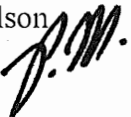


COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE OF THE WHOLE
1350 Pennsylvania Avenue, NW
Washington, DC 20004

MEMORANDUM

TO: Nyasha Smith, Secretary to the Council
FROM: Chairman Phil Mendelson 
DATE: May 15, 2023
RE: **Notice of intent to move an amendment in the nature of a substitute at the May 16, 2023 Legislative Meeting**

This memorandum serves as notice that I intend to move an amendment in the nature of a substitute (ANS) for the “Milestone Therapeutic Services, Inc. Purchase Order Payment Emergency Act of 2023”¹ at the Legislative Meeting scheduled for May 16, 2023.

The emergency act as introduced by the Mayor purported to approve a number of purchase orders in a bundle under the auspices of Section 451 of the Home Rule Act which deals with Council approval of contracts over \$1 million. The executive executed a contract in November 2019 for physical and occupational therapy services for DCPS students. However, according to the documents transmitted as part of the “contract” package, the underlying contract documents could not be produced in conjunction with approving the contract under this emergency action. According to the Attorney General’s legal sufficiency memo accompanying the package, “OAG is not able to provide legal sufficiency for Contract Number GAGA-2020-C-0016’s (Contract) base period and option years as the Contract and some modifications cannot be located by DCPS or Milestone Therapeutic Services.”

When the issue of unapproved contracts was first discovered earlier this year, the Chief Financial Officer stopped paying against purchase orders on unapproved contracts, including this contract. To date, Milestone has been paid under all but one purchase order since 2019. The remaining purchase order has not been paid on since the CFO stopped payment. This ANS would amend the emergency act to permit the CFO to make a payment on the outstanding purchase order, PO687321, for services rendered and to be rendered in the amount of \$1.354 million, without violating the District Anti-Deficiency Act of 2002 (“local ADA”). The ANS is clear that this narrow exemption from the local ADA for the CFO to pay on the purchase order for a contract the Council has not approved does not abrogate any other malfeasance on the part of DCPS as part of this procurement.

A copy of the proposed ANS is attached. Please call me or Evan Cash if you have any questions at (202) 724-7002.

¹ Formerly known as the “Milestone Therapeutic Services, Inc. Purchase Orders Approval and Payment Authorization Emergency Act of 2023”