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District of Columbia Official Code
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*** Current through laws in effect as of February 25, 2015 and through D.C. Act 20-422. ***

Division I. Government of District.
 Title 2. Government Administration.
 Chapter 2. Contracts.
 Subchapter IX-A. Small, Local, and Disadvantaged Business Enterprise Development and Assistance.
 Part A. Short Title and Definitions.

D.C. Code § 2-218.01 (2015)

§ 2-218.01. Short title.

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

HISTORY: (Oct. 20, 2005, D.C. Law 16-33, § 2301, 52 DCR 7503; June 10, 2014, D.C. Law 20-108, § 2(a), 61 DCR 3892.)

NOTES: Effect of amendments. --

The 2014 amendment by D.C. Law 20-108 substituted "Small and Certified" for "Small, Local and Disadvantaged."

Emergency legislation. --

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

Legislative history of Law 16-33. --

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

Legislative history of Law 20-108. --

Law 20-108, the "Small and Certified Business Enterprise Development and Assistance Amendment Act of 2013," was introduced in Council and assigned Bill No. 20-181. The Bill was adopted on first and second readings on Feb. 4, 2014, and Mar. 4, 2014, respectively. Signed by the Mayor on April 4, 2014, it was assigned Act No. 20-307 and transmitted to Congress for its review. D.C. Law 20-108 became effective on June 10, 2014.

Editor's notes. --

Applicability of D.C. Law 20-108: Section 4(a) of D.C. Law 20-108 provided that applications pending as of June 10, 2014, shall not be subject to the provisions of the act.

Section 4(b) of D.C. Law 20-108(b) provided that, except as provided in § 2-218.46(f), contracts existing or pending as of June 10, 2014, shall not be affected by the provisions of the act.

D.C. Code § 2-218.01

Section 4(c) of D.C. Law 20-108 provided that the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register. Section 4(c) of D.C. Law 20-107 was repealed by emergency D.C. Act 20-377, effective July 14, 2014.



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 Part A. Short Title and Definitions.

D.C. Code § 2-218.02 (2015)

§ 2-218.02. Definitions.

For the purposes of this subchapter, the term:

(1) "Agency" means an agency, department, office, board, commission, authority, or other instrumentality of the District government, with or without legal existence separate from that of the District government.

(1A) "Agency contracting officer" means the contracting officer of an agency or government corporation.

(1B) "Beneficiary" means a business enterprise that is the prime contractor or developer on a government-assisted project.

(1C) "Business enterprise" means a business entity organized for profit.

(1D) "Certified business enterprise" means a local business enterprise certified pursuant to part D of this subchapter.

(1E) "Certified joint venture" means a joint venture certified pursuant to § 2-218.39a.

(1F) "Certified equity participant" means a single-purpose legal entity created to participate in real estate development projects and includes members that are small investors or disadvantaged investors.

(1G) "Commercially useful function" means work performed by a certified business enterprise in a particular transaction that, consistent with industry practices and other relevant considerations, has a necessary and useful role in the transaction. The certified business enterprise shall be responsible for the execution of the work of the contract and carry out its responsibility by actually performing, managing, and supervising the work involved. The certified business enterprise shall be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the materials and installing (where applicable) and paying for the material itself.

(2) "Commission" means the District of Columbia Small and Local Business Opportunity Commission, established by § 2-218.21.

(3) "Department" means the Department of Small and Local Business Development, established by § 2-218.11.

(4) "Director" means the Director of the Department of Small and Local Business Development.

(5) "Disadvantaged business enterprise" means a business enterprise as described in § 2-218.33.

D.C. Code § 2-218.02

(5A) "Disadvantaged investor" means:

(A) A disadvantaged business enterprise pursuant to § 2-218.33; or

(B) A District-domiciled economically disadvantaged individual as determined by regulations promulgated by the Department.

(5B) "District gross receipts" means all income derived from any activity whatsoever from sources within the District, other than income a local business enterprise derives from an ownership or beneficial interest in other local business enterprises, whether compensated in the District or not, before the deduction of any expense whatsoever connected with the production of the income; provided, that the calculation of the income shall not include:

(A) The collection of federal or local taxes on motor vehicle fuel; or

(B) Fees retained by a retail establishment under § 8-102.03(b)(1).

(6) "District of Columbia Supply Schedule" or "DCSS" means the District of Columbia's multiple award schedule procurement program for providing commercial products or services to District government agencies.

(7) "Economically disadvantaged individual" means an individual whose ability to compete in the free enterprise system is impaired because of diminished opportunities to obtain capital and credit as compared to others in the same line of business where such impairment is related to the individual's status as socially disadvantaged. An individual is socially disadvantaged if the individual has reason to believe that the individual has been subjected to prejudice or bias because of his or her identity as a member of a group without regard to his or her qualities as an individual.

(8) "Enterprise zone" means:

(A) The area of the District designated as the District of Columbia Enterprise Zone under *26 U.S.C. §1400*; or

(B) An economic development zone designated by the Mayor and approved by the Council pursuant to §§ *6-1501* through *6-1504*.

(9) "Expendable budget" means the total appropriated budget of an agency, reduced by such funding sources, object classes, objects, and other items, including any contract, the value of which does not lend itself to performance by a small or certified business enterprise, as shall be identified by the Department through rulemaking.

(9A) "Government-assisted project" means:

(A) A contract executed by an agency on behalf of the District or pursuant to statutory authority that involves District funds or, to the extent not prohibited by federal law, funds that the District administers in accordance with a federal grant or otherwise;

(B) A project funded in whole or in part by District funds;

(C) A project that receives a loan or grant from a District agency;

(D) A project that receives bonds or notes or the proceeds thereof issued by a District agency, including tax increment financing or payment in lieu of tax bonds and notes, or industrial revenue bonds;

(E) A project that receives District tax exemptions or abatements that are specific to the project and not to the nature of the entity undertaking the project, such as a religious institution or nonprofit corporation; or

(F) A development project conducted pursuant to a disposition under § *10-801*.

(10) Repealed.

(11) "Joint venture" means a combination of property, capital, efforts, skills, or knowledge of 2 or more persons or businesses to carry out a single project.

(12) "Local business enterprise" means a business enterprise as described in § *2-218.31*.

(12A) "Local manufacturing business enterprise" means a business enterprise as described in § *2-218.39*.

(13) "Longtime resident business" means a business enterprise that has been continuously eligible for certification as a local business enterprise, as defined in § *2-218.31*, for 20 consecutive years, or a small business enterprise, as defined in § *2-218.32*, for 15 consecutive years.

D.C. Code § 2-218.02

(13A) "Qualified" means a business enterprise deemed by the Department to have the capability to perform the work that has been issued a certificate of registration issued pursuant to this subchapter.

(14) "Regional governmental entity" means an organization that represents the District and surrounding local or state governments.

(15) "Resident-owned business" means a local business enterprise owned by an individual who is, or a majority number of individuals who are, subject to personal income tax solely in the District of Columbia.

(16) "Small business enterprise" means a business enterprise as described in § 2-218.32.

(16A) "Small investor" means:

(A) A small business enterprise pursuant to § 2-218.32; or

(B) A District-domiciled individual with a net worth that does not exceed the limit set by the Department for investors.

(17) "Veteran-owned business enterprise" means a business enterprise as described in § 2-218.38.

HISTORY: (Oct. 20, 2005, D.C. Law 16-33, § 2302, 52 DCR 7503; Mar. 2, 2007, D.C. Law 16-191, § 15, 53 DCR 6794; Mar. 14, 2007, D.C. Law 16-266, § 2(a), 54 DCR 829; July 18, 2008, D.C. Law 17-207, § 2(a), 55 DCR 6107; Apr. 20, 2010, D.C. Law 18-141, § 2(a), 57 DCR 1485; June 10, 2014, D.C. Law 20-108, § 2(b), 61 DCR 3892.)

NOTES: Effect of amendments. --

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

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

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

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

The 2014 amendment by D.C. Law 20-108 rewrote (1); added (1A) and (1B); redesignated former (1A) and (1B) as (1C) and (1D); rewrote (1D); added (1E), (1F), (1G), (5A), (5B), (9A), (13A), and (16A); rewrote (9); repealed (10); substituted "business enterprise as" for "business as" in (12A) and (17); and substituted "business enterprise that" for "business which" in (13).

Temporary legislation. --

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

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

For temporary (225 days) amendment of this section, see § 2 of the Small and Certified Business Enterprise Development and Assistance Clarification Temporary Amendment Act of 2014 (D.C. Law 20-150, Dec. 17, 2014, 61 DCR 8318).

Emergency legislation. --

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

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

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

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

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

For temporary (90 days) amendment of this section, see § 2 of the Small and Certified Business Enterprise Development and Assistance Clarification Emergency Amendment Act of 2014 (D.C. Act 20-379, July 15, 2014, 61 DCR 7793).

Legislative history of Law 16-33. --

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

Legislative history of Law 16-191. --

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

Legislative history of Law 16-266. --

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

Legislative history of Law 17-207. --

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

Legislative history of Law 18-141. --

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

Legislative history of Law 20-108. --

See note to § 2-218.01.

Editor's notes. --

Applicability of D.C. Law 20-108: Section 4(a) of D.C. Law 20-108 provided that applications pending as of June 10, 2014, shall not be subject to the provisions of the act.

Section 4(b) of D.C. Law 20-108 provided that, except as provided in § 2-218.46(f), contracts existing or pending as of June 10, 2014, shall not be affected by the provisions of the act.

D.C. Code § 2-218.02

Section 4(c) of D.C. Law 20-108 provided that the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register.

Section 4(c) of D.C. Law 20-108 was repealed by § 7005 of emergency D.C. Act 20-377, effective July 14, 2014.

CASE NOTES**In general.**

Even if company that submitted lowest bid on alleyway rehabilitation project was likely to succeed on the merits of its claim challenging District of Columbia Code provision granting preferential treatment in the award of city contracts to businesses that had operated in the District for at least twenty years, the potential of harm to the District and the public interest in the short run far outweighed any limited and short-term financial harm to the company, and thus preliminary injunction enjoining application of the Code provision was not warranted; company faced at most a temporary economic loss if it lost alleyway contract prior to the resolution of its suit, and, following amendment to the Code, the company was eligible to receive preferential treatment, but grant of injunction would pose real danger of harm to both the District and the public interest should there be a delay in the performance of the project. *Capitol Paving of D.C., Inc. v. District of Columbia*, 496 F. Supp. 2d 54, 2007 U.S. Dist. LEXIS 37287 (D.D.C. 2007).



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Part B. Department of Small and Local Business Development.

D.C. Code § 2-218.11 (2015)

§ 2-218.11. Establishment of the Department of Small and Local Business Development.

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

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

NOTES: Emergency legislation. --

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

Legislative history of Law 16-33. --

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



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Part B. Department of Small and Local Business Development.

D.C. Code § 2-218.12 (2015)

§ 2-218.12. Director of the Department of Small and Local Business Development.

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

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

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

(c) The Director shall monitor the accomplishment of the requirements of this subchapter.

(d) Repealed.

(e) Repealed.

(f) Repealed.

(g) The Director shall have the authority to enforce the provisions of this subchapter and may impose fines, fees, penalties, and other remedial actions for violations of § 2-218.63 or the regulations promulgated pursuant to this subchapter.

(h) The Director shall establish within the Department, oversee, and administer such divisions, offices, or other units as may be necessary or appropriate to perform the functions and duties of the Department.

(i) The Director may take such other actions as are necessary or appropriate to carry out the provisions of this subchapter.

HISTORY: (Oct. 20, 2005, D.C. Law 16-33, § 2312, 52 DCR 7503; July 18, 2008, D.C. Law 17-207, § 2(b), 55 DCR 6107; Apr. 20, 2010, D.C. Law 18-141, § 2(b), 57 DCR 1485; June 10, 2014, D.C. Law 20-108, § 2(c), 61 DCR 3892.)

NOTES: Effect of amendments. --

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

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

The 2014 amendment by D.C. Law 20-108 deleted "in contracting and procurement performed by any government corporation involved in the development of a commercial ballpark or soccer stadium and in all projects exceeding \$ 10 million in value" from the end of (c); repealed (d), (e), and (f); rewrote (g); and added (h) and (i).

Temporary legislation. --

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

Emergency legislation. --

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

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

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

Legislative history of Law 16-33. --

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

Legislative history of Law 17-207. --

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

Legislative history of Law 18-141. --

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

Legislative history of Law 20-108. --

See note to § 2-218.01.

Editor's notes.

Applicability of D.C. Law 20-108:

Section 4(a) of D.C. Law 20-108 provided that applications pending as of June 10, 2014, shall not be subject to the provisions of the act.

Section 4(b) of D.C. Law 20-108 provided that, except as provided in § 2-218.46(f), contracts existing or pending as of June 10, 2014, shall not be affected by the provisions of the act.

Section 4(c) of D.C. Law 20-108 provided that the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register.

Section 4(c) of D.C. Law 20-108 was repealed by § 7005 of emergency D.C. Act 20-377, effective July 14, 2014.



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 Part B. Department of Small and Local Business Development.

D.C. Code § 2-218.13 (2015)

§ 2-218.13. Functions of the Department.

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

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

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

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

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

(c) Repealed.

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

(d) Repealed.

(e) The Department, in coordination with the agency contracting officer, shall have the authority, in reviewing participation by certified business enterprises, to disregard participation by a certified business enterprise when that certified business enterprise serves no commercially useful function in the performance of a contract.

HISTORY: (Oct. 20, 2005, D.C. Law 16-33, § 2313, 52 DCR 7503; Sept. 18, 2007, D.C. Law 17-20, § 2062(a), 54 DCR 7052; July 18, 2008, D.C. Law 17-207, § 2(c), 55 DCR 6107; Apr. 20, 2010, D.C. Law 18-141, § 2(c), 57 DCR 1485; Sept. 26, 2012, D.C. Law 19-171, §§ 12(a), 13(a), 59 DCR 6190; June 10, 2014, D.C. Law 20-108, § 2(d), 61 DCR 3892.)

NOTES: Effect of amendments. --

D.C. Law 17-20 rewrote subsecs. (a) and (c)(1).

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

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

The 2012 amendment by D.C. Law 19-171 substituted a colon for the semicolon at the end of the introductory paragraph of (c)(2)(A); and validated previously made technical corrections.

The 2014 amendment by D.C. Law 20-108 substituted "Functions " for "Organization and functions" in the section heading; substituted "based in the" for "based in and serving the" in (a)(1); deleted "that occur in the District of Columbia" from the end of (a)(2)(C); repealed (c) and (e); substituted "issue" for "issues" in (c-1); and added (e).

Temporary legislation. --

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

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

Emergency legislation. --

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

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

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

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

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

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

Legislative history of Law 16-33. --

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

Legislative history of Law 17-20. --

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

Legislative history of Law 17-207. --

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

Legislative history of Law 18-141. --

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

Legislative history of Law 19-171. --

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

Legislative history of Law 20-108. --

See note to § 2-218.01.

Short title. --

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

Editor's notes.

Applicability of D.C. Law 20-108:

Section 4(a) of D.C. Law 20-108 provided that applications pending as of June 10, 2014, shall not be subject to the provisions of the act.

Section 4(b) of D.C. Law 20-108(b) provided that, except as provided in § 2-218.46(f), contracts existing or pending as of June 10, 2014, shall not be affected by the provisions of the act.

Section 4(c) of D.C. Law 20-108 provided that the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register.

Section 4(c) of D.C. Law 20-108 was repealed by emergency D.C. Act 20-377, effective July 14, 2014.



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*** Current through laws in effect as of February 25, 2015 and through D.C. Act 20-422. ***

Division I. Government of District.
Title 2. Government Administration.
Chapter 2. Contracts.
Subchapter IX-A. Small, Local, and Disadvantaged Business Enterprise Development and Assistance.
Part B. Department of Small and Local Business Development.

D.C. Code § 2-218.14 (2015)

§ 2-218.14. Transfers from the Office of Local Business Development to the Department of Small and Local Business Development.

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

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

NOTES: Effect of amendments. --

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

Legislative history of Law 16-91. --

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

Legislative history of Law 16-191. --

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



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 Part C. District of Columbia Small and Local Business Opportunity Commission.

D.C. Code § 2-218.21 (2015)

§ 2-218.21. District of Columbia Small and Local Business Opportunity Commission Establishment; composition; appointment; term of office; qualifications; vacancies; removal; compensation. [Repealed].

