

# M/WBE Noncompetitive Small Purchase Method: Procedural Compliance Review



Report originally published on **August 30, 2020** and revised on **January 8, 2021**

## 1. Overview

In November 2019, the City's Procurement Policy Board (PPB) unanimously voted to amend PPB Rule 3-08 to allow for direct purchases of goods, services and construction from City-certified Minority and Women-Owned Business Enterprises (M/WBEs) up to \$500,000, consistent with newly enacted state legislation. This rule change took effect on January 1, 2020. As a result of this update, the City of New York launched the updated M/WBE Noncompetitive Small Purchase Method in January 2020.

With this launch, the Mayor's Office of Contract Services (MOCS) has continued to monitor compliance of purchases made utilizing this award method. As part of this compliance monitoring, MOCS was responsible for conducting a procedural compliance review of 10% of purchases made in FY20 Q4, the second quarter in which agencies were authorized to make purchases pursuant to the requirements of the M/WBE Noncompetitive Small Purchase Method as defined by the PPB Rule § 3-08 and the updated guidance provided by the MOCS in January 2020. A description of this procedural review and the resulting findings are outlined below in the report.

## 2. Scope of Compliance Review for FY20 Q4

In May 2020, the Mayor's Office of Contract Services and the Office of the Comptroller agreed to revise the compliance review requirements in light of the current public health emergency due to COVID-19. Based on 286 total M/WBE Noncompetitive Small Purchase contracts awarded between April 1, 2020 to June 30, 2020, MOCS initially identified a randomized sample of 29 total M/WBE Noncompetitive Small Purchase contracts.

## 3. Approach and Methodology

Based on the pool of contract awards selected for this compliance review, each contracting agency was contacted and asked to respond to a series of questions covering the various procedural requirements for making an M/WBE Noncompetitive Small Purchase. Additionally, the contracting agencies were asked to provide related documentation for the identified contracts.

Compliance Reviewers assessed the following 22 attributes associated with contracts awarded using the M/WBE Noncompetitive Small Purchase method and indicated whether each contract met the outlined requirements. The attributes reflect end-to-end procurement activities for this method and are listed below by phase.

### Requisition Phase

1. Purchase was for Construction, Standard Services, Professional Services or Goods
2. Purchase was between \$25K (\$35K for construction) and \$500K
3. Purchase was not federally funded
4. Agency solicited at least 3 quotes/responses from City-certified M/WBEs
5. Agency received at least 3 quotes/responses from City-certified M/WBEs
6. Where applicable, Agency documented the justification for an inability to obtain at least 3 quotes in the Determination of Award

### Required Approvals

7. If purchase was for fuel, fleet or furniture, DCAS approval was received
8. Law Department approval received for contracts over \$100K
9. OMB approval received for purchases over \$100K with capital funding

### Contract Award Phase

10. Contract awarded to a City-certified M/WBE
11. Public hearing was held for contracts over \$100K
12. Agency provided justification why noncompetitive price was determined to be fair and reasonable
13. LL63 posting requirement met (where applicable)
14. Use of Standard Professional Services Contract template and language for contracts over \$100K
15. Use of Standard Construction Contract and M/WBE Small Purchase Rider for construction contracts over \$100K
16. Use of appropriate prevailing wage (PW) schedule (where applicable)
17. Agency completed a Responsibility Determination
18. Agency completed a Vendor Name Check (VNC) (where applicable)
19. Awarded vendor is compliant with LL34/Doing Business Accountability requirements

### Contract Registration Phase

20. Contract registered as a general contract (CT1)
21. Agency fully completed the Determination of Award
22. Agency maintained a complete procurement file
23. Courtesy copy of procurement file sent to Comptroller's Office within 30 days of registration (*NOTE: This requirement is temporarily waived during City's teleworking period. This attribute is excluded from the scope of this report.*)

Each of the 29 contracts included within the scope of this compliance review were assessed for the 22 attributes listed above, which yielded 638 total attributes covered in the current report.

