

EXECUTIVE SUMMARY AND OVERVIEW

An efficient, fair and transparent procurement system is vital to the government of the City of New York. Procurement affects the City's delivery of essential services, our efforts to encourage economic growth, and our development of infrastructure. We buy supplies that range from the paper and computers used in agency offices, to the gardening equipment to maintain the parks, to the salt for snow removal. We purchase services as varied as foster care for children, janitorial services for public facilities, and architects to design new buildings. We hire construction contractors to rehabilitate roadways and bridges, build new facilities to protect the City's drinking water, and improve playgrounds throughout the City.

The Mayor's Office of Contract Services (MOCS) is the City's compliance and oversight agency for procurement. The City's procurement system spans an enormous range of subject areas, but three overarching goals guide our efforts:

- First, we aim to achieve the best *value* for the taxpayers' dollar: high quality goods and services, with timely delivery, at fair and reasonable prices.
- Second, and of equal importance, we seek *responsible* business partners, i.e., vendors whose records of integrity, financial capacity and successful performance justify the use of tax dollars.
- Third, so that we can continue to obtain best value from responsible partners, we must ensure that our contracting process delivers *fair treatment* to all vendors.

To help achieve these goals, and in keeping with the hallmark of the administration of Mayor Michael R. Bloomberg, MOCS works to make the City's contracting process accountable and transparent, for vendors and the public. To that end, in this report, we tell the story of the City's procurements during Fiscal 2009,¹ through the presentation of detailed data – including comparative year-to-year summaries – as well as illustrative examples. The report is organized into four chapters, as outlined below.

I. Agency Procurements: Taking Inventory

In Fiscal 2009, New York City procured more than \$13.4 billion worth of supplies, services, and construction, through more than 54,400 transactions. With the economic downturn, and resulting budget downsizing, the purchasing volume for Fiscal 2009 declined by more than 25% relative to Fiscal 2008, although some portion of that reflects the cyclical nature of multi-year procurements. New York City is one of the largest contracting jurisdictions in the nation. Highlights from the City's Fiscal 2009 procurement inventory include:

¹ Fiscal 2009 runs from July 1, 2008 through June 30, 2009. Except where specifically noted, this report presents information on procurements by only the Mayoral operating agencies that are governed by Chapter 13 of the New York City Charter and the rules and regulations of the Procurement Policy Board (PPB). Agencies covered by this report are listed in Appendix A, and legislative and regulatory changes that occurred during Fiscal 2009 are described in Appendix B.

- Major infrastructure investments by the Department of Environmental Protection (DEP) and the Department of Sanitation (DSNY) top the list of largest contracts. Ten City agencies account for 82% of the purchasing dollars, and the largest 25 contracts of the year, for 41% of the total dollars.
- Federal stimulus-funded contracting kicked off, with three agencies awarding \$40 million worth of such contracts. Most stimulus-funded work will be awarded during Fiscal 2010 and 2011.
- The City's Economic Development Corporation (EDC), awarded \$488 million in contracts, up 12% from last year, with 83% of that supporting construction and development projects.
- Over half of City purchasing resulted from competitive procurements, while 5% used selection methods controlled by governmental agencies, 17% relied upon methods with limited competition and 26% reflected continuations of contracts from prior years. Because Fiscal 2009 reflected a higher proportion of contracts for human services, the percentage of continuations was also higher.
- The size of City contracts was comparable to prior years. About 79% of all purchasing dollars flowed in contracts that exceeded \$3 million, with 3% in contracts of \$100,000 or less.
- Small purchases (\$100,000 or less), totaled more than \$120 million, with the Police Department (NYPD), Department of Health and Mental Hygiene (DOHMH) and DEP leading in this category.
- Micropurchases (\$5,000 or less) accounted for \$54 million, with DEP and the Department of Housing Preservation and Development (HPD) leading City agencies in such awards. In the micropurchase category, some 11% of City spending was accomplished through the use of innovative "procurement card" technology.
- Using more than 1,100 multi-agency and single agency requirement contracts, offered mainly under the auspices of the City's chief goods-purchasing agency, the Department of Citywide Administrative Services (DCAS), agencies placed over \$800 million worth of orders for supplies and services. At the top of the list for total dollars were requirement contracts for trucks and other vehicles and for fuel, while the most frequently-used requirement contract was for office supplies.
- The City awarded 210 new concessions and collected over \$45 million in revenue from 600 operating concessions. Restaurants and golf courses led in total dollars and the Department of Parks and Recreation (DPR) was the leading revenue raiser. The City



