

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

*Codification
District of
Columbia
Official Code*

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To require, on a temporary basis, the Chief Financial Officer to stop payment at midnight on January 20, 2010, on all retroactive contracts that have not been ratified by the Council by act, and to require written confirmation from the Mayor, the City Administrator, or the Chief Procurement Officer that all known retroactive contracts have been submitted to the Council.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Unauthorized Contract Stop Payment Temporary Act of 2010".

Sec. 2. The Council finds that:

(1) For option-year contracts:

(A) All option-year contracts over \$1 million are required by law to be sent to the Council for review.

(B) Section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51) ("HRA"), and section 105a of the District of Columbia Procurement Practices Act of 1985, effective March 8, 1991 (D.C. Law 8-257; D.C. Official Code § 2-301.05a) ("PPA"), unambiguously provide that option-year contracts over \$1 million shall be submitted to the Council.

(C) Notwithstanding the clear requirements of the HRA and of the PPA, the Council restated and further clarified that option-year contracts over \$1 million must be submitted to the Council in the Criteria for Council Review of Contract Options Clarification Emergency Amendment Act of 2009, effective October 15, 2009 (D.C. Act 18-207; 56 DCR 8228), and the Criteria for Council Review of Contract Options Clarification Amendment Act of 2009, passed on 4th reading on September 22, 2009 (Enrolled version of B18-203).

(D) A contract is either a multiyear contract that requires active Council approval, or it is a one-year contract and its option years must be resubmitted to the Council for review and approval.

(E) The January 7, 2009, opinion e-mailed from the Attorney General to all agency contracting officers stating that option-year contracts do not have to be submitted to the Council is contrary to the clear letter of the law and of no effect.

(F) Any option-year contract that is over \$1 million and has not been submitted to the Council in accordance with the HRA is in violation of section 451 of the HRA.

(2) For contracts with independent agencies:

(A) All independent agency contracts over \$1 million shall be sent to the Council through the same review process for contracts of subordinate executive agencies.

(B) All multiyear independent agency contracts shall be sent to the Council for active approval.

(C) Any independent agency contract not submitted to the Council in accordance with the HRA is in violation of section 451 of the HRA.

(3) For retroactive contract payment authorization:

(A) All contracts that have not properly been submitted to the Council are in violation of section 451 of the HRA, unless ratified by an act of the Council.

(B) The memorandum of opinion of the Attorney General, dated October 26, 2009, which states that contracts entered into unlawfully are nonetheless legally binding, is contrary to the clear letter of the law and of no effect.

Sec. 3. (a) Based upon the findings in section 2, the Council directs the Chief Financial Officer to stop payment on all retroactive contracts with authority of over \$1 million (including option-year and independent Executive branch agency contracts), issued from January 1, 2009, to December 31, 2009, at midnight on January 20, 2010, unless these contracts have been ratified by the Council by act.

(b) Written correspondence shall be provided by January 20, 2010, to the Council of the District of Columbia and the Office of the Chief Financial Officer that has been signed by the Mayor, the City Administrator, or the Chief Procurement Officer affirming that all known retroactive contracts with authority of over \$1 million (including option-year and independent Executive branch agency contracts) issued from January 1, 2009, to December 31, 2009, have been submitted to the Council for ratification.

Sec. 4. Fiscal impact statement.

The Council adopts the fiscal impact statement of the Budget Director 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. 5. Effective date.

(a) 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

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December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

(b) This act shall expire after 225 days of its having taken effect.

Chairman
Council of the District of Columbia

Mayor
District of Columbia