HISTORY: (Oct. 20, 2005, D.C. Law 16-33, § 2321, 52 DCR 7503; Sept. 18, 2007, D.C. Law 17-20, § 2062(b), 54 DCR 7052; June 10, 2014, D.C. Law 20-108, § 2(e), 61 DCR 3892.)

NOTES: Effect of amendments. --

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

Emergency legislation. --

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

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

Legislative history of Law 16-33. --

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

Legislative history of Law 17-20. --

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

Legislative history of Law 20-108. --

See note to § 2-218.01.

Editor's notes.

Applicability of D.C. Law 20-108: Section 4(a) of D.C. Law 20-108 provided that applications pending as of June 10, 2014, shall not be subject to the provisions of the act.

Section 4(b) of D.C. Law 20-108(b) provided that, except as provided in § 2-218.46(f), contracts existing or pending as of June 10, 2014, shall not be affected by the provisions of the act.

Section 4(c) of D.C. Law 20-108 provided that the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a

D.C. Code § 2-218.21

certification published by the Council in the District of Columbia Register. Section 4(c) of D.C. Law 20-107 was repealed by emergency D.C. Act 20-377, effective July 14, 2014.



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 Part C. District of Columbia Small and Local Business Opportunity Commission.

D.C. Code § 2-218.22 (2015)

§ 2-218.22. Functions of the Commission. [Repealed].

HISTORY: (Oct. 20, 2005, D.C. Law 16-33, § 2322, 52 DCR 7503; Sept. 18, 2007, D.C. Law 17-20, § 2062(c), 54 DCR 7052; Apr. 20, 2010, D.C. Law 18-141, § 2(d), 57 DCR 1485; June 10, 2014, D.C. Law 20-108, § 2(f), 61 DCR 3892.)

NOTES: Effect of amendments. --

D.C. Law 17-20 rewrote pars. (1) and (2), which had read as follows: "(1) Determine a business enterprise's or joint venture's eligibility for certification under part D and review and determine the continued eligibility of business enterprises and joint ventures certified by the Commission; (2) Determine the percentage of the amount of a joint venture which may be attributed toward an agency's percentage goal; and"

D.C. Law 18-141 rewrote the section, which had read as follows: "The Commission shall: (1) Hear all requested appeals by business enterprises upon the denial of an application for initial certification, reinstatement, or renewal by the Department; (2) Perform regular and routine aud Department's certification process through a random review of 5 applications per month; and (3) Repeal and suspend the certification of a business enterprise pursuant to § 2-218.63."

Emergency legislation. --

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

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

Legislative history of Law 16-33. --

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

Legislative history of Law 17-20. --

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

Legislative history of Law 18-141. --

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

Legislative history of Law 20-108. --

See note to § 2-218.01.

Editor's notes.

Applicability of D.C. Law 20-108: Section 4(a) of D.C. Law 20-108 provided that applications pending as of June 10, 2014, shall not be subject to the provisions of the act.

Section 4(b) of D.C. Law 20-108(b) provided that, except as provided in § 2-218.46(f), contracts existing or pending as of June 10, 2014, shall not be affected by the provisions of the act.

Section 4(c) of D.C. Law 20-108 provided that the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register. Section 4(c) of D.C. Law 20-107 was repealed by emergency D.C. Act 20-377, effective July 14, 2014.



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D.C. Code § 2-218.23 (2015)

§ 2-218.23. Additional functions of the Commission. [Repealed].

Repealed.

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

NOTES: Effect of amendments. --

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

Temporary Amendment of Section. --

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

Emergency legislation. --

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

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

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

Legislative history of Law 16-33. --

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

Legislative history of Law 17-207. --

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

Legislative history of Law 18-141. --

D.C. Code § 2-218.23

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



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D.C. Code § 2-218.24 (2015)

§ 2-218.24. Record keeping.

(a) Repealed.

(b) The Department shall maintain a register of all applicants for registration showing for each applicant the date of the application, name, qualifications, place of business, place of applicant's residence, and whether the certificate was granted or denied.

(c) Repealed.

HISTORY: (Oct. 20, 2005, D.C. Law 16-33, § 2324, 52 DCR 7503; Sept. 18, 2007, D.C. Law 17-20, § 2062(d), 54 DCR 7052; June 10, 2014, D.C. Law 20-108, § 2(g), 61 DCR 3892.)

NOTES: Effect of amendments. --

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

The 2014 amendment by D.C. Law 20-108 repealed (a) and (c); and deleted "and the Commission may" following "Department shall" in (d).

Emergency legislation. --

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

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

Legislative history of Law 16-33. --

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

Legislative history of Law 17-20. --

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

Legislative history of Law 20-108. --

See note to § 2-218.01.

Editor's notes.

Applicability of D.C. Law 20-108:

Section 4(a) of D.C. Law 20-108 provided that applications pending as of June 10, 2014, shall not be subject to the provisions of the act.

Section 4(b) of D.C. Law 20-108 provided that, except as provided in § 2-218.46(f), contracts existing or pending as of June 10, 2014, shall not be affected by the provisions of the act.

Section 4(c) of D.C. Law 20-108 provided that the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register.

Section 4(c) of D.C. Law 20-108 was repealed by § 7005 of emergency D.C. Act 20-377, effective July 14, 2014.



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D.C. Code § 2-218.25 (2015)

§ 2-218.25. By-laws and internal rules. [Repealed].

HISTORY: (Oct. 20, 2005, D.C. Law 16-33, § 2325, 52 DCR 7503; July 18, 2008, D.C. Law 17-207, § 2(e), 55 DCR 6107; June 10, 2014, D.C. Law 20-108, § 2(h), 61 DCR 3892.)

NOTES: Effect of amendments. --

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

Temporary legislation. --

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

Emergency legislation. --

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

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

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

Legislative history of Law 16-33. --

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

Legislative history of Law 17-207. --

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

Legislative history of Law 20-108. --

See note to § 2-218.01.

Editor's notes.

D.C. Code § 2-218.25

Applicability of D.C. Law 20-108:

Section 4(a) of D.C. Law 20-108 provided that applications pending as of June 10, 2014, shall not be subject to the provisions of the act.

Section 4(b) of D.C. Law 20-108 provided that, except as provided in § 2-218.46(f), contracts existing or pending as of June 10, 2014, shall not be affected by the provisions of the act.

Section 4(c) of D.C. Law 20-108 provided that the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register.

Section 4(c) of D.C. Law 20-108 was repealed by § 7005 of emergency D.C. Act 20-377, effective July 14, 2014.



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 Part D. Programs for Certified Business Enterprises.
 Subpart 1 Certified business enterprises.

D.C. Code § 2-218.31 (2015)

§ 2-218.31. Local business enterprises.

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

- (1) Has its principal office located physically in the District of Columbia;
- (2) Requires that its chief executive officer and the highest level managerial employees of the business enterprise perform their managerial functions in their principal office located in the District;
- (2A) Can demonstrate one of the following:
 - (A) More than 50% of the employees of the business enterprise are residents of the District;
 - (B) The owners of more than 50% of the business enterprise are residents of the District; or
 - (C) (i) More than 50% of the assets of the business enterprise, excluding bank accounts, are located in the District; and
 - (ii) More than 50% of the business enterprise's gross receipts are District gross receipts; and
- (3) Can demonstrate one of the following:
 - (A) The business enterprise is licensed pursuant to Chapter 28 of Title [47];
 - (B) The business enterprise is subject to the tax levied under Chapter [18] of Title 47; or
 - (C) The business enterprise is a business enterprise identified in § 47-1808.01(1) through (5) and more than 50% of the business is owned by residents of the District.

HISTORY: (Oct. 20, 2005, D.C. Law 16-33, § 2331, 52 DCR 7503; Mar. 2, 2007, D.C. Law 16-192, § 2132(a), 53 DCR 6899; July 18, 2008, D.C. Law 17-207, § 2(f), 55 DCR 6107; June 10, 2014, D.C. Law 20-108, § 2(i), 61 DCR 3892.)

NOTES: Effect of amendments. --

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

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

The 2014 amendment by D.C. Law 20-108 substituted "perform their managerial functions in their principal office located in the District" for "maintain their offices and perform their managerial functions in the District" in (2); and rewrote (2A) and (3).

Temporary legislation. --

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

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

For temporary (225 days) addition of provisions concerning Certified Business Enterprise compliance, see §§ 2 to 6 of the Certified Business Enterprise Compliance Temporary Amendment Act of 2013 (D.C. Law 20-13, July 23, 2013, 60 DCR 7601, 20 DCSTAT 1760).

Emergency legislation. --

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

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

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

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

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

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

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

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

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

For temporary (90 days) Certified Business Enterprise compliance, see §§ 2 to 6 of the Certified Business Enterprise Compliance Emergency of 2013 (D.C. Act 20-62, April 30, 2013, 60 DCR 6403, 20 DCSTAT 1410).

Legislative history of Law 16-33. --

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

Legislative history of Law 16-192. --

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

Legislative history of Law 17-207. --

D.C. Code § 2-218.31

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

Legislative history of Law 20-108. --

See note to § 2-218.01.

Short title. --

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

Editor's notes. --

Applicability of D.C. Law 20-108:

Section 4(a) of D.C. Law 20-108 provided that applications pending as of June 10, 2014, shall not be subject to the provisions of the act.

Section 4(b) of D.C. Law 20-108 provided that, except as provided in § 2-218.46(f), contracts existing or pending as of June 10, 2014, shall not be affected by the provisions of the act.

Section 4(c) of D.C. Law 20-108 provided that the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register.

Section 4(c) of D.C. Law 20-108 was repealed by § 7005 of emergency D.C. Act 20-377, effective July 14, 2014.

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Public Works Contracts



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 Subpart 1 Certified business enterprises.

D.C. Code § 2-218.32 (2015)

§ 2-218.32. Small business enterprises.

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

- (1) (A) Is a local business enterprise;
- (B) Repealed.
- (2) Is independently owned, operated, and controlled; and
- (3) (A) Is certified by the United States Small Business Administration as a small business concern or meets the definition of a small business concern under the Small Business Act, approved July 18, 1958 (*72 Stat. 863; 15 U.S.C. § 631 et seq.*); or
- (B) Has had averaged annualized gross receipts for the 3 years preceding certification not exceeding the limits established by rules issued pursuant to § 2-218.72.

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

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

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

HISTORY: (Oct. 20, 2005, D.C. Law 16-33, § 2332, 52 DCR 7503; Mar. 2, 2007, D.C. Law 16-192, § 2132(b), 53 DCR 6899; June 10, 2014, D.C. Law 20-108, § 2(j), 61 DCR 3892.)

NOTES: Effect of amendments. --

D.C. Code § 2-218.32

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

The 2014 amendment by D.C. Law 20-108 deleted "or" from the end of (a)(1)(A); added "or meets the definition of a small business concern" in (a)(3)(A); and rewrote (a)(3)(B).

Emergency legislation. --

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

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

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

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

Legislative history of Law 16-33. --

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

Legislative history of Law 16-192. --

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

Legislative history of Law 20-108. --

See note to § 2-218.01.

Editor's notes. --

Applicability of D.C. Law 20-108:

Section 4(a) of D.C. Law 20-108 provided that applications pending as of June 10, 2014, shall not be subject to the provisions of the act.

Section 4(b) of D.C. Law 20-108 provided that, except as provided in § 2-218.46(f), contracts existing or pending as of June 10, 2014, shall not be affected by the provisions of the act.

Section 4(c) of D.C. Law 20-108 provided that the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register.

Section 4(c) of D.C. Law 20-108 was repealed by § 7005 of emergency D.C. Act 20-377, effective July 14, 2014.

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D.C. Code § 2-218.33 (2015)

§ 2-218.33. Disadvantaged business enterprises.

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

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

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

- (1) The business enterprise seeking certification as a disadvantaged business enterprise is a local business enterprise;
- (2) In the event of a parent-subsidiary affiliation, both enterprises meet the requirements of subsection (a) of this section; and
- (3) The business enterprise has annualized gross receipts not exceeding limits as enumerated in rules issued pursuant to § 2-218.72.

HISTORY: (Oct. 20, 2005, D.C. Law 16-33, § 2333, 52 DCR 7503; Mar. 2, 2007, D.C. Law 16-192, § 2132(c), 53 DCR 6899; Apr. 20, 2010, D.C. Law 18-141, § 2(f), 57 DCR 1485; June 10, 2014, D.C. Law 20-108, § 2(k), 61 DCR 3892.)

NOTES: Effect of amendments. --

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

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

The 2014 amendment by D.C. Law 20-108 substituted "has annualized gross receipts not exceeding limits as enumerated in rules issued pursuant to § 2-218.72" for "has an average annualized gross receipts totaling \$ 75 million or less" in (b)(3).

Emergency legislation. --

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

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

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

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

Legislative history of Law 16-33. --

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

Legislative history of Law 16-192. --

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

Legislative history of Law 18-141. --

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

Legislative history of Law 20-108. --

See note to § 2-218.01.

Editor's notes. --

Applicability of D.C. Law 20-108:

Section 4(a) of D.C. Law 20-108 provided that applications pending as of June 10, 2014, shall not be subject to the provisions of the act.

Section 4(b) of D.C. Law 20-108 provided that, except as provided in § 2-218.46(f), contracts existing or pending as of June 10, 2014, shall not be affected by the provisions of the act.

Section 4(c) of D.C. Law 20-108 provided that the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register.

Section 4(c) of D.C. Law 20-108 was repealed by § 7005 of emergency D.C. Act 20-377, effective July 14, 2014.

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D.C. Code § 2-218.34 (2015)

§ 2-218.34. Qualified metropolitan area business enterprises. [Repealed].

Repealed.

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

NOTES: Emergency legislation. --

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

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

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

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

Legislative history of Law 16-33. --

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

Legislative history of Law 16-192. --

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

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D.C. Code § 2-218.35 (2015)

§ 2-218.35. Resident-owned businesses.

A business enterprise shall be eligible for certification as a resident-owned business if it meets the definition of resident-owned business pursuant to § 2-218.02(15).

HISTORY: (Oct. 20, 2005, D.C. Law 16-33, § 2335, 52 DCR 7503; June 10, 2014, D.C. Law 20-108, § 2(l), 61 DCR 3892.)

NOTES: Effect of amendments. --

The 2014 amendment by D.C. Law 20-108 substituted "*§ 2-218.02(15)*" for "*§ 2-218.02.*"

Emergency legislation. --

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

Legislative history of Law 16-33. --

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

Legislative history of Law 20-108. --

See note to § 2-218.01.

Editor's notes. --

Applicability of D.C. Law 20-108: Section 4(a) of D.C. Law 20-108 provided that applications pending as of June 10, 2014, shall not be subject to the provisions of the act.

Section 4(b) of D.C. Law 20-108 (b) provided that, except as provided in § 2-218.46(f), contracts existing or pending as of June 10, 2014, shall not be affected by the provisions of the act.

Section 4(c) of D.C. Law 20-108 provided that the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register.

Section 4(c) of D.C. Law 20-108 was repealed by § 7005 of emergency D.C. Act 20-377, effective July 14, 2014.

D.C. Code § 2-218.35

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D.C. Code § 2-218.36 (2015)

§ 2-218.36. Longtime resident businesses.

A business enterprise shall be eligible for certification as a longtime resident business if it meets the definition of longtime resident business pursuant to § 2-218.02(13).

HISTORY: (Oct. 20, 2005, D.C. Law 16-33, § 2336, 52 DCR 7503; June 10, 2014, D.C. Law 20-108, § 2(m), 61 DCR 3892.)

NOTES: Effect of amendments. --

The 2014 amendment by D.C. Law 20-108 substituted "*§ 2-218.02(13)*" for "*§ 2-218.02.*"

Emergency legislation. --

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

Legislative history of Law 16-33. --

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

Legislative history of Law 20-108. --

See note to § 2-218.01.

Editor's notes. --

Applicability of D.C. Law 20-108: Section 4(a) of D.C. Law 20-108 provided that applications pending as of June 10, 2014, shall not be subject to the provisions of the act.

Section 4(b) of D.C. Law 20-108 provided that, except as provided in § 2-218.46(f), contracts existing or pending as of June 10, 2014, shall not be affected by the provisions of the act.

Section 4(c) of D.C. Law 20-108 provided that the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register.

Section 4(c) of D.C. Law 20-108 was repealed by § 7005 of emergency D.C. Act 20-377, effective July 14, 2014.

