



M/WBE Noncompetitive Small Purchase Method: Procedural Compliance Review



November 30, 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 Comptroller conditionally delegated the statutory responsibility to register contracts awarded using the M/WBE Noncompetitive Small Purchase method to agencies and extended the delegation period contingent upon the execution of additional compliance monitoring. 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 Quarter 1 of Fiscal Year 2022. 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 211 M/WBE Noncompetitive Small Purchase contracts registered between July 1, 2021 to September 30, 2021, a random sample of 21 contracts were included in the scope of this report, in accordance with the 10% compliance review threshold.

3. Approach and Methodology

Based on the total number of contract awards registered using this method during the review period, a random number generator was used to select a sample of 21 contracts. A report cataloging each of the available attributes related to the various procedural requirements was generated from MOCS' Procurement and Sourcing Solutions Portal (PASSPort). This report was reviewed along with relevant documentation submitted by agencies for the selected contracts to verify whether each attribute was met.

Compliance Reviewers assessed the following 21 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 \$20K (\$35K for construction) and \$500K

3. Purchase was not federally funded, or federal funding did not exceed \$250K
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 Appendix A for professional services 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.)

Each of the 21 contracts included within the scope of this compliance review was assessed for the 21 attributes listed above, which yielded 441 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 exception noted
- Exception noted – Criteria not met
- Exception noted – Documentation not provided

4. Findings

The overall findings for the 441 total attributes that comprise the scope of this compliance review were as follows:

- **Compliant/No Exception Noted: 434** attributes, or **98%** of all attribute activities were found to be in full compliance
- **Exception noted – Criteria not met: 7** attributes, or **2%** 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

Table 1 below provides the compliance review information by agency and contract ID.

Table 1. Compliance Review Details

#	AGENCY	CONTRACT ID	CONTRACT PURPOSE	REGISTRATION DATE	AWARD AMOUNT	COMPLIANT / NO EXCEPTION NOTED		EXCEPTION NOTED - CRITERIA NOT MET		EXCEPTION NOTED - DOCUMENTATION NOT PROVIDED	
						# of Attributes	%	# of Attributes	%	# of Attributes	%
1	DEPARTMENT OF INFO TECH AND TELECOM	CT1-858-20228802387	CYBER RESILIENCY PROJECT HW SUPPORT	9/22/2021	\$33,988.00	21	100%	0	0%	0	0%
2	DEPARTMENT OF INFO TECH AND TELECOM	CT1-858-20228800416	80 ML - 25 SWIFTSAPCE DESKS	7/12/2021	\$86,150.44	20	95%	1	5%	0	0%
3	DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES	CT1-856-20228802176	Uniforms for Building Services	8/31/2021	\$24,650.90	21	100%	0	0%	0	0%
4	DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES	CT1-856-20218801626	To Procure Air Purifiers for the Mayor's Office	9/3/2021	\$68,490.00	21	100%	0	0%	0	0%
5	DEPARTMENT OF DESIGN AND CONSTRUCTION	CT1-850-20228801654	Software Premium Support Renewal	8/2/2021	\$60,388.53	20	95%	1	5%	0	0%
6	DEPARTMENT OF PARKS AND RECREATION	CT1-846-20228802332	Leaf Bag - 2 PLY for CCC program in Brooklyn.	9/15/2021	\$26,498.80	21	100%	0	0%	0	0%
7	DEPARTMENT OF PARKS AND RECREATION	CT1-846-20228802331	Adult Fitness Area Construction	9/29/2021	\$438,975.81	21	100%	0	0%	0	0%
8	DEPARTMENT OF PARKS AND RECREATION	CT1-846-20228801827	Subsurface Investigations	8/20/2021	\$32,800.00	21	100%	0	0%	0	0%
9	DEPARTMENT OF PARKS AND RECREATION	CT1-846-20228800396	Subsurface Site Investigation	7/12/2021	\$34,000.00	21	100%	0	0%	0	0%
10	OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS*	CT1-820-20228801573	HVAC Maintenance LIC	9/17/2021	\$22,000.02	19	90%	2	10%	0	0%
11	OFFICE OF THE CHIEF MEDICAL EXAMINER	CT1-816-20228801697	OCME Auditorium's Audio-Visual Equipment Upgrade	9/30/2021	\$289,423.94	21	100%	0	0%	0	0%
12	DEPARTMENT OF HEALTH AND MENTAL HYGIENE	CT1-816-20228800284	Medical Furniture and Equipment	8/17/2021	\$499,812.79	21	100%	0	0%	0	0%
13	DEPARTMENT OF HEALTH AND MENTAL HYGIENE	CT1-816-20218802108	Early Intervention Fiscal Audits	7/23/2021	\$500,000.00	21	100%	0	0%	0	0%
14	DEPARTMENT OF HOUSING PRESERVATION AND	CT1-806-20228800588	PROCURING MOVING SERVICES	7/16/2021	\$100,000.00	20	95%	1	5%	0	0%
15	DEPARTMENT OF SMALL BUSINESS SERVICES	CT1-801-20228801947	Event Management Consultant Services	9/16/2021	\$149,996.00	21	100%	0	0%	0	0%
16	DEPARTMENT OF SMALL BUSINESS SERVICES	CT1-801-20228801591	Voter education outreach campaign	8/4/2021	\$500,000.00	20	95%	1	5%	0	0%
17	DEPARTMENT OF CORRECTION	CT1-072-20228801471	Cement, Mortar, Plaster, Lime, Grout Mixes	7/30/2021	\$25,000.00	21	100%	0	0%	0	0%
18	FIRE DEPARTMENT	CT1-057-20228802339	Dell Thin Client PCs with Monitors	9/20/2021	\$94,380.93	21	100%	0	0%	0	0%
19	FIRE DEPARTMENT	CT1-057-20228800386	NetBrain Software Renewal	7/7/2021	\$57,582.75	21	100%	0	0%	0	0%
20	FIRE DEPARTMENT	CT1-057-20218800296	Box Enterprise Software Renewal	7/1/2021	\$99,980.30	21	100%	0	0%	0	0%
21	OFFICE OF CONTRACT SERVICES	CT1-002-20218801718	PASSPort Consulting Svcs	9/22/2021	\$114,597.00	20	95%	1	5%	0	0%
TOTAL						434	98%	7	2%	0	0%

* While the contract awarded by the Office of Administrative Trials and Hearing (CT1-820-20228801573) was solicited and awarded as MWBE Noncompetitive Small Purchase, given the overall value (\$22k), the agency could have awarded it as a micropurchase per PPB Rule 3-08 (c)(1)(ii).

There was 98% compliance with relevant procedural requirements assessed for these 21 contracts. Of these, there were 15 contracts awarded by eight (8) agencies using the M/WBE Noncompetitive Small Purchase method where no exceptions were noted.

There were six (6) agencies that awarded six (6) contracts that had at least one (1) attribute marked as “Exception noted – Criteria not met”. Of the six (6) agencies that had at least one attribute marked as “Exception noted – Criteria not met”, two (2) agencies also had contracts reviewed in the scope of this report where there were no exceptions noted. The seven (7) exceptions which were noted, or 2% of all attributes reviewed, occurred during the contract award phase.

In the areas where exceptions were noted, MOCS and 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. MOCS and OM/WBE will continue to enhance guidance materials and emphasize the relevant topics in their ongoing training sessions with all agencies. The requirement for Agencies to initiate all M/WBE Noncompetitive Small Purchases in PASSPort has given MOCS and oversight partners increased visibility into agencies’ compliance with procedural requirements of the procurement method prior to contract award and registration.