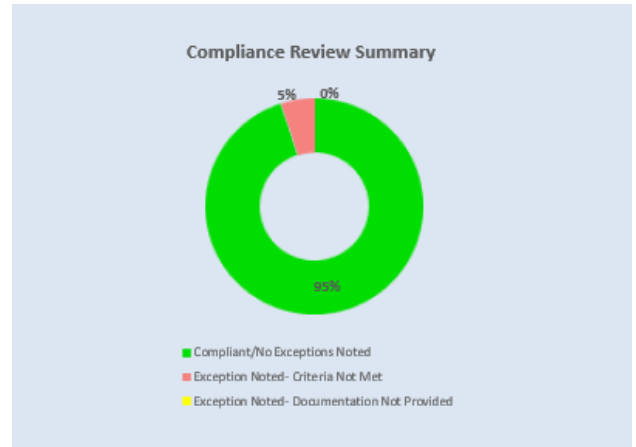
Based on the agencies' responses to the series of questions and a review of the supporting documentation provided, the Compliance Reviewer assigned each attribute to one of three categories:

- Compliant/No exceptions noted
- Exceptions noted – Criteria not met
- Exceptions noted – Documentation not provided

## 4. Findings

The overall findings for the 638 total attributes that comprise the scope of this compliance review were as follows:

- **Compliant/No Exceptions Noted:** 606 attributes, or 95% of all attribute activities were found to be in full compliance
- **Exceptions noted – Criteria not met:** 29 attributes, or 5% of all attribute activities were not in full compliance
- **Exception noted – Documentation not provided:** 3 attributes, or 0% (rounded) of all attribute activities were missing required documentation



### Additional Compliance Review Results

Refer to Tables 1 and 2 below for additional compliance review results. Table 1 provides the compliance review results by procurement phase and Table 2 by agency and contract ID.

Table 1. Compliance Review Results by Procurement Phase<sup>1</sup>

Procurement Phase	Total # of Attributes (All 29 Contracts)	Compliant/No Exceptions Noted		Exception Noted- Criteria Not Met		Exception Noted- Documentation Not Provided	
		# Attributes	%	# Attributes	%	# Attributes	%
Requisition	174	159	91%	15	9%	0	0%
Required Approvals	87	87	100%	0	0%	0	0%
Contract Award	290	284	98%	4	1%	2	1%
Contract Registration	87	76	87%	10	12%	1	1%
<b>Overall</b>	<b>638</b>	<b>606</b>	<b>95%</b>	<b>29</b>	<b>5%</b>	<b>3</b>	<b>0%</b>

Table 2. Compliance Review Results by Contract

#	Agency	Contract ID	Description	Registration Date	Award Amount	Compliant/No Exceptions Noted		Exception Noted- Criteria Not Met		Exception Noted- Documentation Not Provided	
						# of Attributes	%	# of Attributes	%	# of Attributes	%
1	ACS	20201428991	MODEL- Precision SI# BPSX05-Precision 5820 Tower & Monitor	6/19/20	\$79,040	20	91%	2	9%	0	0%
2	ACS	20201421275	LEXMARK SCANNER MX7222ADHE & 4YRS OF SUPPORT SERVICE	6/1/20	\$27,479	20	91%	2	9%	0	0%
3	ACS	20201424842	Genetec Video Surveillance	4/29/20	\$49,576	18	82%	4	18%	0	0%
4	ACS	20201424378	IT VOIP Project Manager	4/23/20	\$99,876	19	86%	3	14%	0	0%
5	BIC	20201422627	Lenovo ThinkPad 20QESBY800	4/6/20	\$31,181	19	86%	3	14%	0	0%
6	DCAS	20205403226	CRM IT PLATFORM UPGRADE FOR NET APPLICATIONS	4/24/20	\$93,250	21	95%	1	5%	0	0%
7	DCAS	20205402791	Web Central Software Premium Annual Support	4/14/20	\$94,354	21	95%	1	5%	0	0%
8	DDC	20201426525	Purchase of Headsets	5/21/20	\$26,304	19	86%	1	5%	2	9%
9	DEP	20201426348	AUTOBLOCK DIGESTION EQUIPMENT & INSTALLATION	6/5/20	\$70,000	22	100%	0	0%	0	0%
10	DEP	20201427722	DocuSign Software	6/4/20	\$60,801	21	95%	1	5%	0	0%
11	DEP	20201421695	Watson Marlow Peristaltic Tubing Pump	4/15/20	\$83,548	22	100%	0	0%	0	0%
12	DOC	20201420596	RAPID ROSTER/IT DIVISION	4/7/20	\$35,436	21	95%	1	5%	0	0%
13	DOHMH	20201429148	Surface Pro7 Tablets for the MHY Administration.	6/24/20	\$41,105	22	100%	0	0%	0	0%
14	DOHMH	20201427616	"Please Expedite" Consultant - Technical Assistance for Conn	6/4/20	\$79,950	20	91%	1	5%	1	5%
15	DOHMH	20201426417	360 Performance coaching	5/18/20	\$49,800	21	95%	1	5%	0	0%

Table 2. Compliance Review Results by Contract (cont.)

