



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



February 26, 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, in partnership with the Mayor's Office of Minority and Women-Owned Business Enterprises (OM/WBE) was responsible for conducting a procedural compliance review of 10% of purchases made in FY21 Q2. <sup>1</sup> This represents the fourth 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 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

Based on a total count of 155 M/WBE Noncompetitive Small Purchase contracts registered between October 1, 2020 to December 31, 2020, a random sample of 16 contracts were included in the scope of this report, in accordance with the 10% compliance review threshold.

## 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.

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<sup>1</sup> In August 2020, the MOCS M/WBE team joined the Mayor's Office of Minority and Women-Owned Business Enterprises (OM/WBE). The OM/WBE team continued to support MOCS with the execution of this manual review of M/WBE Noncompetitive Small Purchase contracts.

### 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. Where applicable, Agency documented their justification for an inability to obtain at least 3 quotes in the Determination of Award

### Required Approvals

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

### Contract Award Phase

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

### Contract Registration Phase

19. Contract registered as a general contract (CT1)
20. Agency fully completed the Determination of Award
21. Courtesy copy of procurement file sent to Comptroller's Office within 30 days of registration  
*(NOTE: As of November 18, 2020, the courtesy copy requirement was reinstated. This attribute was reviewed for contracts registered after this date.)*
22. Agency maintained a complete procurement file

Each of the 16 contracts included within the scope of this compliance review was assessed for the 22 attributes listed above, which yielded 352 total attributes covered in the current report.

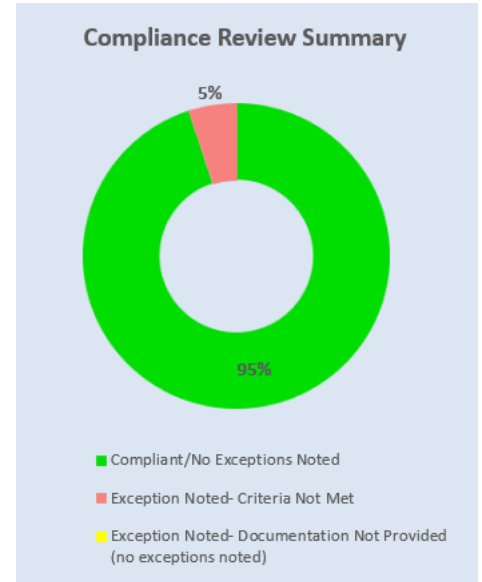
Based on the agencies' responses to the series of questions and a review of the supporting documentation provided, the Compliance Reviewer assigned each attribute to one of three categories:

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

## 4. Findings

The overall findings for the 352 total attributes that comprise the scope of this compliance review were as follows:

- **Compliant/No Exceptions Noted:** 335 attributes, or 95% of all attribute activities were found to be in full compliance
- **Exceptions noted – Criteria not met:** 17 attributes, or 5% of all attribute activities were not in full compliance
- **Exception noted – Documentation not provided:** 0 attributes, or 0% 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**

Procurement Phase	Total # of Attributes (All 16 Contracts)	Compliant/No Exceptions Noted		Exception Noted- Criteria Not Met		Exception Noted- Documentation Not Provided	
		# Attributes	%	# Attributes	%	# Attributes	%
Requisition	80	77	96%	3	4%	0	0%
Required Approvals	48	47	98%	1	2%	0	0%
Contract Award	160	154	96%	6	4%	0	0%
Contract Registration	64	57	89%	7	11%	0	0%
<b>Overall</b>	<b>352</b>	<b>335</b>	<b>95%</b>	<b>17</b>	<b>5%</b>	<b>0</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	DCAS	20218800116	Annual Updates and Licensing Support for IVR	12/29/2020	\$32,754	21	95%	1	5%	0	0%
2	DDC	20211408989	Development, Support and/or Augmentation	10/21/2020	\$425,250	19	86%	3	14%	0	0%
3	DoHMH	20211410293	Storage Cabinets with locks, bins and shelves for NYC School	11/6/2020	\$38,733	22	100%	0	0%	0	0%
4	DOITT	20211409166	SIBP - INFRASTRUCTURE REFRESH -- CISCO	10/22/2020	\$54,819	22	100%	0	0%	0	0%
5	DOITT	20218800063	Backup Switcher & Backup Router Cards Purchase	11/10/2020	\$20,919	22	100%	0	0%	0	0%
6	DORIS	20211406466	Full Stack	10/5/2020	\$40,950	19	86%	3	14%	0	0%
7	DOT	20211407490	MOTOR FOR FENCE AT 168 COLUMBIA ST. DOT/FA	10/14/2020	\$36,520	19	86%	3	14%	0	0%
8	DSNY	20215023231	WINDSHIELD WIPER BLADES	10/5/2020	\$100,000	22	100%	0	0%	0	0%
9	FDNY	20211402810	TEAM WENDY HELMETS	11/5/2020	\$75,902	22	100%	0	0%	0	0%
10	HPD	20218800353	This solicitation is being <sup>1</sup>	12/31/2020	\$75,000	22	100%	0	0%	0	0%
11	HPD	20218800016	Moving Services for HPD Facilities	11/13/2020	\$100,000	20	91%	2	9%	0	0%
12	LAW	20218800448	Purchase of 2 Konica Copier/Printers	12/29/2020	\$215,436	20	91%	2	9%	0	0%
13	LAW	20211407877	Delay and Damage Analysis	10/21/2020	\$425,000	22	100%	0	0%	0	0%
14	LAW	20211407591	Accellion Kitemworks Secure File Share Solut, incl. Licen&Srv	10/1/2020	\$175,034	22	100%	0	0%	0	0%
15	OLR	20211410252	Fitness Classes	11/6/2020	\$60,500	20	91%	2	9%	0	0%
16	OLR	20211410385	Communication - Marketing Materials	11/9/2020	\$99,500	21	95%	1	5%	0	0%
<b>Total</b>						<b>335</b>	<b>95%</b>	<b>17</b>	<b>5%</b>	<b>0</b>	<b>0%</b>

<sup>1</sup>Contract for Provision of Tenant Accounting System Support

There were six agencies that awarded 8 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 eight contracts.

There were seven agencies that awarded 8 contracts that had at least one attribute marked as “Exception noted – Criteria not met”.

Based on the compliance review of the 16 contracts within the scope of this report, OM/WBE found that agencies were fully compliant with 95% of all procedural requirements. In the areas where exceptions were noted, OM/WBE 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. OM/WBE 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.