collected \$180 million from 81 franchises, with the Department of Information Technology and Telecommunications (DOITT) and the Department of Transportation (DOT) as the top revenue raisers, for cable television and street furniture franchises. Sidewalk cafés and similar permits from DOT and the Department of Consumer Affairs (DCA) raised \$7 million.

II. Vendor Responsibility: Choosing Responsible Business Partners

For every one of the more than 54,400 procurement actions included in this report, the awarding agency must first determine that the prospective vendor is “responsible.” A responsible vendor must have the capability to fully perform the contract requirements and the business integrity to justify the award of public tax dollars or, in the case of franchises or concessions, the use of public property. In this chapter, we describe how the City works to ensure vendor responsibility and business integrity, including our vendor evaluation system, efforts to enforce workers’ rights, targeted initiatives to protect and support responsible nonprofit service providers, and reforms aimed at guarding against undue influence in the procurement process. Examples of these efforts include:

- MOCS rolled out a new database for the City’s Vendor Exchange Information (VENDEX) system, which processed nearly 30,000 vendor filings during Fiscal 2009. Over 1,800 agency staff members received training on the new system.
- Under the oversight of the Department of Investigation (DOI), City agencies imposed detailed business integrity monitoring agreements on ten vendors with current City contracts. Agencies issued 20 non-responsibility determinations on vendors, primarily on business integrity grounds.
- Agencies evaluated the performance of over 92% of their contracts, rating 96% of their vendors as satisfactory (“fair”) or better.
- The City awarded over 1,200 contracts, worth \$3.1 billion, subject to New York State’s prevailing wage laws and 176 contracts, worth \$134 million, subject to the City’s Living Wage Law. EDC also awarded 25 contracts, worth \$370 million, subject to prevailing wage requirements. During the fiscal year, MOCS conducted 67 detailed reviews of proposed contracts for which prevailing wage compliance questions were raised, ultimately approving 58 awards, and disallowing the rest.
- In Fiscal 2009, the City partnered with almost 1,500 nonprofit human services providers holding contracts worth \$10.8 billion cumulatively (including multi-year awards). Total City support for the nonprofit sector exceeded \$5.3 billion
- Through its Capacity Building and Oversight (CBO) unit, MOCS conducts detailed reviews of the internal controls and governance systems of the nearly 700 human services providers with contracts exceeding one million dollars annually – collectively, about 98% of the human services portfolio. In Fiscal 2009, 75 such reviews were

commenced, and comprehensive compliance training was provided to 380 nonprofit leaders and agency staff.

- Elected official discretionary awards, i.e., “line items,” accounted for less than 2% of the City’s purchasing dollars. In Fiscal 2009, MOCS strengthened protections against potential abuses, by requiring agencies to conduct more detailed compliance reviews prior to processing these awards. At the request of the City Council, MOCS joined with the Department of Youth and Community Development (DYCD) to administer a prequalification process aimed at ensuring that those nonprofits receiving larger discretionary awards are fully qualified to provide services to their communities. MOCS researched and cleared over 1,300 prequalification applications.
- Through the unique Doing Business Database created to enforce the City’s “Pay-to-Play” statute, Local Law 34 of 2007 (LL 34), MOCS made available to the public data from City agencies, city-affiliated public authorities and similar entities, concerning the businesses and nonprofits that were awarded (or sought) procurement contracts, franchises and concessions, grants, economic development agreements, pension investment contracts, debt contracts, real property transactions and land use actions, as well as the key individuals responsible for such matters at each entity, and their lobbyists. The goal of LL 34 is to limit the actual or perceived influence on those award processes by those responsible for municipal campaign contributions.
- MOCS processed over 18,500 filings for the Doing Business Database, more than doubling last year’s volume. As of the end of Fiscal 2009, the Database included over 7,700 entities and nearly 23,000 individuals.