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CASE NOTES**In general.**

Even if company that submitted lowest bid on alleyway rehabilitation project was likely to succeed on the merits of its claim challenging District of Columbia Code provision granting preferential treatment in the award of city contracts to businesses that had operated in the District for at least twenty years, the potential of harm to the District and the public interest in the short run far outweighed any limited and short-term financial harm to the company, and thus preliminary injunction enjoining application of the Code provision was not warranted; company faced at most a temporary economic loss if it lost alleyway contract prior to the resolution of its suit, and, following amendment to the Code, the company was eligible to receive preferential treatment, but grant of injunction would pose real danger of harm to both the District and the public interest should there be a delay in the performance of the project. *Capitol Paving of D.C., Inc. v. District of Columbia*, 496 F. Supp. 2d 54, 2007 U.S. Dist. LEXIS 37287 (D.D.C. 2007).



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D.C. Code § 2-218.37 (2015)

§ 2-218.37. Local business enterprises with principal offices located in an enterprise zone.

A local business enterprise shall be eligible for certification as a local business enterprise with principal offices located in an enterprise zone if its principal offices are located in an enterprise zone as defined by § 2-218.02(8).

HISTORY: (Oct. 20, 2005, D.C. Law 16-33, § 2337, 52 DCR 7503; June 10, 2014, D.C. Law 20-108, § 2(n), 61 DCR 3892.)

NOTES: Effect of amendments. --

The 2014 amendment by D.C. Law 20-108 substituted "§ 2-218.02(8)" for "§ 2-218.02."

Emergency legislation. --

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

Legislative history of Law 16-33. --

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

Legislative history of Law 20-108. --

See note to § 2-218.01.

Editor's notes. --

Applicability of D.C. Law 20-108: Section 4(a) of D.C. Law 20-108 provided that applications pending as of June 10, 2014, shall not be subject to the provisions of the act.

Section 4(b) of D.C. Law 20-108 (b) provided that, except as provided in § 2-218.46(f), contracts existing or pending as of June 10, 2014, shall not be affected by the provisions of the act.

Section 4(c) of D.C. Law 20-108 provided that the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register.

Section 4(c) of D.C. Law 20-108 was repealed by § 7005 of emergency D.C. Act 20-377, effective July 14, 2014.

D.C. Code § 2-218.37

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D.C. Code § 2-218.38 (2015)

§ 2-218.38. Veteran-owned business enterprises.

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

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

HISTORY: (Oct. 20, 2005, D.C. Law 16-33, § 2338, as added Apr. 20, 2010, D.C. Law 18-141, § 2(g), 57 DCR 1485; June 10, 2014, D.C. Law 20-108, § 2(o), 61 DCR 3892.)

NOTES: Effect of amendments. --

The 2014 amendment by D.C. Law 20-108 rewrote (1).

Legislative history of Law 18-141. --

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

Legislative history of Law 20-108. --

See note to § 2-218.01.

Editor's notes. --

Applicability of D.C. Law 20-108: Section 4(a) of D.C. Law 20-108 provided that applications pending as of June 10, 2014, shall not be subject to the provisions of the act.

Section 4(b) of D.C. Law 20-108 provided that, except as provided in § 2-218.46(f), contracts existing or pending as of June 10, 2014, shall not be affected by the provisions of the act.

Section 4(c) of D.C. Law 20-108 provided that the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register.

D.C. Code § 2-218.38

Section 4(c) of D.C. Law 20-108 was repealed by § 7005 of emergency D.C. Act 20-377, effective July 14, 2014.

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D.C. Code § 2-218.39 (2015)

§ 2-218.39. Local manufacturing business enterprises.

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

- (1) Is a local business enterprise;
- (2) Makes a product through a process involving raw materials, components, or assemblies, usually on a large scale, with different operations divided among different workers; and
- (3) Repealed;
- (4) Manufactures only in the District of Columbia.

HISTORY: (Oct. 20, 2005, D.C. Law 16-33, § 2339, as added Apr. 20, 2010, D.C. Law 18-141, § 2(g), 57 DCR 1485; June 10, 2014, D.C. Law 20-108, § 2(p), 61 DCR 3892.)

NOTES: Effect of amendments. --

The 2014 amendment by D.C. Law 20-108 rewrote (1); added "and" at the end of (2); repealed (3); and substituted "Manufactures only" for "Has its principal location of manufacturing" in (4).

Legislative history of Law 18-141. --

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

Legislative history of Law 20-108. --

See note to § 2-218.01.

Editor's notes. --

Applicability of D.C. Law 20-108: Section 4(a) of D.C. Law 20-108 provided that applications pending as of June 10, 2014, shall not be subject to the provisions of the act.

Section 4(b) of D.C. Law 20-108 provided that, except as provided in § 2-218.46(f), contracts existing or pending as of June 10, 2014, shall not be affected by the provisions of the act.

D.C. Code § 2-218.39

Section 4(c) of D.C. Law 20-108 provided that the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register.

Section 4(c) of D.C. Law 20-108 was repealed by § 7005 of emergency D.C. Act 20-377, effective July 14, 2014.

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D.C. Code § 2-218.39a (2015)

§ 2-218.39a. Certified joint venture.

(a) A joint venture shall be eligible for certification as a certified joint venture if the joint venture intends to submit a response to solicitation in which the joint venture will provide goods or perform services, and has a member that owns a majority or minority interest in the joint venture and meets the definition of a certified business enterprise pursuant to § 2-218.02(1D). A joint venture shall be certified for a specific solicitation. The Department shall promulgate regulations that provide for a simplified procedure for the certification of a joint venture if the joint venture, having the same participants and structure, has been certified by the Department on a previous government-assisted project.

(a-1) The Department shall have the authority to certify a joint venture for all public, public-private, and private projects.

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

(1) "Majority interest" means:

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

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

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

(2) "Minority interest" means:

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

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

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

(c) In determining whether a joint venture is eligible to be certified as a certified joint venture, the Department shall consider the totality of the circumstances, including the defined contributions and defined benefits provided by each member of the joint venture, which shall be demonstrated by the following information:

D.C. Code § 2-218.39a

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

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

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

(e) A joint venture shall relinquish its status as a certified joint venture if it has not been awarded the contract or if the solicitation has been withdrawn or cancelled.

(f) Unless a joint venture's certification is relinquished pursuant to subsection (e) of this section, a certified joint venture shall retain its certification for the duration of the contract awarded through the solicitation for which it was certified, including any extension of the contract.

(g) A joint venture shall not be certified:

(1) To meet the small and certified business enterprise subcontracting requirements set forth in § 2-218.46; or

(2) To meet the small and certified business equity and development participation requirements set forth in § 2-218.49a.

(h) A certified joint venture shall receive preference points or price reductions in accordance with § 2-218.43 as follows:

(1) If the Department determines that a certified business enterprise owns a majority interest in the joint venture, the joint venture shall receive the preference points or price reductions that the certified business enterprise would receive in accordance with § 2-218.43; provided, that if the certified joint venture is formed to serve as a general contractor on a project, the joint venture shall be required also to establish to the reasonable satisfaction of the Department that:

(A) Any bond for the project shall be provided by the certified business enterprise, and the certified business enterprise participant shall be solely and individually liable as the principal to the surety for at least 51% of each claim asserted under the bond;

(B) The individual primarily responsible for project decisions, such as the project executive, shall be provided by the certified business enterprise; and

(C) At least 50% of the staff that the joint venture will devote to the project will be provided by the certified business enterprise.

(2) If the Department determines that a certified business enterprise owns a minority interest in the joint venture, the Department's certification of the joint venture shall indicate such and specify the preference points or price reductions that the joint venture shall receive, but in no event shall the preference points or price reductions exceed 50% of the preference points or price reductions that would otherwise be applicable to the certified business joint venture partner.

(3) Similar to the requirements set forth in paragraph (1)(A), (B), and (C) of this subsection, the Department may adopt regulations that establish additional industry-specific requirements for the certification of a joint venture that has a majority interest held by a certified business enterprise.

HISTORY: (Oct. 20, 2005, D.C. Law 16-33, § 2339a, as added Apr. 20, 2010, D.C. Law 18-141, § 2(g), 57 DCR 1485; June 10, 2014, D.C. Law 20-108, § 2(q), 61 DCR 3892.)

NOTES: Effect of amendments. --

The 2014 amendment by D.C. Law 20-108 substituted "Certified joint venture" for "Joint venture business enterprises" in the section heading; rewrote (a); added (a-1); rewrote the introductory language of (c); added "of the joint venture" in (c)(1); substituted "each joint venture member" for "each member" in (c)(2); and added (e), (f), (g) and (h).

Legislative history of Law 18-141. --

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

Legislative history of Law 20-108. --

See note to § 2-218.01.

Editor's notes --

Applicability of D.C. Law 20-108: Section 4(a) of D.C. Law 20-108 provided that applications pending as of June 10, 2014, shall not be subject to the provisions of the act.

Section 4(b) of D.C. Law 20-108 provided that, except as provided in § 2-218.46(f), contracts existing or pending as of June 10, 2014, shall not be affected by the provisions of the act.

Section 4(c) of D.C. Law 20-108 provided that the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register.

Section 4(c) of D.C. Law 20-108 was repealed by § 7005 of emergency D.C. Act 20-377, effective July 14, 2014.

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D.C. Code § 2-218.41 (2015)

§ 2-218.41. Goals for District agencies with respect to contracting and procurement.

(a) Each agency, including an agency that contracts or procures in whole or in part through the Office of Contracting and Procurement, shall exercise its contracting and procurement authority so as to meet, on an annual basis, the goal of procuring and contracting 50% of the dollar volume of its expendable budget to qualified small business enterprises.

(a-1) If the agency determines in writing that there are not at least 2 qualified small business enterprises, the agency may use any qualified certified business enterprises to fulfill the requirements of subsection (a) of this section.

(b) Repealed.

(c) The provisions of this subchapter relating to contracting and subcontracting goals and requirements shall be applicable to every government-assisted project unless the Department, by regulation, establishes a specific exemption for a particular type or class of government-assisted project.

HISTORY: (Oct. 20, 2005, D.C. Law 16-33, § 2341, 52 DCR 7503; June 10, 2014, D.C. Law 20-108, § 2(r), 61 DCR 3892.)

NOTES: Effect of amendments. --

The 2014 amendment deleted "with small business enterprises" from the end of the section heading; substituted "its expendable budget to qualified" for "its goods and services, including construction goods and services, to" in (a); added (a-1); repealed (b); and added (c).

Emergency legislation. --

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

Legislative history of Law 16-33. --

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

Legislative history of Law 20-108. --

See note to § 2-218.01.

Editor's notes.

D.C. Code § 2-218.41

Applicability of D.C. Law 20-108: Section 4(a) of D.C. Law 20-108 provided that applications pending as of June 10, 2014, shall not be subject to the provisions of the act.

Section 4(b) of D.C. Law 20-108 provided that, except as provided in § 2-218.46(f), contracts existing or pending as of June 10, 2014, shall not be affected by the provisions of the act.

Section 4(c) of D.C. Law 20-108 provided that the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register.

Section 4(c) of D.C. Law 20-108 was repealed by § 7005 of emergency D.C. Act 20-377, effective July 14, 2014.

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D.C. Code § 2-218.42 (2015)

§ 2-218.42. Required programs, procedures, and policies to achieve contracting and procurement goals.

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

- (1) A bid preference mechanism for certified business enterprises;
- (2) A set-aside program for small business enterprises; and
- (3) A set-aside program for certified business enterprises for the District of Columbia Supply Schedule.

HISTORY: (Oct. 20, 2005, D.C. Law 16-33, § 2342, 52 DCR 7503; July 18, 2008, D.C. Law 17-207, § 2(g), 55 DCR 6107; Mar. 25, 2009, D.C. Law 17-353, § 243, 56 DCR 1117; Sept. 26, 2012, D.C. Law 19-171, § 12(b), 59 DCR 6190; June 10, 2014, D.C. Law 20-108, § 2(s), 61 DCR 3892.)

NOTES: Effect of amendments. --

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

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

The 2012 amendment by D.C. Law 19-171 substituted "certified business" for "local and disadvantaged business enterprises, resident-owned businesses, resident businesses, and local business" in (1).

The 2014 amendment by D.C. Law 20-108 deleted "with principal offices located in an enterprise zone" from the end of (1).

Temporary legislation. --

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

Emergency legislation. --

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

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

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

Legislative history of Law 16-33. --

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

Legislative history of Law 17-207. --

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

Legislative history of Law 17-353. --

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

Legislative history of Law 19-171. --

See note to § 2-218.13.

Legislative history of Law 20-108. --

See note to § 2-218.01.

Editor's notes.

Applicability of D.C. Law 20-108: Section 4(a) of D.C. Law 20-108 provided that applications pending as of June 10, 2014, shall not be subject to the provisions of the act.

Section 4(b) of D.C. Law 20-108 provided that, except as provided in § 2-218.46(f), contracts existing or pending as of June 10, 2014, shall not be affected by the provisions of the act.

Section 4(c) of D.C. Law 20-108 provided that the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register.

Section 4(c) of D.C. Law 20-108 was repealed by § 7005 of emergency D.C. Act 20-377, effective July 14, 2014.

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D.C. Code § 2-218.43 (2015)

§ 2-218.43. Bid and proposal preferences.

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

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

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

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

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

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

HISTORY: (Oct. 20, 2005, D.C. Law 16-33, § 2343, 52 DCR 7503; Mar. 14, 2007, D.C. Law 16-266, § 2(b), 54 DCR 829; July 18, 2008, D.C. Law 17-207, § 2(h), 55 DCR 6107; Apr. 20, 2010, D.C. Law 18-141, § 2(h), 57 DCR 1485; Sept. 26, 2012, D.C. Law 19-171, § 13(b), 59 DCR 6190; June 10, 2014, D.C. Law 20-108, § 2(t), 61 DCR 3892.)

NOTES: Effect of amendments. --

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

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

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

The 2012 amendment by D.C. Law 19-171 repealed D.C. Law 18-141, § 2(h)(3), which had amended (a)(1)(F) by striking the period and inserting the phrase "; and" in its place.

The 2014 amendment by D.C. Law 20-108 added (a)(2)(G) and (a)(2)(H) and made related changes.

Temporary legislation. --

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

Emergency legislation. --

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

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

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

Legislative history of Law 16-33. --

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

Legislative history of Law 16-266. --

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

Legislative history of Law 17-207. --

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

Legislative history of Law 18-141. --

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

Legislative history of Law 19-171. --

See note to § 2-218.13.

Legislative history of Law 20-108. --

See note to § 2-218.01.

Editor's notes.

D.C. Code § 2-218.43

Law 20-108: Section 4(a) of D.C. Law 20-108 provided that applications pending as of June 10, 2014, shall not be subject to the provisions of the act.

Section 4(b) of D.C. Law 20-108 provided that, except as provided in § 2-218.46(f), contracts existing or pending as of June 10, 2014, shall not be affected by the provisions of the act.

Section 4(c) of D.C. Law 20-108 provided that the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register.

Section 4(c) of D.C. Law 20-108 was repealed by § 7005 of emergency D.C. Act 20-377, effective July 14, 2014.

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CASE NOTES**In general.**

Even if company that submitted lowest bid on alleyway rehabilitation project was likely to succeed on the merits of its claim challenging District of Columbia Code provision granting preferential treatment in the award of city contracts to businesses that had operated in the District for at least twenty years, the potential of harm to the District and the public interest in the short run far outweighed any limited and short-term financial harm to the company, and thus preliminary injunction enjoining application of the Code provision was not warranted; company faced at most a temporary economic loss if it lost alleyway contract prior to the resolution of its suit, and, following amendment to the Code, the company was eligible to receive preferential treatment, but grant of injunction would pose real danger of harm to both the District and the public interest should there be a delay in the performance of the project. *Capitol Paving of D.C., Inc. v. District of Columbia*, 496 F. Supp. 2d 54, 2007 U.S. Dist. LEXIS 37287 (D.D.C. 2007).



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D.C. Code § 2-218.44 (2015)

§ 2-218.44. Mandatory set-asides of District agency contracts for small business enterprises or certified business enterprises.

(a) Except as provided in subsections (a-1) and (b) of this section or § 2-218.45, each agency shall set aside contracts or procurements of \$ 250,000 or less for qualified small business enterprises.

(a-1) If an agency determines in writing that there are not at least 2 qualified small business enterprises that can provide the services or goods that are the subject of the contract, the agency may use any qualified certified business enterprise to fulfill the requirements of subsection (a) of this section.

