



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



November 30, 2020

## 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), conducted a procedural compliance review of 10% of purchases made in FY21 Q1. This represents the third 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.

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 awarded directly in FMS, and will do so through the audit periods defined in the Conditional Delegation and Approval.

## 2. Scope of Compliance Review

Based on a population of 189 total M/WBE Noncompetitive Small Purchase contracts registered between July 1, 2020 to September 30, 2020, OM/WBE selected a sample of 19 contracts, 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.

#### 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. Agency maintained a complete procurement file
22. Courtesy copy of procurement file sent to Comptroller's Office within 30 days of registration  
(NOTE: This requirement was temporarily waived during the timeframe included in this review and as such, this attribute is excluded from the scope of this report. As of November 18, 2020, the courtesy copy requirement is reinstated.)

Each of the 19 contracts included within the scope of this compliance review was assessed for the 21 attributes listed above, which yielded 399 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 399 total attributes that comprise the scope of this compliance review were as follows:

- **Compliant/No Exceptions Noted:** 370 attributes, or 93% of all attribute activities were found to be in full compliance
- **Exceptions noted – Criteria not met:** 16 attributes, or 4% of all attribute activities were not in full compliance
- **Exception noted – Documentation not provided:** 13 attributes, or 3% 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 19 Contracts)	Compliant/No Exceptions Noted		Exception Noted- Criteria Not Met		Exception Noted- Documentation Not Provided	
		# Attributes	%	# Attributes	%	# Attributes	%
Requisition	95	90	95%	3	3%	2	2%
Required Approvals	57	57	100%	0	0%	0	0%
Contract Award	190	183	96%	0	0%	7	4%
Contract Registration	57	40	70%	13	23%	4	7%
<b>Overall</b>	<b>399</b>	<b>370</b>	<b>93%</b>	<b>16</b>	<b>4%</b>	<b>13</b>	<b>3%</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	20211401294	ON-SITE, ON-CALL PEDIATRICIAN FOR ACS CHILDREN'S CENTER.	7/16/2020	\$100,000	20	95%	1	5%	0	0%
2	CCRB	20211407097	ORDER FOR OPTIPLEX WORKSTATIONS	9/29/2020	\$95,000	19	90%	2	10%	0	0%
3	DOB	20211400071	PROTECTIVE EQUIPMENT <sup>1</sup>	7/8/2020	\$74,000	20	95%	0	0%	1	5%
4	DOB	20201427076	RapidMiner Studio, Server and Workshop	7/2/2020	\$113,957	21	100%	0	0%	0	0%
5	DCAS	20218800025	INSTALLATION SERVICE AND REPAIR OF CLO	9/17/2020	\$86,600	21	100%	0	0%	0	0%
6	DOHMH	20211406556	The technical specialist will visit CATCH sites located in m	9/18/2020	\$99,960	20	95%	0	0%	1	5%
7	DOHMH	20211400518	MWBE Purchase - COVID19 - COTTON PAPER for BVS death and bi	7/8/2020	\$32,386	21	100%	0	0%	0	0%
8	DOITT	20211404982	NYC3 INTEGRATED RISK MANAGEMENT PLATFORM	8/28/2020	\$74,700	20	95%	1	5%	0	0%
9	DOITT	20211401486	FY 21 NEW MOVERS CONTRACT - MOVERS	7/30/2020	\$100,000	20	95%	1	5%	0	0%
10	DOITT	20211407217	59ML, 2LAF AND BAT CRITICAL SYSTEMS SERVICE CONTRACT	9/28/2020	\$499,914	20	95%	1	5%	0	0%
11	DSNY	20211402508	Application and Reports Development	8/4/2020	\$95,680	19	90%	2	10%	0	0%
12	DSNY	20211407471	DIESEL EMISSION SENSORS AND ACCESSORIES	9/30/2020	\$100,000	19	90%	2	10%	0	0%
13	SBS	20211404788	Design & development of a CRM system built on Microsoft 365	9/21/2020	\$500,000	21	100%	0	0%	0	0%
14	DSS	20211400456	Support of Blue Coat Hardware and Software Licenses	7/9/2020	\$94,785	20	95%	0	0%	1	5%
15	DOT	20211403578	LoadRunner License & HP UFT and Support Ser renew for DOT/IT	8/12/2020	\$65,919	18	86%	2	10%	1	5%
16	DOT	20211401487	Consultant ServiceServiceNowTMC Integration for DOT/IT	7/17/2020	\$141,050	18	86%	2	10%	1	5%
17	DOT	20211407206	Alfresco Licenses for DOT/ Bridges	9/28/2020	\$101,564	18	86%	2	10%	1	5%
18	Mayoralty	20211404712	Snaplogic Renewal <sup>2</sup>	8/31/2020	\$38,400	14	67%	0	0%	7	33%
19	OCME	20211406601	NETAPP MAINTENANCE RENEWAL	9/18/2020	\$56,985	21	100%	0	0%	0	0%
<b>Total</b>						370	93%	16	4%	13	3%

<sup>1</sup> This Contract was cancelled and instead pursued under a different procurement method.

<sup>2</sup> This Contract was cancelled because it was erroneously awarded to a non-MWBE which resulted in exceptions to the standardized protocol seen during this procedural review. The Mayoralty's Snaplogic Renewal was instead pursued under Contract ID 20211409301.

There were six agencies that awarded 5 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 five contracts.

There were five agencies that awarded 10 contracts that had at least one attribute marked as “Exception noted – Criteria not met”. Of these 10 contracts, three contracts were also noted to be missing some required documentation.

There were four agencies that awarded 7 contracts that had at least one attribute marked as “Exception noted – Documentation not provided”. 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 19 contracts within the scope of this report, OM/WBE found that agencies were fully compliant with 93% 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.