III. Contract Process: Promoting Competition and Efficiency

In this chapter, we describe how vendors learn of business opportunities. We also look at the level of competition for City purchases, as well as the efficiency with which the City processes procurements. While some indicators of competition and efficiency remain strong, others warrant additional efforts to improve:

- Over 56,700 vendors are enrolled on the City’s bidders’ lists, up 7% from last year. The top lines of business include professional services, maintenance and other standardized services, and construction goods and services.
- Competitiveness contracts increased, with 80% of contracts showing high levels of competition (three or more competitors), up from 64% last year. Construction climbed from last year’s low of 27% to 61% highly competitive in Fiscal 2009. Competitiveness dropped somewhat in human services and professional services. Competition for small purchases remained strong, with nearly 90% reflecting ten or more competitors.
- The processing cycle for competitive bids – the time between public advertisement and contract registration – increased 7%, to 136 days. Particularly for construction agencies, some bids raised unusually complicated issues of vendor integrity and labor law

compliance, as well as budgetary challenges, but MOCS has identified shorter bid cycle time as a goal for Fiscal 2010.

- Processing timeliness for human services program continuations also remains a cause for concern. Nonprofits must have their new contracts in place before the start of each new service year, so that their City payments can flow uninterrupted. For the six major human services agencies, overall rates of lateness ranged from 10% at the Department for the Aging (DFTA) to 89% at the Administration for Children’s Services (ACS), with a citywide average of 64%.
- Most agencies reduced the length of the “retroactive” or late period for human services contracts, with five of the six major agencies posting rates between zero and 12% for contracts that were more than 30 days late. Only ACS posted a higher rate (76%), averaging 41 days late.
- Toward the end of Fiscal 2009, as part of the Mayor’s Nonprofit Assistance Initiative, MOCS and City human services agencies stepped up efforts to curb and address late contracting. The City increased the size of its cash flow loan program – administered by the Fund for the City of New York – by 150%, to \$20 million. As the economic downturn presented increased challenges for nonprofit vendors, the number of loans rose by 5% and their total value increased 47% to \$21.3 million, with average funds in circulation up by 39%, to \$3.5 million.
- Efficiency in the construction and design change order process is another key performance indicator. Design change orders averaged 5% of the original contract value, a significant improvement over last year’s 17%, indicating agencies’ success in controlling change orders.
- Processing time for construction change orders – the time between initial approval on-site and submission for registration – remained at last year’s figure of 147 days. Processing time for design change orders decreased by 9%, to an average of 128 days. While all construction agencies posted gains (shorter times) in one or both categories, improved change order timeliness remains a high priority.

IV. Contract Policy: Leveraging Our Buying Power

In this final chapter of the report, we track progress under a number of laws, Executive Orders and policy initiatives. Topics include apprenticeship opportunities, environmentally-preferable purchasing, the City’s minority- and women-owned business enterprise (M/WBE) program and health insurance coverage equity and availability. Among the results of these programs are:

- ***Apprenticeships:*** For 106 contracts, worth just over \$2 billion, the City mandated that its vendors participate in apprenticeship programs to afford opportunities for New Yorkers to advance toward good-paying jobs in the construction industry.