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

(c) Each written determination pursuant to subsections (a-1) or (b) of this section shall be submitted to the Director, who shall post a copy of the determination so that it can reasonably be accessed by the public via the Department's website or such other locations as the Department may establish.

HISTORY: (Oct. 20, 2005, D.C. Law 16-33, § 2344, 52 DCR 7503; June 10, 2014, D.C. Law 20-108, § 2(u), 61 DCR 3892.)

NOTES: Effect of amendments. --

The 2014 amendment by D.C. Law 20-108 rewrote the section heading; rewrote (a); added (a-1); in (b), substituted "decline" for "refuse," and added a comma following "market," and added "or certified"; and added (c).

Emergency legislation. --

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

Legislative history of Law 16-33. --

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

Legislative history of Law 20-108. --

See note to § 2-218.01.

Editor's notes.

Applicability of D.C. Law 20-108: Section 4(a) of D.C. Law 20-108 provided that applications pending as of June 10, 2014, shall not be subject to the provisions of the act.

Section 4(b) of D.C. Law 20-108 provided that, except as provided in § 2-218.46(f), contracts existing or pending as of June 10, 2014, shall not be affected by the provisions of the act.

Section 4(c) of D.C. Law 20-108 provided that the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register.

Section 4(c) of D.C. Law 20-108 was repealed by § 7005 of emergency D.C. Act 20-377, effective July 14, 2014.

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D.C. Code § 2-218.45 (2015)

§ 2-218.45. Mandatory set-asides of contracts in the District of Columbia Supply Schedule for small business enterprises or certified business enterprises.

(a) Except as provided in subsections (b) and (c) of this section, each agency shall award contracts of \$ 250,000 or less to a qualified small business enterprise included on the District of Columbia Supply Schedule.

(b) If an agency determines in writing that there are not at least 2 qualified small business enterprises on the District of Columbia Supply Schedule that can provide the services or goods that are the subject of the contract, the agency may use any qualified certified business enterprise to fulfill the requirements of subsection (a) of this section.

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

(d) Each written determination pursuant to subsections (b) or (c) of this section shall be submitted to the Director, who shall post a copy of the determination so that it can reasonably be accessed by the public via the Department's website or such other locations as the Department may establish.

HISTORY: (Oct. 20, 2005, D.C. Law 16-33, § 2345, 52 DCR 7503; June 10, 2014, D.C. Law 20-108, § 2(v), 61 DCR 3892.)

NOTES: Effect of amendments. --

The 2014 amendment by D.C. Law 20-108 rewrote the section.

Emergency legislation. --

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

Legislative history of Law 16-33. --

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

Legislative history of Law 20-108. --

See note to § 2-218.01.

Editor's notes.

Applicability of D.C. Law 20-108: Section 4(a) of D.C. Law 20-108 provided that applications pending as of June 10, 2014, shall not be subject to the provisions of the act.

Section 4(b) of D.C. Law 20-108 provided that, except as provided in § 2-218.46(f), contracts existing or pending as of June 10, 2014, shall not be affected by the provisions of the act.

Section 4(c) of D.C. Law 20-108 provided that the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register.

Section 4(c) of D.C. Law 20-108 was repealed by § 7005 of emergency D.C. Act 20-377, effective July 14, 2014.

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D.C. Code § 2-218.45a (2015)

§ 2-218.45a. Mandatory set-asides for small business enterprises and certified business enterprises with respect to follow-on and renewable acquisitions.

(a) Except as provided in subsection (b) of this section, where a contract or procurement is awarded by a District agency to a small business enterprise or certified business enterprise, its follow-on or renewable acquisition shall be set aside for small business enterprises or certified business enterprises.

(b) An agency that would like to fulfill a follow-on or renewable acquisition without using a small business enterprise or certified business enterprise shall:

(1) Make a written request to the Director; and

(2) Receive written approval from the Director to allow the agency to waive the requirements set forth in this section.

HISTORY: (as added June 10, 2014, D.C. Law 20-307, Oct. 20, 2005, D.C. Law 16-33, § 2345a, as added June 10, 2014, D.C. Law 20-108, § 2(w), 61 DCR 3892, __ DCR __.)

NOTES: Legislative history of Law 20-108. --

See note to § 2-218.01.

Editor's notes.

Applicability of D.C. Law 20-108: Section 4(a) of D.C. Law 20-108 provided that applications pending as of June 10, 2014, shall not be subject to the provisions of the act.

Section 4(b) of D.C. Law 20-108 provided that, except as provided in § 2-218.46(f), contracts existing or pending as of June 10, 2014, shall not be affected by the provisions of the act.

Section 4(c) of D.C. Law 20-108 provided that the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register.

Section 4(c) of D.C. Law 20-108 was repealed by § 7005 of emergency D.C. Act 20-377, effective July 14, 2014.



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D.C. Code § 2-218.46 (2015)

§ 2-218.46. Performance and subcontracting requirements for construction and non-construction contracts; subcontracting plans.

(a) (1) All construction contracts for government-assisted projects in excess of \$ 250,000 shall include the following requirements unless a waiver has been approved in accordance with § 2-218.51:

(A) At least 35% of the dollar volume of the contract shall be subcontracted to small business enterprises;
 or

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

(2) All non-construction contracts for government-assisted projects in excess of \$ 250,000 shall include the following requirements unless a waiver has been approved in accordance with § 2-218.51:

(A) At least 35% of the dollar volume of the contract shall be subcontracted to small business enterprises;
 or

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

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

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

D.C. Code § 2-218.46

(B) If the total contracting effort performed by the certified business enterprise is less than the amount required by subparagraph (A) of this paragraph, then the business enterprise shall be subject to enforcement pursuant to § 2-218.63.

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

(B) If the total contracting effort performed by the certified business enterprise is less than the amount required by subparagraph (A) of this paragraph, then the business enterprise shall be subject to enforcement pursuant to § 2-218.63.

(b-1) Each government-assisted construction and non-construction project for which a certified business enterprise is utilized to meet the subcontracting requirements pursuant to subsections (a) and (b) of this subsection shall include a requirement that the certified business enterprise perform at least 35% of the contracting effort with its own organization and resources.

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

(d) (1) Bids or proposals responding to a solicitation, including an open market solicitation, shall be deemed nonresponsive and shall be rejected if a subcontracting plan is required by law and the beneficiary fails to submit a plan that meets the criteria set forth in paragraph (2) of this subsection.

(2) A subcontracting plan shall include the following information:

(A) The name and address of each subcontractor;

(B) A current certification number of the small or certified business enterprise;

(C) The scope of work to be performed by each subcontractor; and

(D) The price to be paid by the beneficiary to each subcontractor.

(3) The subcontracting plan required by paragraph (2) of this subsection shall be provided before the District accepts the submission of the bid or proposal.

(d-1) Notwithstanding subsection (d) of this section, a design-build project shall not be required to identify specific subcontractors as a condition precedent to performing preconstruction services; provided, that a detailed subcontracting plan that meets the requirements of subsection (d) of this section shall be submitted before entering into a guaranteed maximum price or such other contractual action authorizing the contractor to commence construction.

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

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

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

(h) A beneficiary shall submit to the agency contracting officer, project manager, District of Columbia Auditor, and Director copies of the executed contracts with the subcontracts identified in the subcontracting plan. Failure to submit copies of the executed contracts shall render the underlying contract voidable by the District.

(i) (1) A beneficiary shall provide a quarterly report to the Department, agency contracting officer, project manager, and District of Columbia Auditor. The quarterly report shall include the following information for each subcontract with a subcontractor identified in the subcontracting plan:

D.C. Code § 2-218.46

- (A) The price to be paid by the beneficiary to the subcontractor under the subcontract;
- (B) A description of the goods procured or the services subcontracted for;
- (C) The amount paid by the beneficiary to the subcontractor under the subcontract; and
- (D) A copy of the fully executed subcontract, if the fully executed subcontract was not provided in a prior quarterly report.

(2) If the fully executed subcontract is not included with a quarterly report, the beneficiary shall not receive credit toward the subcontracting requirements of this section for that subcontract.

(j) (1) The beneficiary shall meet on an annual basis with the Department, agency contracting officer, project manager, and District of Columbia Auditor to provide an update of the subcontracting plan for utilization of small business enterprises and certified business enterprises.

(2) The beneficiary shall be given a 30-day written notice of the meeting by the Department.

(k) The beneficiary shall provide written notice to the Department and District of Columbia Auditor upon the initiation and completion of a project.

(l) If a certified business enterprise or certified joint venture is the beneficiary and must meet the subcontracting requirements as set forth in this section, it shall fulfill the requirements of subsections (h), (i), (j), and (k) of this section.

(m) A beneficiary, certified business enterprise, or member of a certified joint venture that fails to meet the requirements of this section shall be subject to the penalties set forth in § 2-218.63.

(n) With regard to government-assisted projects, the obligations under this section shall expire upon completion of the development or other activity that serves as the basis for such activity qualifying as a government-assisted project; provided, that the Mayor shall have the authority to negotiate any extensions under this section in the transaction documents that qualify an activity as a government-assisted project.

HISTORY: (Oct. 20, 2005, D.C. Law 16-33, § 2346, 52 DCR 7503; Mar. 2, 2007, D.C. Law 16-192, § 2132(e), 53 DCR 6899; July 18, 2008, D.C. Law 17-207, § 2(i), 55 DCR 6107; Apr. 20, 2010, D.C. Law 18-141, § 2(i), 57 DCR 1485; May 27, 2010, D.C. Law 18-159, § 2(b), 57 DCR; Sept. 26, 2012, D.C. Law 19-171, § 12(c), 59 DCR 6190; June 10, 2014, D.C. Law 20-108, § 2(x), 61 DCR 3892.)

NOTES: Effect of amendments. --

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

D.C. Law 17-207 rewrote subsec. (a); and, in subsections (b), (c), and (d), substituted "certified" for "small, local, or disadvantaged".

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

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

The 2012 amendment by D.C. Law 19-171 substituted "contractor" for "developer" in the second sentence of the introductory language of (i).

The 2014 amendment by D.C. Law 20-108, in the introductory paragraph of (a)(1), substituted "contracts for government-assisted projects in" for "contracts in" and added "unless a waiver has been approved in accordance with § 2-218.51"; rewrote (a)(1)(A); substituted "qualified certified" for "certified" in (a)(1)(B); rewrote (a)(2), (b)(1)(A), (b)(1)(B), (b)(2)(A) and (b)(2)(B); added (b-1); rewrote (c) and (d); added (d-1); in (e), substituted "beneficiary" for "prime contractor" and deleted "the contracting officer and" preceding "the Director"; deleted "in which the options or extensions exceed \$ 1 million in value" following "extended contracts" in (f); substituted "beneficiary shall submit to the agency contracting officer, project manager, District of Columbia Auditor, and" for "prime contractor shall submit to the contracting officer and the" in (h); rewrote (i); and added (j), (k), (l), (m), and (n).

Temporary Legislation. --

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

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

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

Emergency legislation. --

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

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

For temporary (90 day) amendment of section, see § 2(a) of Department of Small and Local Business Development Clarification Congressional Review Emergency Act of 2006 (D.C. Act 16-301, February 27, 2006, 53 DCR 1883).

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

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

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

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

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

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

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

Legislative history of Law 16-33. --

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

Legislative history of Law 16-192. --

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

Legislative history of Law 17-207. --

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

Legislative history of Law 18-141. --

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

Legislative history of Law 18-159. --

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

Legislative history of Law 19-171. --

See note to § 2-218.13.

Legislative history of Law 20-108. --

See note to § 2-218.01.

Editor' notes.

Applicability of D.C. Law 20-108: Section 4(a) of D.C. Law 20-108 provided that applications pending as of June 10, 2014, shall not be subject to the provisions of the act.

Section 4(b) of D.C. Law 20-108 provided that, except as provided in § 2-218.46(f), contracts existing or pending as of June 10, 2014, shall not be affected by the provisions of the act.

Section 4(c) of D.C. Law 20-108 provided that the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register.

Section 4(c) of D.C. Law 20-108 was repealed by § 7005 of emergency D.C. Act 20-377, effective July 14, 2014.

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CASE NOTES

In general.

Even if company that submitted lowest bid on alleyway rehabilitation project was likely to succeed on the merits of its claim challenging District of Columbia Code provision granting preferential treatment in the award of city contracts to businesses that had operated in the District for at least twenty years, the potential of harm to the District and the public interest in the short run far outweighed any limited and short-term financial harm to the company, and thus preliminary injunction enjoining application of the Code provision was not warranted; company faced at most a temporary economic loss if it lost alleyway contract prior to the resolution of its suit, and, following amendment to the Code, the company was eligible to receive preferential treatment, but grant of injunction would pose real danger of harm to both the District and the public interest should there be a delay in the performance of the project. *Capitol Paving of D.C., Inc. v. District of Columbia*, 496 F. Supp. 2d 54, 2007 U.S. Dist. LEXIS 37287 (D.D.C. 2007).



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D.C. Code § 2-218.47 (2015)

§ 2-218.47. Unbundling requirement.

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

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

NOTES: Emergency legislation. --

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

Legislative history of Law 16-33. --

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

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D.C. Code § 2-218.48 (2015)

§ 2-218.48. Enforcement and penalties for breach of subcontracting plan.

(a) For any subcontracting plan required by law, the beneficiary shall be deemed to have breached the subcontracting plan for utilization of small or certified business enterprises in the performance of a contract if the beneficiary:

(1) Fails to submit subcontracting plan monitoring or compliance reports or other required subcontracting information in a reasonably timely manner;

(2) Submits a monitoring or compliance report or other required subcontracting information containing a materially false statement; or

(3) Fails to meet the subcontracting requirements pursuant to § 2-218.46.

(b) Repealed.

(c) A contractor that is found to have breached a subcontracting plan for utilization of certified business enterprises shall be subject to the imposition of penalties, including monetary fines, pursuant to § 2-218.63.

HISTORY: (Oct. 20, 2005, D.C. Law 16-33, § 2348, 52 DCR 7503; July 18, 2008, D.C. Law 17-207, § 2(j), 55 DCR 6107; Apr. 20, 2010, D.C. Law 18-141, § 2(j), 57 DCR 1485; May 27, 2010, D.C. Law 18-159, § 2(c), 57 DCR 3006; June 10, 2014, D.C. Law 20-108, § 2(y), 61 DCR 3892.)

NOTES: Effect of amendments. --

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

D.C. Law 18-141 rewrote the section, which had read as follows: "The willful breach by a contractor of a subcontracting plan for utilization of certified business enterprises in the performance of a contract, the failure to submit any required subcontracting plan monitoring or compliance report, or the deliberate submission of falsified data may be enforced by the Department through the imposition of penalties, including monetary fines of \$ 15,000 or 5% of the total amount of the work that the contractor was to subcontract to certified business enterprises, whichever is greater, for each such breach, failure, or falsified submission."

D.C. Law 18-159, in subsec. (a), deleted "or" from the end of par. (1), rewrote par. (2), and added par. (3).

The 2014 amendment by D.C. Law 20-108 deleted "willful" preceding "breach" in the section heading; rewrote (a); repealed (b); and in (c), substituted "willfully" preceding "breached" and substituted "fines, pursuant to § 2-218.63" for "fines of \$ 15,000 or 5% of the total amount of the work that the contractor was to subcontract to certified business enterprises, whichever is greater, for each breach."

Temporary legislation. --

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

Emergency legislation. --

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

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

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

Legislative history of Law 16-33. --

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

Legislative history of Law 17-207. --

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

Legislative history of Law 18-141. --

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

Legislative history of Law 18-159. --

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

Legislative history of Law 20-108. --

See note to § 2-218.01.

Editor's notes.

Applicability of D.C. Law 20-108: Section 4(a) of D.C. Law 20-108 provided that applications pending as of June 10, 2014, shall not be subject to the provisions of the act.

Section 4(b) of D.C. Law 20-108 provided that, except as provided in § 2-218.46(f), contracts existing or pending as of June 10, 2014, shall not be affected by the provisions of the act.

Section 4(c) of D.C. Law 20-108 provided that the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register.

Section 4(c) of D.C. Law 20-108 was repealed by § 7005 of emergency D.C. Act 20-377, effective July 14, 2014.

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D.C. Code § 2-218.49 (2015)

§ 2-218.49. Other procedures and programs.

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

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

(2) A policy whereby an agency shall make advance payments to a certified contractor, where the payments are necessary to achieve the purposes of this subchapter; provided, that an agency shall not be permitted to advance more than 10% of the total value of any contract.