#	Agency	Contract ID	Description	Registration Date	Award Amount	Compliant/No Exceptions Noted		Exception Noted- Criteria Not Met		Exception Noted- Documentation Not Provided	
						# of Attributes	%	# of Attributes	%	# of Attributes	%
16	DOHMH	20201424258	MWBE Purchase - Maintenance for Lenovo Servers for informati	4/22/20	\$27,921	22	100%	0	0%	0	0%
17	DOITT	20201426453	GOOGLE ENTERPRISE LICENSE RENEWAL	5/21/20	\$99,996	21	95%	1	5%	0	0%
18	DOITT	20201424933	SUSE RENEWAL	4/30/20	\$95,654	22	100%	0	0%	0	0%
19	DOT	20201425713	Consultant Services - Enhancement of the Sidewalk Managemen	5/21/20	\$99,000	22	100%	0	0%	0	0%
20	DOT	20201423283	Google Maps API for Business / Consumer APIs for DOT/IT	4/10/20	\$50,890	21	95%	1	5%	0	0%
21	DSS-HRA	20201429792	EXECUTIVE ORDER 45 TRAINING AND TECHNICAL ASSISTANCE	6/30/20	\$149,300	21	95%	1	5%	0	0%
22	DSS-HRA	20201429132	305 LENOVO LAPTOPS AND MICROSOFT OFFICE 2019 FOR FIA	6/22/20	\$99,735	21	95%	1	5%	0	0%
23	DYCD	20201427124	FOR CENSUS - PREDICATIVE DIALER SOLUTION.	5/27/20	\$99,500	21	95%	1	5%	0	0%
24	DYCD	20210003212	400 RESCO LICENSES FOR DYCD.	6/22/20	\$34,560	20	91%	2	9%	0	0%
25	MAYORALTY	20201425697	Consulting Services-PASSport performance and project mgmt	5/11/20	\$99,389	22	100%	0	0%	0	0%
26	NYPD	20201426944	APC SMART UPS, QMS 3343	5/26/20	\$49,998	22	100%	0	0%	0	0%
27	NYPD	20201424541	SAMSUNG 43" CLASS HDR TV, QMS 3061	4/27/20	\$25,674	22	100%	0	0%	0	0%
28	NYPD	20201423492	DELL LATITUDE 7400 LAPTOP, QMS 3013	4/14/20	\$77,078	21	95%	1	5%	0	0%
29	OEM	20201425865	R4336 - ESS Batteries for Rotation 2020	5/12/20	\$35,450	22	100%	0	0%	0	0%
<b>Total</b>						<b>606</b>	<b>95%</b>	<b>29</b>	<b>5%</b>	<b>3</b>	<b>0%</b>

There were seven agencies that awarded 10 contracts using the M/WBE Noncompetitive Small Purchase method where no exceptions were noted. There was 100% compliance with relevant procedural requirements assessed for these ten contracts.

There were 12 agencies that awarded 19 contracts that had at least one attribute marked as “Exception noted – Criteria not met”. Of these 19 contracts, two contracts were also noted to be missing some required documentation. Where possible, agencies will rectify the procedural item that was missed or provide the documentation that was missing or incomplete.

Based on the compliance review of the 29 contracts within the scope of this report, MOCS found that agencies were fully compliant with 95% of all procedural requirements. In the areas where exceptions were noted, MOCS will provide the targeted training and support needed for agencies to fully comply with the procedural requirements of the M/WBE Noncompetitive Small Purchase procurement method. MOCS will continue to enhance our guidance materials and emphasize the relevant topics in our ongoing training sessions with all agencies. In addition, starting in FY21, Agencies were directed to initiate all M/WBE Noncompetitive Small Purchases in PASSPort, which will give MOCS and oversight partners increased visibility into agencies’ compliance with procedural requirements of the procurement method prior to contract award and registration.