to the CPO;
    - (ii) Completed *OCP Forms A* through *C*;
    - (iii) A copy of the original contract, if any;
    - (iv) Invoices;

- (v) Timesheets, if any;
  - (vi) Receipts, if any;
  - (vii) Relevant correspondence, if any;
  - (viii) Determinations and Findings;
  - (ix) A pre-encumbered purchase request indicating the following: “Appropriated funds are available and have been encumbered, and payment should be made subject to the CPO’s approval of the ratification request.”; and
  - (x) Any other pertinent documents substantiating the ratification request.
- (c) **Agency and Vendor Notification of CPO Final Decisions.** Once the CPO has either approved or denied a ratification request, the ACCO must forward a copy of the approval or denial memorandum to the Agency Director, and advise the vendor of the decision in writing.

#### 6. COUNCIL-APPROVED RATIFICATIONS.

- (a) The Council will consider ratification requests exceeding \$100,000, or all ratification requests submitted on a vendor’s behalf once the CPO has considered the first two (2) on a vendor’s behalf.
- (b) An agency’s ratification request considered by the Council must contain the original and six (6) copies of:
  - (i) The documents required under subsection 4.6; and
  - (ii) The *Legislative Transmittal Documents* required under subsection 4.7 as completed by the agency, including a transmittal letter to the Council Chairman from the Mayor; a memorandum from the Agency Director to the Chief Financial Officer requesting a fiscal impact statement; and a proposed bill.
- (c) Even though the CPO does not render a final decision regarding Council-approved ratification requests, he must review the requests prior to their transmittal to the Council by the Mayor. The CPO will forward the original documents to the appropriate office after they are reviewed.
- (d) If a ratification request is to be considered by the Council, the ACCO is responsible for forwarding a copy of the original ratification request package and the *Legislative Transmittal Documents* to the agency’s Deputy Mayor.

- (e) An ACCO is responsible for notifying the Agency Director and the vendor of the Council's final decision in writing.
- (f) The CPO has no control over when a ratification request will be reviewed by the Council once it is forwarded.

**7. Disciplinary Action.**

- (a) Disciplinary action is mandatory under the ratification process.
- (b) **Responsible Employee Termination.** The employee responsible for an unauthorized commitment can be terminated.
- (c) **Supervisor Terminations.** If a District employee, at the direction of a supervisor, enters into an oral agreement with a vendor regarding the receipt of goods or services, the supervisor must be terminated.
- (d) **Proof of Disciplinary Action.** The CPO must be provided a written description of the disciplinary action taken by the relevant personnel authority against the employee responsible for the ratification request.
- (e) **Employee Right of Privacy.** Any information required by this policy concerning disciplinary action imposed against the responsible employee must not identify his or her name, title, grade or address.

**8. Forms.**

- (a) **Agency Representative Ratification Request and Certification Form.** Prepared by the District employee responsible for the ratification request, or an agency representative with knowledge of the facts and circumstances surrounding the initiation, the facilitation, the authorization or the making of the unauthorized commitment. (*OCP Form A*) (Appendix B)
- (b) **Agency Director Ratification Request and Certification Form.** Prepared by the agency that received the goods and services in question. The form must include:
  - (i) the number of unauthorized commitments that do not exceed \$100,000 submitted on behalf of the vendor by the agency since April 4, 2003;
  - (ii) the number of unauthorized commitments exceeding \$100,000 submitted on behalf of the vendor by the agency since April 4, 2003; and
  - (iii) the CFO's certification. (*OCP Form B*) (Appendix C)
- (c) **Agency Chief Contracting Officer Findings and Determination Statement.** Prepared by the ACCO for the agency that received the goods or services in question. The form must include the basis for determining that the price to be paid for the goods and services is fair and reasonable. (*OCP Form C*) (Appendix D)

9. **Ratification Request File Close Out.** An ACCO is responsible for closing out a ratification request file, which process includes ensuring that all appropriate documentation is attached. The file must contain all pertinent documents, including a copy of the payment