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

HISTORY: (Oct. 20, 2005, D.C. Law 16-33, § 2349, 52 DCR 7503; July 18, 2008, D.C. Law 17-207, § 2(k), 55 DCR 6107; June 10, 2014, D.C. Law 20-108, § 2(z), 61 DCR 3892.)

NOTES: Effect of amendments. --

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

The 2014 amendment by D.C. Law 20-108, in (a)(2), substituted "agency may" for "agency shall" and added "provided, that an agency shall not be permitted to advance more than 10% of the total value of any contract."

Emergency legislation. --

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

Legislative history of Law 16-33. --

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

Legislative history of Law 17-207. --

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

Legislative history of Law 20-108. --

See note to § 2-218.01.

Editor's notes.

Applicability of D.C. Law 20-108: Section 4(a) of D.C. Law 20-108 provided that applications pending as of June 10, 2014, shall not be subject to the provisions of the act.

Section 4(b) of D.C. Law 20-108 provided that, except as provided in § 2-218.46(f), contracts existing or pending as of June 10, 2014, shall not be affected by the provisions of the act.

Section 4(c) of D.C. Law 20-108 provided that the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register.

Section 4(c) of D.C. Law 20-108 was repealed by § 7005 of emergency D.C. Act 20-377, effective July 14, 2014.

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D.C. Code § 2-218.49a (2015)

§ 2-218.49a. Equity and development participation.

(a) (1) In all development projects conducted pursuant to a disposition under § 10-801, small investors, disadvantaged investors, or certified equity participants shall invest a minimum of 20% of the total sponsor equity, excluding debt financing, mezzanine financing, or other equity contributions by limited or institutional investors.

(2) Demonstration by a project sponsor of its intent and ability to meet the 20% equity requirement pursuant to paragraph (1) of this subsection shall be a condition precedent to the transfer of any District-owned property for a covered project.

(3) In meeting the equity investment requirement in paragraph (1) of this subsection, a certified equity participant may be a 100% sponsor of a component of a covered project; provided, that the certified equity participant participation totals 20% of the total equity of the covered project.

(b) For each government-assisted project involving development, in addition to complying with the general subcontracting provisions in § 2-218.46, at least 20% of the dollar volume of non-construction development goods and services shall be subcontracted to small business enterprises, and if there are insufficient qualified small business enterprises to completely fulfill this requirement, then the requirement may be satisfied by contracting 20% of that dollar volume to any qualified certified business enterprises; provided, that all reasonable efforts shall be made to ensure that qualified small business enterprises are significant participants in the overall development goods and services work.

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

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

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

(d) This section shall not apply if the entity that controls the development project is an entity tax-exempt under 26 U.S.C. § 501(c), or other not-for-profit entity.

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

HISTORY: (Oct. 20, 2005, D.C. Law 16-33, § 2349a, as added Mar. 2, 2007, D.C. Law 16-192, § 2132(f), 53 DCR 6899; Apr. 20, 2010, D.C. Law 18-141, § 2(k), 57 DCR 1485; Apr. 8, 2011, D.C. Law 18-357, § 2(a), 58 DCR 763; June 10, 2014, D.C. Law 20-108, § 2(aa), 61 DCR 3892.)

NOTES: Effect of amendments. --

D.C. Law 18-141 rewrote subsec. (a); and added subsec. (a-1).

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

The 2014 amendment by D.C. Law 20-108 rewrote the section.

Emergency legislation. --

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

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

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

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

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

Legislative history of Law 16-192. --

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

Legislative history of Law 18-141. --

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

Legislative history of Law 18-357. --

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

Legislative history of Law 20-108. --

See note to § 2-218.01.

Editor's notes.

Applicability of D.C. Law 20-108: Section 4(a) of D.C. Law 20-108 provided that applications pending as of June 10, 2014, shall not be subject to the provisions of the act.

Section 4(b) of D.C. Law 20-108 (b) provided that, except as provided in § 2-218.46(f), contracts existing or pending as of June 10, 2014, shall not be affected by the provisions of the act.

D.C. Code § 2-218.49a

Section 4(c) of D.C. Law 20-108 provided that the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register.

Section 4(c) of D.C. Law 20-108 was repealed by § 7005 of emergency D.C. Act 20-377, effective July 14, 2014.

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D.C. Code § 2-218.50 (2015)

§ 2-218.50. Special requirements for government corporations. [Repealed].

HISTORY: (Oct. 20, 2005, D.C. Law 16-33, § 2350, 52 DCR 7503; Mar. 2, 2007, D.C. Law 16-192, § 2132(g), 53 DCR 6899; July 18, 2008, D.C. Law 17-207, § 2(l), 55 DCR 6107; Mar. 3, 2010, D.C. Law 18-111, § 2222(a), 57 DCR 181; Apr. 20, 2010, D.C. Law 18-141, § 2(l), 57 DCR; Sept. 26, 2012, D.C. Law 19-171, § 14, 59 DCR 6190; June 10, 2014, D.C. Law, 20-108, § 2(bb), 61 DCR 3892.)

NOTES: Effect of amendments. --

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

D.C. Law 17-207 rewrote subsec. (b)(1); and, in subsecs. (f)(3) and (g)(2)(A), substituted "certified" for "local, small, and disadvantaged".

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

D.C. Law 18-141 rewrote subsecs. (f), (g), (h), and (i).

The 2012 amendment by D.C. Law 19-171 validated a previously made technical correction in (f).

Temporary legislation. --

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

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

Emergency legislation. --

For temporary (90 day) addition, see § 2350 of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

D.C. Code § 2-218.50

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

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

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

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

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

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

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

For temporary (90 day) amendment of section, see § 2222(a) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) amendment of section, see § 2222(a) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

Legislative history of Law 16-33. --

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

Legislative history of Law 16-192. --

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

Legislative history of Law 17-207. --

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

Legislative history of Law 18-111. --

Law 18-111, the "Fiscal Year 2010 Budget Support Act of 2009", was introduced in Council and assigned Bill No. 18-203, which was referred to the Committee on the Whole. The bill was adopted on first and second readings on May 12, 2009, and September 22, 2009, respectively. Signed by the Mayor on December 18, 2009, it was assigned Act No. 18-255 and transmitted to both Houses of Congress for its review. D.C. Law 18-111 became effective on March 3, 2010.

Legislative history of Law 18-141. --

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

Legislative history of Law 19-171. --

See note to § 2-218.13.

Legislative history of Law 20-108. --

See note to § 2-218.01.

Editor's notes.

Applicability of D.C. Law 20-108: Section 4(a) of D.C. Law 20-108 provided that applications pending as of June 10, 2014, shall not be subject to the provisions of the act.

Section 4(b) of D.C. Law 20-108 provided that, except as provided in § 2-218.46(f), contracts existing or pending as of June 10, 2014, shall not be affected by the provisions of the act.

D.C. Code § 2-218.50

Section 4(c) of D.C. Law 20-108 provided that the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register.

Section 4(c) of D.C. Law 20-108 was repealed by § 7005 of emergency D.C. Act 20-377, effective July 14, 2014.

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D.C. Code § 2-218.51 (2015)

§ 2-218.51. Waiver of subcontracting requirements.

(a) The subcontracting requirements of § 2-218.46 may be waived only if there is insufficient market capacity for the goods or services that comprise the project and such lack of capacity leaves the contractor commercially incapable of achieving the subcontracting requirements at a project level. The subcontracting requirements of § 2-218.46 may only be waived in writing by the Director. An agency seeking waiver of the subcontracting requirements of § 2-218.46 shall submit to the Director a request for waiver, which shall include the following:

- (1) The number of certified business enterprises, if any, qualified to perform the elements of work that comprise the project;
- (2) A summary of the market research or outreach conducted to analyze the relevant market; and
- (3) The consideration given to alternate methods for acquiring the work to be subcontracted in order to make the work more amenable to being performed by certified business enterprises.

(b) If the Director approves an agency's request for waiver of the subcontracting requirements of § 2-218.46 and grants such a waiver, the Director's determination shall set forth the information outlined in subsection (a) of this section. A copy of the Director's determination shall be posted to the Department's website or such other locations as the Department may establish for 5 days such that the public shall have reasonable access to the determination before the Director grants any waiver.

HISTORY: (Oct. 20, 2005, D.C. Law 16-33, § 2351, 52 DCR 7503; Mar. 2, 2007, D.C. Law 16-191, § 5(o)(2), 53 DCR 6794; Sept. 18, 2007, D.C. Law 17-20, § 2062(f), 54 DCR 7052; July 18, 2008, D.C. Law 17-207, § 2(m), 55 DCR 6107; June 10, 2014, D.C. Law 20-108, § 2(cc), 61 DCR 3892.)

NOTES: Effect of amendments. --

D.C. Law 16-191 validated a previously made technical correction.

D.C. Law 17-20 repealed subsec. (c); and, in subsec. (d)(2), substituted "Director" for "Commission". Prior to repeal, subsec. (c) read as follows: "(c) The Commission may find that a waiver of the subcontracting requirements of §§ 2-218.46 and 2-218.50 for a particular contract are justified in order to achieve the purposes of this subchapter."

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

The 2014 amendment by D.C. Law 20-108 rewrote the section.

Temporary legislation. --

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

Emergency legislation. --

For temporary (90 day) addition, see § 2351 of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

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

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

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

For temporary (90 days) amendment of this section, see § 2 of the Small and Certified Business Enterprise Development and Assistance Waiver Certification Emergency Amendment Act of 2014 (D.C. Act 20-380, July 23, 2014, 61 DCR 7795).

Legislative history of Law 16-33. --

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

Legislative history of Law 16-191. --

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

Legislative history of Law 17-20. --

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

Legislative history of Law 17-207. --

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

Legislative history of Law 20-108. --

See note to § 2-218.01.

Editor's notes.

Applicability of D.C. Law 20-108: Section 4(a) of D.C. Law 20-108 provided that applications pending as of June 10, 2014, shall not be subject to the provisions of the act.

Section 4(b) of D.C. Law 20-108 provided that, except as provided in § 2-218.46(f), contracts existing or pending as of June 10, 2014, shall not be affected by the provisions of the act.

Section 4(c) of D.C. Law 20-108 provided that the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register.

Section 4(c) of D.C. Law 20-108 was repealed by § 7005 of emergency D.C. Act 20-377, effective July 14, 2014.

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 Subpart 2 Requirements of programs.

D.C. Code § 2-218.52 (2015)

§ 2-218.52. Enforcement mechanism against an agency.

(a) If an agency fails to meet any of the goals set forth in § 2-218.41, the Department may require that a portion of the agency's contracts and procurements be made part of a set-aside program for small business enterprises.

(b) The performance plan for each agency shall include a metric for compliance with the provisions of this subchapter and the performance evaluation for each agency director shall reflect the agency's success in meeting compliance goals.

HISTORY: (Oct. 20, 2005, D.C. Law 16-33, § 2352, 52 DCR 7503; June 10, 2014, D.C. Law 20-108, § 2(dd), 61 DCR 3892.)

NOTES: Effect of amendments. --

The 2014 amendment by D.C. Law 20-108 designated the existing provisions as (a); and added (b).

Emergency legislation. --

For temporary (90 day) addition, see § 2352 of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

Legislative history of Law 16-33. --

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

Legislative history of Law 20-108. --

See note to § 2-218.01.

Editor's notes.

Applicability of D.C. Law 20-108: Section 4(a) of D.C. Law 20-108 provided that applications pending as of June 10, 2014, shall not be subject to the provisions of the act.

Section 4(b) of D.C. Law 20-108 provided that, except as provided in § 2-218.46(f), contracts existing or pending as of June 10, 2014, shall not be affected by the provisions of the act.

D.C. Code § 2-218.52

Section 4(c) of D.C. Law 20-108 provided that the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register.

Section 4(c) of D.C. Law 20-108 was repealed by § 7005 of emergency D.C. Act 20-377, effective July 14, 2014.

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D.C. Code § 2-218.53 (2015)

§ 2-218.53. Agency reporting requirements.

(a) Each agency shall submit a quarterly report to the Department and to the District of Columbia Auditor within 30 days after the end of each quarter, except for the 4th quarter report. The 4th quarter and annual report shall be submitted together. When submitting a quarterly report, the agency shall list each expenditure as it appears in the general ledger from the expendable budget of the agency during the quarter. For each expenditure, the report shall include:

- (1) The name of the vendor from which the goods or services were purchased;
- (2) The vendor identification number;
- (3) A description of the goods or services provided;
- (4) Whether the vendor was a small or certified small business enterprise;
- (5) The funding source for the expenditure (local, federal, capital, or other);
- (6) The date of the expenditure;
- (7) The dollar amount of the expenditure; and
- (8) The percentage of the agency's total dollar amount of expenditures in the quarter to all small business enterprises and certified business enterprises.

(a-1) In addition to the report of prime contracting activity required by subsection (a) of this section, each agency shall also submit to the Department and the Office of the District of Columbia Auditor within 30 days of the end of each quarter, a report on a contract basis of payments made by beneficiaries to subcontractors that are certified business enterprises and such payments shall be reported against the amounts included in the approved detailed certified business enterprise subcontracting plan.

(b) Each agency shall submit to the Department and the District of Columbia Auditor, within 30 days of the issuance of the Comprehensive Annual Financial Report, an annual report listing each expenditure as it appears in the general ledger from the expendable budget of the agency during the fiscal year which shall include:

- (1) The information required to be included in the quarterly reports (with calculations for the fiscal year);
- (2) A description of the activities the agency engaged in, including the programs required by this part, to achieve the goals set forth in § 2-218.41; and

(3) A description of any changes the agency intends to make during the succeeding fiscal year to the activities it engages in to achieve the goals set forth in § 2-218.41.

(c) The Department shall monitor agency compliance with the reporting requirements of this section.

(d) The District of Columbia Auditor shall review the annual report of each agency to determine whether the planned activities of the agency for the succeeding fiscal year are likely to enable the agency to achieve the goals set forth in § 2-218.41. The District of Columbia Auditor shall make recommendations on activities the agency should engage in to meet or exceed the goals set forth in § 2-218.41. The District of Columbia Auditor's recommendations shall be submitted to the agency, the Council, and the Department.

(e) The Department shall review the annual report of an agency to determine whether the planned activities of the agency for the succeeding fiscal year are likely to enable the agency to achieve the goals set forth in § 2-218.41. The Department shall make recommendations on activities the agency should engage in to meet or exceed the goals set forth in § 2-218.41. The Department's recommendations shall be submitted to the agency, the Office of District of Columbia Auditor, and the Council within 30 days of the agency's annual report submission.

HISTORY: (Oct. 20, 2005, D.C. Law 16-33, § 2353, 52 DCR 7503; July 18, 2008, D.C. Law 17-207, § 2(n), 55 DCR 6107; Mar. 3, 2010, D.C. Law 18-111, § 2222(b), 57 DCR 181; Apr. 20, 2010, D.C. Law 18-141, § 2(m), 57 DCR 1485; May 27, 2010, D.C. Law 18-159, § 2(d), 57 DCR 3006; June 10, 2014, D.C. Law 20-108, § 2(ee), 61 DCR 3892.)

NOTES: Effect of amendments. --

D.C. Law 17-207, in subsec. (a)(1)(D), substituted "certified" for "local, small, or disadvantaged"; and, in subsecs. (a)(2)(A), (3)(A), (b)(2)(A), substituted "Certified" for "Local, small, or disadvantaged".

D.C. Law 18-111 rewrote the section.

D.C. Law 18-141 rewrote subsecs. (a) and (e); and, in subsec. (b), substituted "the Department and the District of Columbia Auditor" for "the Department".

D.C. Law 18-159, in the lead-in language of subsec. (a), inserted "The 4th quarter and annual report shall be submitted together."; and rewrote subsec. (a)(8), which had read as follows: "(8) The total expenditure on certified small business enterprises and the percentage the total expenditure on certified small business enterprises is of the total expenditure."

The 2014 amendment by D.C. Law 20-108 rewrote the introductory paragraph of (a); rewrote (a)(2), (a)(3), (a)(4), and (a)(8); and added (a-1).

Temporary legislation. --

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

Emergency legislation. --

For temporary (90 day) addition, see § 2353 of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

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

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

For temporary (90 day) amendment of section, see § 2222(b) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) amendment of section, see § 2222(b) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

Legislative history of Law 16-33. --

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

Legislative history of Law 17-207. --

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

Legislative history of Law 18-111. --

For Law 18-111, see notes following § 2-218.50.

Legislative history of Law 18-141. --

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

Legislative history of Law 18-159. --

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

Legislative history of Law 20-108. --

See note to § 2-218.01.