- ***Environmentally Preferable Procurement (EPP):***

- The City purchased over \$65 million worth of EPP goods, including a \$36.6 million five-year requirement contract for office paper.
- Nearly one billion dollars worth of the City’s construction contracts were subject to at least one of 14 EPP specifications, and more than one billion dollars worth of contracts were designed to implement “Green Buildings” projects under Local Law 86 of 2005.
- MOCS completed a pilot program to test products and then developed an implementation plan to require the use of “green cleaning” products in City facilities, in such categories as general purpose, glass and bathroom cleaners, air fresheners and disinfectants.

- ***Local Law 129 of 2005 (LL 129) and M/WBE Contracting and Subcontracting:***

- As of Fiscal 2009, City agencies have awarded over \$1.2 billion worth of contracts and subcontracts to certified M/WBE firms, since the effective date of LL 129 (Fiscal 2007).
- Approximately \$1.4 billion worth of Fiscal 2009 contracts were covered by LL 129 M/WBE participation goals, including more than \$477 million covered by the prime contract goals and just under one billion dollars covered by subcontracting goals. These totals amount to 11% of the year’s total dollar volume, up from 8% the prior year.
- M/WBE participation on prime contracts over one million dollars more than doubled and increased by 46% for contracts between \$100,000 and one million dollars. M/WBEs won \$213 million worth of contracts in those two categories, along with \$21.5 million worth of the City’s smaller purchases.
- M/WBE certifications rose by 37%, to a total of 2,200 certified firms at the end of Fiscal 2009.
- City agencies awarded 217 prime contracts valued at nearly one billion dollars, subject to the LL 129 M/WBE subcontractor participation goals. Based on these goals, such contracts are projected to generate \$63 million in construction and professional services work for M/WBEs.
- To date, M/WBEs have won 44% of all subcontracts approved, \$68 million in total, on the full universe of work under LL 129, along with over \$15 million worth of subcontracts not covered by the LL 129 goals, e.g., because they are larger in value or cover other industries.
- Similar goals under state and federal programs that apply to about \$1.6 billion worth of Fiscal 2009 contracts will yield over \$328 million worth of subcontracting work for M/WBEs and disadvantaged businesses. EDC’s subcontractor participation goals



will generate nearly \$27 million in similar awards (on a total of \$210 million in prime contracts).

- All told, counting all subcontracts on all prime contracts, regardless of whether LL 129 or any goals program applies, M/WBEs won over \$180 million of subcontracts during Fiscal 2009, amounting to 19% of the subcontract dollars approved – and as much as 30% of the construction and professional services subcontracts valued below one million dollars.
- While the City must continue to expand opportunities for M/WBEs and other small business partners, City agencies have met the “substantial progress” standard for the three year (Fiscal 2007-2009) “ramping up” period established by LL 129, as M/WBEs continue to grow and win larger subcontracts and prime contracts within the City’s portfolio.
- ***Insurance Equity and Availability –***
 - Based on extensive surveys conducted under Mayor Bloomberg’s Executive Order 72, 86% of the City’s vendors provide or offer health insurance coverage to their full-time employees, and of those, 46% offer such coverage equally to spouses and domestic partners.
 - Through its Central Insurance Program (CIP), at a cost of \$86 million for Fiscal 2009, the City provides comprehensive general liability, workers’ compensation, disability and property insurance to more than 850 nonprofit human service providers, who operate day care, Head Start, senior services, home health care, after-school and various other programs out of more than 1,300 sites. In addition, CIP provides health insurance coverage to a smaller portfolio (day care, Head Start and senior services providers), at a cost of \$116 million.

More information on the City’s procurement process is available by calling 3-1-1, or at the following web sites:

- For more information on MOCS and the topics covered in this report, www.nyc.gov/mocs
- For a copy of the City’s PPB Rules, www.nyc.gov/ppb
- For general information for vendors and potential vendors, www.nyc.gov/selltonyc
- For information on assistance available to nonprofits, www.nyc.gov/nonprofits
- For more on the City’s M/WBE and small business assistance initiatives, www.nyc.gov/sbs