Editor's notes.

Applicability of D.C. Law 20-108: Section 4(a) of D.C. Law 20-108 provided that applications pending as June 10, 2014, shall not be subject to the provisions of the act.

Section 4(b) of D.C. Law 20-108 provided that, except as provided in § 2-218.46(f), contracts existing or pending as of June 10, 2014, shall not be affected by the provisions of the act.

Section 4(c) of D.C. Law 20-108 provided that the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register.

Section 4(c) of D.C. Law 20-108 was repealed by § 7005 of emergency D.C. Act 20-377, effective July 14, 2014.

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D.C. Code § 2-218.54 (2015)

§ 2-218.54. Department reporting requirements.

(a) Within 45 days after its receipt of the annual reports required by § 2-218.53(b), the Department shall submit to the District of Columbia Auditor, through the Compliance Unit established part K of subchapter I of Chapter 3 of Title 1 [§ 1-301.181 et seq.], the following documents and information:

- (1) A copy of the annual reports required by § 2-218.53; and
- (2) A chart listing the following information with respect to each agency for the current fiscal year:
 - (A) The total budget of each agency;
 - (B) The expendable budget of each agency;
 - (C) A description of each funding source, object class, object, or item that was excluded from the total budget of the agency in the Department's calculation of the expendable budget of the agency;
 - (D) Each goal of the agency under § 2-218.41 in percentage and dollar terms; and
 - (E) The actual dollar amount expended with each small business enterprise and certified business enterprise.

(b) Within 45 days after its receipt of the annual reports required by § 2-218.50(g), the Department shall submit to the District of Columbia Auditor, through the Compliance Unit established by part K of subchapter I of Chapter 3 of Title 1 [§ 1-301.181 et seq.] a report containing the following information with respect to each government corporation for the current and prior fiscal years:

- (1) The expendable budget of the government corporation.
- (2) A list of all agencies and government corporations that have not submitted a report for that quarter with a detailed explanation of what actions were taken by the Department to effectuate compliance with the reporting requirement.

(c) On a semiannual basis, the Department shall report the following to the chairman of the Council committee that has purview over the Department:

- (1) District agencies' compliance with § 2-218.41;

D.C. Code § 2-218.54

(2) A list of contracting opportunities for small business enterprises and certified business enterprises with District agencies;

(3) A list of projects in the District that require a 35% minimum subcontracting requirement in accordance with § 2-218.46;

(4) A list of beneficiaries, small business enterprises, certified business enterprises, or certified joint ventures that fail to meet the 35% minimum subcontracting requirements in accordance with § 2-218.46;

(5) A list of projects in the District that have a 20% equity and development participation requirement in accordance with § 2-218.49a;

(6) A list of beneficiaries that fail to meet the 20% equity and development participation requirements in accordance with § 2-218.49a;

(7) A list of District government contracts or procurements and government-assisted projects that were granted waivers or modifications to the requirements set forth in § 2-218.46;

(8) A list of District agencies that fail to meet the requirements set forth in § 2-218.41; and

(9) A list of small business enterprises and certified business enterprises.

HISTORY: (Oct. 20, 2005, D.C. Law 16-33, § 2354, 52 DCR 7503; Apr. 7, 2006, D.C. Law 16-91, § 129, 52 DCR 10637; Mar. 2, 2007, D.C. Law 16-191, § 5(o)(3), 53 DCR 6794; Mar. 2, 2007, D.C. Law 16-192, § 2132(h), 53 DCR 6899; July 18, 2008, D.C. Law 17-207, § 2(o), 55 DCR 6107; Mar. 3, 2010, D.C. Law 18-111, § 2222(c), 57 DCR 181; June 10, 2014, D.C. Law 20-108, § 2(ff), 61 DCR 3892.)

NOTES: Effect of amendments. --

D.C. Law 16-91, in the introductory language, validated a previously made technical correction.

D.C. Law 16-191, in the introductory language, validated a previously made technical correction.

D.C. Law 16-192 designated the existing language as subsec. (a); in subsec. (a)(2), deleted "; and" from the end of subpar. (C), substituted "; and" for a period at the end of subpar. (D), and added subpar. (E); and added subsecs. (b) and (c).

D.C. Law 17-207, rewrote subsec. (a)(2)(E), which had read as follows: "(E) The actual dollar amount expended with each business enterprise."; and, in subsec. (b)(3)(D), deleted "local, small, or disadvantaged" following "was a".

D.C. Law 18-111 rewrote the section.

The 2014 amendment by D.C. Law 20-108 substituted "45 days after its receipt" for "45 days of its receipt" in the introductory language of (a) and (b); substituted "small business enterprise and certified business enterprise" for "certified business enterprise" in (a)(2)(E); and added (c).

Temporary legislation. --

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

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

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

Emergency legislation. --

For temporary (90 day) addition, see § 2354 of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

D.C. Code § 2-218.54

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

For temporary (90 day) amendment of section, see § 2(b) of Department of Small and Local Business Development Clarification Congressional Review Emergency Act of 2006 (D.C. Act 16-301, February 27, 2006, 53 DCR 1883).

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

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

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

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

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

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

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

For temporary (90 day) amendment of section, see § 2222(c) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) amendment of section, see § 2222(c) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

Legislative history of Law 16-33. --

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

Legislative history of Law 16-91. --

Law 16-91, the "Technical Amendments Act of 2005", was introduced in Council and assigned Bill No. 16-477 which was referred to the Committee on the Whole. The Bill was adopted on first and second readings on November 1, 2005, and November 15, 2005, respectively. Signed by the Mayor on November 30, 2005, it was assigned Act No. 16-212 and transmitted to both Houses of Congress for its review. D.C. Law 16-91 became effective on April 7, 2006.

Legislative history of Law 16-191. --

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

Legislative history of Law 16-192. --

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

Legislative history of Law 17-207. --

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

Legislative history of Law 18-111. --

For Law 18-111, see notes following § 2-218.50.

Legislative history of Law 20-108. --

See note to § 2-218.01.

Editor's notes.

D.C. Code § 2-218.54

Applicability of D.C. Law 20-108: Section 4(a) of D.C. Law 20-108 provided that applications pending as of June 10, 2014, shall not be subject to the provisions of the act.

Section 4(b) of D.C. Law 20-108 provided that, except as provided in § 2-218.46(f), contracts existing or pending as of June 10, 2014, shall not be affected by the provisions of the act.

Section 4(c) of D.C. Law 20-108 provided that the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register.

Section 4(c) of D.C. Law 20-108 was repealed by § 7005 of emergency D.C. Act 20-377, effective July 14, 2014.

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D.C. Code § 2-218.55 (2015)

§ 2-218.55. Regional governmental entities.

(a) Except as provided in subsection (b) of this section, a regional governmental entity shall be exempt from the requirements of this subchapter to the extent that the requirements of this subchapter impact on the regional governmental entity's operations within the territory of a member government other than the District.

(b) The District of Columbia Water and Sewer Authority shall be exempt from the requirements of this subchapter to the extent that the requirements of this subchapter are contrary to procurement regulations promulgated pursuant to statutes establishing the District of Columbia Water and Sewer Authority.

HISTORY: (Oct. 20, 2005, D.C. Law 16-33, § 2355, 52 DCR 7503.)

NOTES: Emergency legislation. --

For temporary (90 day) addition, see § 2355 of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

Legislative history of Law 16-33. --

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

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 Subpart 3 Certification.

D.C. Code § 2-218.61 (2015)

§ 2-218.61. Certificate of registration.

(a) No business enterprise shall be permitted to participate in a program established under this part unless the business has demonstrated its capability to perform and has been issued a certificate of registration under the provisions of this subchapter.

(b) (1) A business enterprise seeking to be certified in a category under this subpart shall file with the Department a written application on such form as may be prescribed by the Department.

(2) The application shall include, at a minimum, documents and information enumerated in rules established pursuant to § 2-218.72 and any other information the Department may require, and the following documents and information:

(A) A certification of the correctness of the information provided;

(B) Written evidence that the applicant is:

(i) A bona fide local business enterprise;

(ii) A bona fide disadvantaged business enterprise;

(iii) A bona fide small business enterprise;

(iv) A bona fide local business enterprise located in an enterprise zone;

(v) A bona fide resident-owned business;

(vi) A bona fide longtime resident business;

(vii) A bona fide veteran-owned business enterprise; or

(viii) A bona fide local manufacturing business enterprise;

(C) Evidence of ability and character;

(D) Evidence of financial position, which may be the applicant's most recent financial statement. For the purposes of this subparagraph, the term "recent" means produced from current data no more than 90 days prior to the application date;

(E) Any other information the Department may require; and

(F) Federal income taxes, both corporate and personal, as well as District taxes, both corporate and personal.

(c) The Department shall issue the applicant a certificate of registration if:

- (1) The information provided in the application or additional filings is satisfactory to the Department;
- (2) The business enterprise meets the standards of this subchapter; and
- (3) The applicant fulfills other requirements as may be established by the Department.

(d) A certificate of registration shall expire 2 years from the date of approval of the application. A business enterprise that is registered with the Department may voluntarily relinquish its registration as a certified business enterprise at any time prior to the expiration of the 2-year term.

(e) Repealed.

HISTORY: (Oct. 20, 2005, D.C. Law 16-33, § 2361, 52 DCR 7503; Mar. 2, 2007, D.C. Law 16-192, § 2132(i), 53 DCR 6899; Sept. 18, 2007, D.C. Law 17-20, § 2062(g), 54 DCR 7052; July 18, 2008, D.C. Law 17-207, § 2(p), 55 DCR 6107; Apr. 20, 2010, D.C. Law 18-141, § 2(n), 57 DCR 1485; Sept. 26, 2012, D.C. Law 19-171, § 13(c), 59 DCR 6190; June 10, 2014, D.C. Law 20-108, § 2(gg), 61 DCR 3892.)

NOTES: Effect of amendments. --

D.C. Law 16-192 added subsec. (e).

D.C. Law 17-20 rewrote subsec. (b)(1); and, in the introductory language and par. (1) of subsec. (c) and in subsec. (e), substituted "Department" for "Commission". Prior to amendment, subsec. (b)(1) read as follows: "(1) An enterprise seeking to be certified as a local, small, or disadvantaged business enterprise, as a resident-owned business, as a resident business, or as a local business enterprise with its principal office located in an enterprise zone shall file with the Commission a written application on such form or forms as may be prescribed by the Commission or the Department."

D.C. Law 17-207, in subsec. (b), inserted "longtime" preceding "resident business".

D.C. Law 18-141, in subsec. (a)(1), substituted "Has demonstrated its capability to perform and been" for "Has been"; in subsec. (b)(2), deleted "and" from the end of par. (D); substituted "; and" for a period at the end of par. (E), and added par. (F); and, in subsec. (d), added the second sentence.

The 2012 amendment by D.C. Law 19-171 validated a previously made technical correction.

The 2014 amendment by D.C. Law 20-108 rewrote (a) and (b)(1); substituted "documents and information enumerated in rules established pursuant to § 2-218.72 and any other information the Department may require, and the following documents and information" for "the following documents and information" in the introductory language of (b)(2); added (b)(2)(vii) and (viii) and made related changes; deleted "Commission or" preceding "Department" in (b)(2)(E); deleted "the Commission or" preceding "the Department" in (c)(3); and repealed (e).

Temporary legislation. --

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

Emergency legislation. --

For temporary (90 day) addition, see § 2361 of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

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

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

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

D.C. Code § 2-218.61

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

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

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

Legislative history of Law 16-33. --

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

Legislative history of Law 16-192. --

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

Legislative history of Law 17-20. --

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

Legislative history of Law 17-207. --

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

Legislative history of Law 18-141. --

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

Legislative history of Law 19-171. --

See note to § 2-218.13.

Legislative history of Law 20-108. --

See note to § 2-218.01.

Editor's notes.

Applicability of D.C. Law 20-108: Section 4(a) of D.C. Law 20-108 provided that applications pending as of June 10, 2014, shall not be subject to the provisions of the act.

Section 4(b) of D.C. Law 20-108 provided that, except as provided in § 2-218.46(f), contracts existing or pending as of June 10, 2014, shall not be affected by the provisions of the act.

Section 4(c) of D.C. Law 20-108 provided that the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register.

Section 4(c) of D.C. Law 20-108 was repealed by § 7005 of emergency D.C. Act 20-377, effective July 14, 2014.

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 Subpart 3 Certification.

D.C. Code § 2-218.62 (2015)

§ 2-218.62. Provisional certification; self-certification prohibited. [Repealed].

HISTORY: (Oct. 20, 2005, D.C. Law 16-33, § 2362, 52 DCR 7503; Mar. 2, 2007, D.C. Law 16-192, § 2132(j), 53 DCR 6899; Sept. 18, 2007, D.C. Law 17-20, § 2062(h), 54 DCR 7052; June 10, 2014, D.C. Law 20-108, § 2(hh), 61 DCR 3892.)

NOTES: Effect of amendments. --

D.C. Law 16-192, in subsec. (b), substituted "90" for "120".

D.C. Law 17-20, in subsec. (a)(3), substituted "it will" for "the Commission will".

Emergency legislation. --

For temporary (90 day) addition, see § 2362 of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

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

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

Legislative history of Law 16-33. --

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

Legislative history of Law 16-192. --

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

Legislative history of Law 17-20. --

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

Legislative history of Law 20-108. --

See note to § 2-218.01.

Editor's notes.

Applicability of D.C. Law 20-108: Section 4(a) of D.C. Law 20-108 provided that applications pending as of June 10, 2014, shall not be subject to the provisions of the act.

Section 4(b) of D.C. Law 20-108 provided that, except as provided in § 2-218.46(f), contracts existing or pending as of June 10, 2014, shall not be affected by the provisions of the act.

Section 4(c) of D.C. Law 20-108 provided that the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register.

Section 4(c) of D.C. Law 20-108 was repealed by § 7005 of emergency D.C. Act 20-377, effective July 14, 2014.

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 Subpart 3 Certification.

D.C. Code § 2-218.63 (2015)

§ 2-218.63. Revocation of registration; challenges to registration; penalties.

(a) It shall be a violation of this subchapter and penalties shall be assessed if the Department determines that:

(1) A beneficiary, certified business enterprise, or certified joint venture fails to comply with the requirements set forth in § 2-218.46, § 2-218.48, or § 2-218.49a;

(2) A certified business enterprise:

(A) Acted with gross negligence, financial irresponsibility, or misconduct in the practice of a trade or profession;

(B) No longer qualifies as a local business enterprise; or

(C) Misrepresents its capability to the Department; or

(3) A beneficiary, certified business enterprise, or certified joint venture has:

(A) Fraudulently obtained or held certification;

(B) Willfully obstructed or impeded, or attempted to obstruct or impede, a city official or employee investigating the qualifications of a business enterprise that has requested certification;

(C) In any certified business enterprise matter administered under this subchapter:

(i) Fraudulently obtained, attempted to obtain, or aided another person in fraudulently obtaining or attempting to obtain, public moneys to which the person is not entitled under this subsection;

(ii) Willfully falsified, concealed, or covered up a material fact by any scheme or device;

(iii) Made a materially false statement or representation;

(iv) Used a false writing or document that the person knows to contain a false statement or entry;

(D) Aided another person in performing an act prohibited under subparagraphs (A), (B) or (C) of this paragraph;

(E) Furnished substantially inaccurate or incomplete ownership or financial information;

(F) Failed to report changes that affect its eligibility for certification, including relocation of its principal office or change in ownership or control;

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(G) Willfully violated any provision of this subchapter or rules adopted pursuant to this subchapter;

(H) Substantially failed to operate and manage a certified joint venture in accordance with § 2-218.39a; There shall be a rebuttable presumption that the failure to operate and manage the joint venture in accordance with the joint venture application was the parties' intent. If the joint venture demonstrates that the failure to operate and manage the joint venture in accordance with the joint venture application was necessary due to unforeseen business or operational issues, the failure shall not be a violation of this subchapter.

(I) Knowingly and willfully submits a monitoring or compliance report or other required subcontracting information containing a materially false statement or knowingly and willfully violates the terms of a subcontracting plan; or

(J) Committed any other cause the Department determines to be sufficiently serious and compelling to affect responsibility as a District government contractor, including revocation, suspension, or debarment by another governmental enterprise for any cause listed in rules and regulations.

(b) It shall be a violation of this subchapter and penalties may be assessed if the Department determines that an individual or business enterprise has willfully failed to cooperate in an audit or investigation conducted by:

(1) The District of Columbia Auditor pursuant to 1-204.55; or

(2) The Chairman of the Council or the chairperson of the committee of the Council that conducts an investigation pursuant to § 1-204.13.

(c) If the Department determines, in accordance with the procedure set forth in subsection (e) of this section, that an individual or business enterprise:

(1) Has committed a violation of subsection (a)(1) of this section, the Department shall:

(A) Assess a civil penalty of not more than \$ 5,000 for the first offense;

(B) Assess a civil penalty of not more than \$ 15,000 for the second offense; and

(C) (i) For each offense thereafter, the Director shall refer the matter to the Attorney General for the District of Columbia, who may bring a civil action under paragraph (3)(A) of this subsection; provided, that if the Attorney General for the District of Columbia does not bring an action under paragraph (3)(A) of this subsection, the Department shall assess a civil penalty of not more than \$ 25,000 against the beneficiary, certified business enterprise, or certified joint venture; and

(ii) The Department shall refer the matter to the Office of Contracting and Procurement, including matters involving agencies not subject to the Office of Contracting and Procurement authority pursuant to § 2-352.01(b), for investigation. If the Office of Contracting and Procurement determines that more than 2 violations of subsection (a)(1) of this section have occurred, the beneficiary, certified business enterprise, or certified joint venture shall be:

(I) Debarred from consideration of award of contracts or subcontracts with the District government for a period of no more than 5 years; and

(I) Deemed ineligible from consideration for government-assisted projects with the District government for a period of no more than 5 years;

(2) Has committed a violation of subsection (a)(2) or (a)(3) of this section, the Department shall suspend or revoke the certification of the beneficiary, certified business enterprise, or certified joint venture;

(3) Has committed a violation of subsection (a)(3), in addition to the penalties set forth in paragraph (2) of this subsection:

(A) The Attorney General for the District of Columbia may bring a civil action in the Superior Court of the District of Columbia against the beneficiary, certified business enterprise, or certified joint venture and its directors, officers, or principals. An individual, beneficiary, certified business enterprise, or certified joint venture found to be in violation under subsection (a)(3) of this section shall be subject to a civil penalty of the greater of \$ 100,000 or triple the profit earned by the individual, beneficiary, certified business enterprise, or certified joint venture on all contracts awarded; and

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(B) The Department shall refer the matter to the Office of Contracting and Procurement, including matters involving agencies not subject to the Office of Contracting and Procurement authority pursuant to § 2-352.01(b), for investigation. If the Office of Contracting and Procurement determines there has been a violation of subsection (a)(3) of this section, the beneficiary, certified business enterprise, or certified joint venture shall be:

(i) Debarred from consideration of award of contracts or subcontracts with the District government for a period of no more than 5 years; and

(ii) Deemed ineligible from consideration for government-assisted projects with the District government for a period of no more than 5 years;

(4) Has failed to use commercially reasonable best efforts to meet the subcontracting requirements established in § 2-218.46, the Department, notwithstanding the penalties in paragraph (1) of this subsection, shall assess a civil penalty equal to 10% of the dollar volume of the contract that the beneficiary or certified joint venture was required but failed to subcontract. For the purposes of this paragraph, the term "commercially reasonable best efforts" shall require that the beneficiary or certified joint venture take all actions that a similarly situated beneficiary or certified joint venture would take to accomplish the goal; provided, that the beneficiary or certified joint venture shall not be required to expend amounts that are disproportionate to the benefit being obtained; and

(5) Has committed a violation of subsection (b) of this section, the Department shall assess a civil penalty of not more than \$ 5,000.

(d) The penalties provided for in subsection (c) of this section shall be in addition to any other causes of action or remedies, legal or equitable, that may be available.

(e) (1) (A) Any person may file with the Department a complaint alleging a violation of this subchapter against an applicant for registration as a certified business enterprise or certified joint venture registered pursuant to this subchapter. The complaint shall be in writing, sworn to by the complainant, and notarized.

(B) The Department shall establish a fraud hotline for reporting violations of this section.

(2) The Department, without a hearing, may dismiss a complaint which it determines to be frivolous or otherwise without merit. If the Department dismisses a complaint, the Department shall prepare a report documenting the following:

(A) A statement detailing the complaint, including the name, address, and telephone number of the person filing the complaint;

(B) The name of the applicant for registration, the certified business enterprise, or the certified joint venture alleged to be in violation of this section;

(C) The facts and legal history considered in rendering the determination; and

(D) Any other information considered in rendering the determination.

(3) The Department shall maintain a record listing all complaints, which shall contain the following information:

(A) The name of the applicant, certified business enterprise, or certified joint venture alleged to be in violation of this subchapter;

(B) The date the complaint was made to the Department; and

(C) A description of the complaint.

(4) (A) (i) If the Department does not determine that a complaint is frivolous or without merit in accordance with paragraph (2) of this subsection, it shall hold a hearing on the complaint within 3 months of the filing of the complaint. The Department shall determine the time and place of the hearing.

(ii) The Department shall cause to be issued and served on the person, the certified business enterprise, or certified joint venture alleged to have committed the violation, hereafter called the "respondent", a written notice of the hearing together with a copy of the complaint at least 30 days before the scheduled hearing. Notice shall be served by registered or certified mail, return receipt requested, or by personal service.

(iii) At the hearing, the respondent shall have the right to appear personally or by a representative and to cross-examine witnesses and to present evidence and witnesses.

(B) If, after the conclusion of the hearing, the Department determines that the respondent has violated the provisions of this subchapter or regulations issued pursuant to this subchapter, the Department shall issue, and cause to be served on the respondent, a decision and order, accompanied by findings of fact and conclusion of law, and any penalty permitted by subsection (c) of this section.

(C) The Department may at any time reissue a certificate of registration to any business enterprise or joint venture whose certificate has been revoked. The Department may consider whether the business enterprise or joint venture should be required to submit satisfactory proof that conditions within the company that led to the violation have been corrected.

(D) The Department shall have the authority to issue subpoenas requiring the attendance of witnesses and to compel the production of records, papers, and other documents.

(f) The Department may downgrade the certification of registration of a certified business enterprise that ceases to meet the requirements of a particular category of certification; provided that this subsection shall not apply where a certified business enterprise ceases to qualify as a local business enterprise.

(g) (1) A certified business enterprise or certified joint venture may appeal to the Office of Administrative Hearings:

- (A) The denial by the Department of an application for certification;
- (B) The revocation or change to a previously issued certification; or
- (C) An enforcement action taken pursuant to this section.

(2) The Office of Administrative Hearings shall consider the appeal pursuant to Chapter 18A of this title [§ 2-1831.01 et seq.] and Chapter 18 of this title [§ 2-1801.01 et seq.], and to rules promulgated pursuant to those chapters.

(3) The Office of Administrative Hearings shall conduct such hearing based on the record developed by the Department. The decision of the Office of Administrative Hearings shall be the final administrative decision.

HISTORY: (Oct. 20, 2005, D.C. Law 16-33, § 2363, 52 DCR 7503; Mar. 2, 2007, D.C. Law 16-192, § 2132(k), 53 DCR 6899; Sept. 18, 2007, D.C. Law 17-20, § 2062(i), 54 DCR 7052; Apr. 20, 2010, D.C. Law 18-141, § 2(o), 57 DCR 1485; May 27, 2010, D.C. Law 18-159, § 2(e), 57 DCR 3006; June 10, 2014, D.C. Law 20-108, § 2(ii), 61 DCR 3892.)

NOTES: Effect of amendments. --

D.C. Law 16-192 added subsec. (e).

D.C. Law 17-20, in subsec. (c), substituted "to the Department or to the Commission" for "to the Commission"; and, in subsec. (e), deleted "by the commission" following "denied".

D.C. Law 18-141 rewrote the section.

D.C. Law 18-159, in subsec. (a-1)(1), substituted "business enterprise" for "person or business enterprise"; in subsec. (b)(1)(A), substituted "the Commission through the Department" for "the Department"; in subsec. (b)(2), substituted "Commission" for "Department" and "Commission" for "Director"; in subsec. (b)(3), substituted "Commission" for "Director"; added subsecs. (b)(4), (5), and (6); and repealed subsec. (d-1), which had read as follows: "(d-1) The Department may at any time reissue a certificate of registration to any firm or joint venture whose certificate has been revoked. The Department may consider whether the firm or joint venture should be required to submit satisfactory proof that conditions within the company that led to the violation have been corrected."

The 2014 amendment by D.C. Law 20-108 rewrote the section.

Emergency legislation. --

For temporary (90 day) addition, see § 2363 of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

D.C. Code § 2-218.63

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

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

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

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

Legislative history of Law 16-33. --

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

Legislative history of Law 16-192. --

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

Legislative history of Law 17-20. --

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

Legislative history of Law 18-141. --

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

Legislative history of Law 18-159. --

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

Legislative history of Law 20-108. --

See note to § 2-218.01.

Editor's notes.

Applicability of D.C. Law 20-108: Section 4(a) of D.C. Law 20-108 provided that applications pending as of June 10, 2014, shall not be subject to the provisions of the act.

Section 4(b) of D.C. Law 20-108 provided that, except as provided in § 2-218.46(f), contracts existing or pending as of June 10, 2014, shall not be affected by the provisions of the act.

Section 4(c) of D.C. Law 20-108 provided that the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register.

Section 4(c) of D.C. Law 20-108 was repealed by § 7005 of emergency D.C. Act 20-377, effective July 14, 2014.

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 Subpart 3 Certification.

D.C. Code § 2-218.64 (2015)

§ 2-218.64. Identification of small or certified business enterprises in bids or proposals; false statements on certification; penalties.

(a) (1) Except as otherwise provided by law, a beneficiary, certified business enterprise, certified joint venture, or an individual may not:

(A) Identify a small or certified business enterprise in a bid or proposal unless it:

(i) Has obtained authorization from the small or certified business enterprise to identify the small or certified business enterprise in its bid or proposal;

(ii) Has notified the small or certified business enterprise before execution of the contract of its inclusion in the bid or proposal; and

(iii) Uses the small or certified business enterprise in the performance of the contract; or

(B) Pay the small or certified business enterprise solely for the use of its name in the bid or proposal.

(2) A violation of any provision of this subsection is a felony and is subject to a fine not to exceed \$ 15,000, imprisonment not to exceed 5 years, or both.

(b) (1) A beneficiary, certified business enterprise, certified joint venture, or an individual shall not make false statements about whether a business is certified by the Department as a certified business enterprise or a certified joint venture.

(2) A violation of this subsection is a misdemeanor and is subject to a fine not to exceed \$ 5,000, imprisonment not to exceed one year, or both.

HISTORY: (Oct. 20, 2005, D.C. Law 16-33, § 2364, as added Apr. 20, 2010, D.C. Law 18-141, § 2(p), 57 DCR 1485; May 27, 2010, D.C. Law 18-159, § 2(f), 57 DCR 3006; June 10, 2014, D.C. Law 20-108, § 2(jj), 61 DCR 3892.)

NOTES: Effect of amendments. --

D.C. Law 18-159 rewrote subsec. (a)(1)(A)(i); and, in subsec. (a)(2), substituted "imprisonment not to exceed 5 years," for "imprisonment,". Prior to amendment, subsec. (a)(1)(A)(i) read as follows: "(i) Has requested, received, or otherwise obtained authorization from the certified business enterprise to identify the certified business enterprise in its bid or proposal;".

The 2014 amendment by D.C. Law 20-108 rewrote the section.

Legislative history of Law 18-141. --

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

Legislative history of Law 18-159. --

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

Legislative history of Law 20-108. --

See note to § 2-218.01.

Editor's notes.

Applicability of D.C. Law 20-108: Section 4(a) of D.C. Law 20-108 provided that applications pending as of June 10, 2014, shall not be subject to the provisions of the act.

Section 4(b) of D.C. Law 20-108 provided that, except as provided in § 2-218.46(f), contracts existing or pending as of June 10, 2014, shall not be affected by the provisions of the act.

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Part D. Programs for Certified Business Enterprises.
Subpart 3 Certification.

D.C. Code § 2-218.65 (2015)

§ 2-218.65. Certification audits.

The District of Columbia Auditor may conduct random audits of certification files to determine whether the Department followed the requirements set forth in § 2-218.61. The District of Columbia Auditor shall submit findings and recommendations to the Department and the Council.

HISTORY: (Oct. 20, 2005, D.C. Law 16-33, § 2365, as added Apr. 20, 2010, D.C. Law 18-141, § 2(p), 57 DCR 1485.)

NOTES: Legislative history of Law 18-141. --

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

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 Part D. Programs for Certified Business Enterprises.
 Subpart 3A Stabilization and Job Creation Strategy.

D.C. Code § 2-218.66 (2015)

§ 2-218.66. Services to certified business enterprise.

(a) The Department shall provide the following services to certified business enterprises:

- (1) Specialized programs to assist certified business enterprises in securing capital and repairing damaged credit;
- (2) Informational seminars on securing credit and loans; and
- (3) Access to non-traditional financing sources, as well as traditional lending sources.

(b) The Department shall:

- (1) Develop a catalog of on-line survival and growth tools and resources that certified business enterprises can access through the Internet or other organizations;
- (2) Enter into a memorandum of understanding with a third-party vendor to provide expert consulting and education to assist certified businesses enterprises at risk of failure, including certified business enterprises that are considering filing for bankruptcy;
- (3) Develop a formal listing of financing options for business enterprises;
- (4) Deliver services that assist workers who become unemployed due to economic fluctuations to begin new businesses; and
- (5) Enter into a memorandum of understanding with a third-party vendor to provide one-on-one counseling with potential borrowers to improve financial presentations to lenders.

HISTORY: (Oct. 20, 2005, D.C. Law 16-33, § 2366, as added May 27, 2010, D.C. Law 18-159, § 2(g), 57 DCR 3006.)

NOTES: Legislative history of Law 18-159. --

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

D.C. Code § 2-218.66

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D.C. Code § 2-218.67 (2015)

§ 2-218.67. Establishment of the Volunteer Corp of Executives and Entrepreneurs.

(a) There is established the Volunteer Corp of Executives and Entrepreneurs to provide mentoring, education, consulting, and networking services to certified business enterprises within the Department. Notwithstanding any other provision of law, the Volunteer Corp of Executives and Entrepreneurs may solicit contributions from the private sector to be used to carry out its functions under this section.

(b) (1) The Volunteer Corp of Executives and Entrepreneurs shall consist of individuals with at least 10 years of experience in the industry.

(2) Individuals serving within the Volunteer Corp of Executives and Entrepreneurs shall serve without compensation for their services.

(c) The Director shall:

(1) Ensure that the Volunteer Corp of Executives and Entrepreneurs carries out a plan to increase the proportion of persons within the certified business enterprises who are from socially and economically disadvantaged backgrounds;

(2) Ensure that the Volunteer Corp of Executives and Entrepreneurs establishes benchmarks for use in evaluating the performance of its activities and the performance of the individuals serving in the Volunteer Corp of Executives and Entrepreneurs, including the following:

(A) The demographic characteristics and the geographic characteristics of persons within the certified business enterprises assisted by the Volunteer Corp of Executives and Entrepreneurs;

(B) The hours spent mentoring by individuals within the Volunteer Corp of Executives and Entrepreneurs;
 and

(C) The performance evaluations of the persons or the certified business enterprises assisted by the Volunteer Corp of Executives and Entrepreneurs;

(3) Ensure that the Volunteer Corp of Executives and Entrepreneurs provides one-on-one advice to certified business enterprises; and

(4) Implement a networking program through the Volunteer Corp of Executives and Entrepreneurs, which provides certified business enterprises with the opportunity to make business contacts in their industry.

D.C. Code § 2-218.67

(d) The Council shall receive an annual report on the implementation of this section.

HISTORY: (Oct. 20, 2005, D.C. Law 16-33, § 2367, as added May 27, 2010, D.C. Law 18-159, § 2(g), 57 DCR 3006.)

NOTES: Legislative history of Law 18-159. --

For Law 18-159, see notes following § 2-218.66.

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D.C. Code § 2-218.68 (2015)

§ 2-218.68. Management and direction.

(a) (1) Beginning with fiscal year 2011, the Department shall develop an annual job creation plan ("Plan") for using District small business development resources as a catalyst for job creation and submit the Plan to the Council within 45 days of October 1st.

(2) The Plan shall include the Department's strategy for drawing on existing programs and other available resources. To evaluate the success of the Department's actions regarding these efforts, the Director shall identify, in consultation with the appropriate personnel from small business development programs, the performance measures and criteria, to include job creation, retention, and retraining goals.

(b) (1) The Department, pursuant to subchapter I of Chapter 5 of this title [*§ 2-501 et seq.*], shall issue rules to develop and implement a consistent data collection process to cover all small business development programs in the District.

(2) The data collection process shall include data relating to:

(A) Job creation;

(B) Performance; and

(C) Any other data determined appropriate by the Director.

(c) Beginning with fiscal year 2011, the Director, in consultation with other departments and agencies, shall submit, within 45 days of October 1, an annual report to the Council on opportunities to foster coordination, limit duplication, and improve program delivery for small business development programs.

(d) (1) The Director shall designate a staff member as a community specialist who is responsible for working with local small development service providers to increase coordination with federal resources.

(2) The Director shall develop benchmarks for measuring the performance of the community specialist under this subsection.

HISTORY: (Oct. 20, 2005, D.C. Law 16-33, § 2368, as added May 27, 2010, D.C. Law 18-159, § 2(g), 57 DCR 3006.)

NOTES: Legislative history of Law 18-159. --

For Law 18-159, see notes following § 2-218.66.

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D.C. Code § 2-218.69 (2015)

§ 2-218.69. Procurement training and assistance.

The Department shall:

- (1) Identify contracts that are suitable for certified business enterprises;
- (2) Assist certified business enterprises in identifying and preparing for business opportunities made available under the American Recovery and Reinvestment Act of 2009, approved February 17, 2009 (Pub. L. No. 111-5; *123 Stat. 115*), through informational presentations and the dissemination of information; and
- (3) Provide technical assistance regarding the District and federal procurement processes, including assisting certified business enterprises to comply with local and federal regulations and bonding requirements.

HISTORY: (Oct. 20, 2005, D.C. Law 16-33, § 2369, as added May 27, 2010, D.C. Law 18-159, § 2(g), 57 DCR 3006.)

NOTES: Legislative history of Law 18-159. --

For Law 18-159, see notes following § 2-218.66.

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D.C. Code § 2-218.71 (2015)

§ 2-218.71. Triennial review of program and subchapter.

(a) Every 3 years following October 20, 2005, the Department shall submit to the Council and the Mayor the results of an independent evaluation of the certified business enterprise programs. This evaluation shall compare the costs of contracts awarded pursuant to this subchapter to the cost of contracts awarded without use of the set-asides and bid preferences authorized by this subchapter. This evaluation shall also compare economic outcomes such as revenue, tax payments, and employment of District residents for certified business enterprises certified pursuant to part D of this subchapter to economic outcomes for similar firms that are not certified pursuant to part D of this subchapter.

(b) The Department shall review the findings in the triennial report and the goals, intents, and purposes of this subchapter. The Department shall transmit to the Council and the Mayor a report setting forth any recommended amendments to this subchapter.

HISTORY: (Oct. 20, 2005, D.C. Law 16-33, § 2371, 52 DCR 7503; Sept. 18, 2007, D.C. Law 17-20, § 2062(j), 54 DCR 7052; July 18, 2008, D.C. Law 17-207, § 2(q), 55 DCR 6107; June 10, 2014, D.C. Law 20-108, § 2(kk), 61 DCR 3892.)

NOTES: Effect of amendments. --

D.C. Law 17-20, in subsec. (a), substituted "pursuant to part D of this subchapter" for "by the Commission".

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

The 2014 amendment by D.C. Law 20-108 substituted "the Council and the Mayor" for "the Council, the Mayor, and the Commission" in (a); substituted "Department" for "Department and the Commission" in the first sentence of (b); and substituted "shall transmit" for "shall, and the Commission may, transmit" in the second sentence of (b).

Temporary legislation. --

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

Emergency legislation. --

For temporary (90 day) addition, see § 2371 of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

D.C. Code § 2-218.71

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

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

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

Legislative history of Law 16-33. --

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

Legislative history of Law 17-20. --

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

Legislative history of Law 17-207. --

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

Legislative History of Law 20-108. --

See note to § 2-218.01.

Editor's notes.

Applicability of D.C. Law 20-108: Section 4(a) of D.C. Law 20-108 provided that applications pending as of June 10, 2014, shall not be subject to the provisions of the act.

Section 4(b) of D.C. Law 20-108 provided that, except as provided in § 2-218.46(f), contracts existing or pending as of June 10, 2014, shall not be affected by the provisions of the act.

Section 4(c) of D.C. Law 20-108 provided that the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register.

Section 4(c) of D.C. Law 20-108 was repealed by § 7005 of emergency D.C. Act 20-377, effective July 14, 2014.

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D.C. Code § 2-218.72 (2015)

§ 2-218.72. Rulemaking authority.

(a) The Mayor shall, pursuant to subchapter I of Chapter 5 of Title 2, issue proposed rules to implement this subchapter. The proposed rules shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within this 45-day review period, the proposed rules shall be deemed approved.

(b) Within 120 days after June 10, 2014, the Mayor shall issue rules to implement the amended provisions of this subchapter.

HISTORY: (Oct. 20, 2005, D.C. Law 16-33, § 2372, 52 DCR 7503; June 10, 2014, D.C. Law 20-108, § 2(II), 61 DCR 3892.)

NOTES: Effect of amendments. --

The 2014 amendment by D.C. Law 20-108 added (b).

Emergency legislation. --

For temporary (90 day) addition, see § 2372 of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

Legislative history of Law 16-33. --

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

Legislative History of Law 20-108. --

See note to § 2-218.01.

Resolutions. --

Resolution 18-267, the "Local, Small, and Disadvantaged Business Enterprise Contracting Regulations Approval Resolution of 2009", was approved effective October 6, 2009.

Editor's notes.

Applicability of D.C. Law 20-108: Section 4(a) of D.C. Law 20-108 provided that applications pending as of June 10, 2014, shall not be subject to the provisions of the act.

D.C. Code § 2-218.72

Section 4(b) of D.C. Law 20-108 provided that, except as provided in § 2-218.46(f), contracts existing or pending as of June 10, 2014, shall not be affected by the provisions of the act.

Section 4(c) of D.C. Law 20-108 provided that the act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register.

Section 4(c) of D.C. Law 20-108 was repealed by § 7005 of emergency D.C. Act 20-377, effective July 14, 2014.

Delegation of Authority. --

Delegation of Authority--2014; Department of Small and Local Business Development, see Mayor's Order 2005-136, September 27, 2005 (53 DCR 154).

Delegation of Authority pursuant to section 2372 of the Small, Local, and Disadvantaged Business Enterprise Development and Assistance Act of 2005, see Mayor's Order 2009-58, April 15, 2009 (56 DCR 6797).

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D.C. Code § 2-218.75 (2015)

§ 2-218.75. Small Business Micro Loan Fund.

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

(1) "Eligible recipient" means businesses certified as small business enterprises pursuant to § 2-218.22 or disadvantaged business enterprises pursuant to § 2-218.23.

(2) "Fund" means the Small Business Micro Loan Fund.

(b) There is established as a nonlapsing fund the Small Business Micro Loan Fund, which shall be used for the following purposes:

(1) To grant the local funds necessary to obtain federal matching funds to establish a procurement technical assistance program in the Department;

(2) To make a one-time grant in an amount of \$ 50,000 to provide operating support to a newly formed business association in Ward 3; and

(3) To provide financial assistance, including grants, loans, and loan guarantees, to eligible recipients.

(c) (1) All funds deposited into the Fund shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time, but shall be continually available for the uses and purposes set forth in subsection (b) of this section without regard to fiscal year limitation, subject to authorization by Congress.

(2) Any penalties assessed by the Department pursuant to § 2-218.48 and any civil penalties imposed pursuant to § 2-218.63(c) and any fees collected pursuant to § 2-218.49a(a-1) shall be collected by the Department and deposited into the Fund.

(d) Preference for financial assistance shall be given to:

(1) Eligible recipients that are also certified as resident-owned businesses pursuant to § 2-218.35; or

(2) Eligible recipients that serve, or whose principal office is located in:

(A) A DC Main Street corridor;

(B) A Neighborhood Investment Program Target Area; or

(C) Another area identified by the Mayor for economic development or commercial revitalization.

(e) Within 90 days of September 18, 2007, the Mayor shall issue rules to implement the provisions of this section. The Mayor shall submit the proposed rules to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution, within the 45-day review period, the proposed rules shall be deemed approved.

HISTORY: (Oct. 20, 2005, D.C. Law 16-33, § 2375, as added Sept. 18, 2007, D.C. Law 17-20, § 2062(e), 54 DCR 7052; July 18, 2008, D.C. Law 17-207, § 3, 55 DCR 6107; Aug. 16, 2008, D.C. Law 17-219, § 2022, 55 DCR 7598; Mar. 25, 2009, D.C. Law 17-353, § 216, 56 DCR 1117; Mar. 3, 2010, D.C. Law 18-111, § 2231, 57 DCR 181; Apr. 8, 2011, D.C. Law 18-357, § 2(b), 58 DCR 763.)

NOTES: Effect of amendments. --

D.C. Law 17-207, in subsec. (c)(2), made an amendment that resulted in no change in text; redesignated the former second subsection designated as (c) as subsec. (d); and redesignated former subsec. (d) as subsec. (e).

D.C. Law 17-219 rewrote subsec. (b), which had read as follows: "(b) There is established as a nonlapsing fund the Small Business Micro Loan Fund, which shall be used solely to provide financial assistance, including loans and loan guarantees, to eligible recipients."

D.C. Law 17-353 validated previously made technical corrections in subsecs. (c)(2), (d), and (e).

D.C. Law 18-111, in subsec. (a)(1), substituted "or disadvantaged" for "and disadvantaged"; and rewrote subsec. (b)(2), which had read as follows: "(2) To make a one-time grant in an amount of \$ 120,000 to be divided equally among the D.C. Main Streets Programs that are in good standing and have letters of agreement with the Department of Small and Local Business Development that expire by September 30, 2008 for expenditures related to personnel, accounting, and auditor services; and to make a one-time grant in an amount of \$ 10,000 to the Latino Economic Development Corporation for the printing of the Think Local First print directory that supports local businesses in the District; and".

D.C. Law 18-357, in subsec. (b), substituted "used" for "used solely"; and, in subsec. (c)(2), substituted "and any fees collected pursuant to § 2-218.49a(a-1) shall be collected by the Department and deposited into the Fund" for "shall be collected by the Department and deposited into the Fund".

Temporary Amendment of Section. --

For temporary (225 day) amendment of section, see § 3 of the Department of Small and Local Business Development Subcontracting Clarification, Benefit Expansion, and Grant-making Authority Temporary Amendment Act of 2007 (D.C. Law 17-96, January 29, 2008, law notification 55 DCR 3403).

Emergency legislation. --

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

For temporary (90 day) amendment of section, see § 3 of Department of Small and Local Business Development Subcontracting Clarification, Benefit Expansion, and Grant-making Authority Emergency Amendment Act of 2007 (D.C. Act 17-156, October 18, 2007, 54 DCR 10919).

For temporary (90 day) amendment of section, see § 3 of Department of Small and Local Business Development Subcontracting Clarification, Benefit Expansion, and Grant-making Authority Congressional Review Emergency Amendment Act of 2008 (D.C. Act 17-251, January 23, 2008, 55 DCR 1259).

For temporary (90 day) amendment of section, see § 2 of Small Business Micro Loan Fund Emergency Amendment Act of 2009 (D.C. Act 18-106, June 18, 2009, 56 DCR 4927).

For temporary (90 day) amendment of section, see § 2231 of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) amendment of section, see § 2231 of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

For temporary (90 day) addition of section, see § 2242 of Fiscal Year 2011 Budget Support Emergency Act of 2010 (D.C. Act 18-463, July 2, 2010, 57 DCR 6542).

D.C. Code § 2-218.75

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

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

Legislative history of Law 17-20. --

Law 17-20, the "Fiscal Year 2008 Budget Support Act of 2007", was introduced in Council and assigned Bill No. 17-148 which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 15, 2007, and June 5, 2007, respectively. Signed by the Mayor on June 28, 2007, it was assigned Act No. 17-63 and transmitted to both Houses of Congress for its review. D.C. Law 17-20 became effective on September 18, 2007.

Legislative history of Law 17-207. --

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

Legislative history of Law 17-219. --

Law 17-219, the "Fiscal Year 2009 Budget Support Act of 2008", was introduced in Council and assigned Bill No. 17-678, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 13, 2008, and June 3, 2008, respectively. Signed by the Mayor on June 26, 2008, it was assigned Act No. 17-419 and transmitted to both Houses of Congress for its review. D.C. Law 17-219 became effective on August 16, 2008.

Legislative history of Law 17-353. --

For Law 17-353, see notes following § 2-218.42.

Legislative history of Law 18-111. --

For Law 18-111, see notes following § 2-218.50.

Legislative history of Law 18-357. --

For history of Law 18-357 see notes under § 2-218.49a.

Short title. --

Short title: Section 2021 of D.C. Law 17-219 provided that subtitle I of title II of the act may be cited as the "Small Business Micro Loan Fund Amendment Act of 2008".

Short title: Section 2230 of D.C. Law 18-111 provided that subtitle X of title II of the act may be cited as the "Small Business Micro Fund Amendment Act of 2009".

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D.C. Code § 2-218.76 (2015)

§ 2-218.76. Commercial Revitalization Assistance Fund.

(a) (1) There is established as a nonlapsing fund the Commercial Revitalization Assistance Fund ("Fund"). All funds deposited into the Fund and any interest earned on those funds, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or any other time, but shall be continually available for the uses and purposes set forth in subsection (b) of this section without regard to fiscal year limitation, subject to authorization by Congress.

(2) The Fund shall be administered by the Department of Small and Local Business Development and shall be separate and independent from any other commercial revitalization programs provided by the District.

(b) The Fund shall be used solely to provide commercial revitalization funding to Main Streets programs and other commercial revitalization services; provided, that the Fund shall not be used to provide commercial Clean Team services within a geographic area that is subject to a Business Improvement District, as defined in § 2-1215.02(7); except, that beginning in fiscal year 2013, the commercial Clean Team services shall include service in the vicinity of the intersection of Minnesota Avenue, S.E., and Pennsylvania Avenue, S.E.

HISTORY: (Oct. 20, 2005, D.C. Law 16-33, § 2376, as added Sept. 24, 2010, D.C. Law 18-223, § 2242, 57 DCR 6242; Sept. 20, 2012, D.C. Law 19-168, § 2143, 59 DCR 8025.)

NOTES: Effect of amendments. --

The 2012 amendment by D.C. Law 19-168 added "provided, that the Fund shall not be used to provide commercial Clean Team services within a geographic area that is subject to a Business Improvement District, as defined in § 2-1215.02(7); except, that beginning in fiscal year 2013, the commercial Clean Team services shall include service in the vicinity of the intersection of Minnesota Avenue, S.E., and Pennsylvania Avenue, S.E." in (b).

Legislative history of Law 18-223. --

Law 18-223, the "Fiscal Year 2011 Budget Support Act of 2010", was introduced in Council and assigned Bill No. 18-731, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 26, 2010, and June 15, 2010, respectively. Signed by the Mayor on July 2, 2010, it was assigned Act No. 18-462 and transmitted to both Houses of Congress for its review. D.C. Law 18-223 became effective on September 24, 2010.

Legislative history of Law 19-168. --

D.C. Code § 2-218.76

Law 19-168, the "Fiscal Year 2013 Budget Support Act of 2012," was introduced in Council and assigned Bill No. 19-743. The Bill was adopted on first and second readings on May 15, 2012, and June 5, 2012, respectively. Signed by the Mayor on June 22, 2012, it was assigned Act No. 19-385 and transmitted to Congress for its review. D.C. Law 19-168 became effective on September 20, 2012.

Short title. --

Short title: Section 2241 of D.C. Law 18-223 provided that subtitle U of title II of the act may be cited as the "Commercial Revitalization Segregated Fund Amendment Act of 2010".



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D.C. Code § 2-218.81 (2015)

§ 2-218.81. [Reserved].



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D.C. Code § 2-218.82 (2015)

§ 2-218.82. Repealers.

(a) *Sections 2-215.03, 2-215.04, and 2-215.11* are repealed.

(b) Subchapter IX of Chapter 2 of Title 2 [*§ 2-217.01 et seq.*] is repealed.

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

HISTORY: (Oct. 20, 2005, D.C. Law 16-33, § 2382, 52 DCR 7503.)

NOTES: