



New York City Comptroller  
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Bureau of Contract Administration



# Annual Summary Contracts Report for the City of New York

*Fiscal Year 2014*



New York City Comptroller  
**Scott M. Stringer**

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**COMPTROLLER OF THE CITY OF NEW YORK**

**NEW YORK CITY**  
**OFFICE OF THE COMPTROLLER**  
**FISCAL YEAR 2014 REPORT ON CITY CONTRACTS**

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## PART I

# Introduction

*The New York City Charter (“Charter”) requires that all contracts and agreements entered into by City<sup>1</sup> agencies be registered by the Comptroller prior to implementation.<sup>2</sup> This requirement also extends to all agreements memorializing the terms of franchises, revocable consents or concessions.<sup>3</sup> The Comptroller’s Office is charged with a number of Charter-mandated responsibilities intended to safeguard the City’s financial health, including contract registration. The contract registration process ensures there is adequate funding in the City’s treasury (or under the control of the City) to cover the cost of contracts as well as to ensure that both the contracted vendors and process are free from corruption. The Bureau of Contract Administration (“BCA”) within the Comptroller’s Office fulfills this registration responsibility on behalf of the Comptroller by serving as the final oversight in the City’s procurement process.*

*BCA is also charged with publishing an annual report on registered contract actions as required by § 6.116.2(f) of the New York City Administrative Code (“Administrative Code”).<sup>4</sup> The current Annual Summary Contracts Report (“Report”) summarizes statistical data for City Fiscal Year 2014<sup>5</sup> (or “FY14”) and is generated from the City’s Financial Management System (“FMS”), a computerized database jointly maintained jointly by the Comptroller and the Mayor pursuant to § 6.116.2(a) of the Administrative Code. The Report reflects the City’s financial commitment assumed through registered contract actions during the prior fiscal year. This commitment is based on projected contract amounts at the time of registration and is limited to the initial terms of the transactions. As a general matter, it does not include information on actual expenditures or the annual agency budget figures for FY14 registered contract actions. BCA’s goal in preparing the FY14 Report was to produce a comprehensive analysis of the City’s contracts and agreements as well as highlight how BCA is working towards expanding its impact beyond the traditional Charter mandated functions.*

## Report Structure

The statistical information and data set forth in this FY14 Report is presented through four parts and seven independent sections.

PART I includes this “Introduction.”

PART II includes Sections 1 through 3. Section 1 (“Summary Report”) offers a high level review of all registered transactions in FY14, including procurement methods, total registered contract values as well as some pertinent facts relating to the awarding agency, New York City affiliated agency, elected official or the City Council. Section 2 (“Contract Registrations by Award Method”) is organized by six general procurement method categories, each of which contains multiple individual award methods. These categories include: Registered Contracts Procured by Competitive Award Methods; Registered Contracts Procured by Limited or Non-Competitive Award Methods; Registered Contracts Exempt under § 1-02(f) of

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<sup>1</sup> “City” refers to the City of New York.

<sup>2</sup> NYC Charter § 328(a)

<sup>3</sup> NYC Charter § 375

<sup>4</sup> NYC Admin. Code § 6.116.2(f)

<sup>5</sup> Fiscal Year 2014 covers the period commencing July 1, 2013 through June 30, 2014.

the Procurement Policy Board (“PPB”) Rules; Revenue Contract Registrations<sup>6</sup>; Registered Contract Management Actions; and Registered Contracts Procured by “Other” Award Methods. Section 3 (“Modifications”) contains information on contract transactions intended to extend or in some way enhance existing registered agreements.

PART III includes Sections 4 and 5. Section 4 (“Registration Highlights for FY14”) features some notable registration initiatives undertaken by the Comptroller’s Office during FY14 as well as other procurement-related initiatives also launched by this Office since the new administration commenced. Section 5 (“Agency Specific Data & Analysis”) highlights procurement portfolios of interest, including spotlights on contract actions registered through DOE as well as DOITT Information Technology Master Agreements and related Task Orders.

PART IV includes Sections 6, 7 and the Acknowledgements. Section 6 (“Glossary”) defines relevant key City procurement and contract registration terminology and the seventh and final section of this Report (“Appendices”) contains complete supporting data sets for the interposed tables well as other pertinent information required by the Administrative Code and not specifically referenced as in PARTS I through III of the Report.<sup>7</sup>

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<sup>6</sup> In order to preserve transparency, supporting data for the tables included in each of the above-referenced categories, complete supporting data is included as corresponding appendices at the end of the document. For instance, the underlying data supporting “Table I” is incorporated as “Appendix 1” of the Report.

<sup>7</sup> NYC Admin. Code § 6.116.2(f)

## PART II

## Section 1: Summary Report

In FY14, nearly 13,000 procurement contract actions were registered with a total registration value exceeding \$23 billion dollars and over 700 revenue contract actions were registered for a total value exceeding \$213 million. These figures represent contract actions entered into by City mayoral agencies, City-affiliated agencies, elected officials and the City Council. Note that registered values represented in the report are rounded to the nearest whole number.

**Chart I: FY14 Contract Registrations at a Glance**

<b>Total Number of FY14 Registered Contract Actions<sup>8</sup></b>	12,824
<b>Total Value of FY14 Registered Procurement Contract Actions<sup>9</sup></b>	\$23,488,827,627
<b>Total Value of FY14 Registered Revenue Contract Actions<sup>10</sup></b>	\$213,514,679

### Registration - Overview

Registration is the process through which the Comptroller: (1) encumbers (sets aside) funds to insure that the encumbered monies are available to pay contractors for contract work to be performed; (2) maintains a registry of City agreements; (3) presents objections if, in the Comptroller's judgment, there is sufficient reason to believe that there is possible corruption in the letting of the contract or that the proposed contractor is involved in corrupt activity; and (4) tracks City expenditures and revenues associated with those contracts and agreements.<sup>11</sup> Further, and as briefly referred to in the "Introduction" above, no contract or agreement, franchise, revocable consent or concession executed pursuant to the Charter or other law can be implemented until (1) a copy has been filed with the Comptroller and (2) either the Comptroller has registered it or 30 days have elapsed from the date of filing, whichever is sooner, unless an objection has been filed or the Comptroller has grounds for not registering the contract.<sup>12</sup>

### Administrative Code - Annual Summary Contracts Report Minimum Requirements

The Administrative Code requires the Comptroller to include certain information pertaining to franchises, concessions, goods contracts and services contracts *exceeding* \$10,000 and construction contracts *exceeding* \$15,000 in the summary contracts report published annually by this Office.<sup>13</sup> Examples of required data include, but are not limited to:

- Award/Selection Method (whether vendor was selected with or without competition);
- Contract Type and Dollar Amount;

<sup>8</sup> Unless otherwise indicated, for the purposes of "Chart I" and this Report, "Contract Actions" include "Procurement Contract Actions" and "Revenue Contract Actions."

<sup>9</sup> Unless otherwise indicated, for the purposes of "Chart I" and this Report, "Procurement Contract Actions" include the following Award Method Codes: 1, 2, 3, 109, 111, 112, 113, 22, 27, 31, 32, 35, 36, 37, 39, 61, 05, 06, 11, 12,17, 20, 21, 25, 26, 28, 30, 33,34, 38, 62, 106, 251, 10, 211, 040, 07, 18, 24, 29, 68, 78, 79, 99, 41, 42, 43, 44, 45, 51, 100, 101, 102, 511.

<sup>10</sup> Unless otherwise indicated, for the purposes of " Chart I" and this Report, "Revenue Contract Actions" include the following Contract Type Code: 10,15,17,20,25,29,30,72,99.

<sup>11</sup> 9 RCNY § 4-06(a)

<sup>12</sup> NYC Charter § 328(a)

<sup>13</sup> NYC Admin. Code § 6.116.2(f)

- Comptroller-Assigned Registration Number; and
- Mayoral Agency, New York City Affiliated Agency, City Council member or Elected Official (*i.e.*, Mayor, Borough Presidents, District Attorneys).

### **Expansion of Report's Minimum Report Requirements - Commitment to Transparency in Action**

While the Administrative Code establishes minimum requirements for data inclusion, the Comptroller's Office has expanded those parameters for this FY14 Report to offer a more robust and transparent picture of the projected financial commitments assumed by the City during the prior fiscal year based on the combined registered contract action values. Examples of this additional information include:

- All registered contracts Citywide regardless of dollar value;
- Comprehensive statistical summary of FY14 registered statistics "Modifications";
- Comprehensive statistical summary and breakdown of all FY14 "Task Orders" ("CTA1s") awarded through Master Agreements ("MA1s" or "MMA1s"); and
- Micropurchase Contracts.

### **Exclusions**

Although this Report provides significant detail regarding Citywide contracts registered in FY14, there are some areas where data is excluded because it is not possible to be reported in the context of this report or the data is already featured in an alternative report published by the Comptroller's Office, such as the Comprehensive Annual Financial Report (CAFR), which details the City's fiscal year financial obligations. For example, this Report does *not* include:

- Increases/decreases in contract value following registration (unless otherwise indicated);
- Information relating to subcontractor registrations<sup>14</sup>;
- Information on actual FY14 expenditures, payments or annual agency budget figures;
- Intra-City Agency Purchasing Agreements;
- Contracts entered into by New York City Economic Development Corporation ("NYCEDC"), NYC & Co., Brooklyn Navy Yard Development Corporation ("BNYDC"), Governor's Island and other similar entities affiliated with mayoral City agencies through master contracts;<sup>15</sup>
- PON1s (Non-Commodity Purchase Orders);
- PODs (Commodity Purchase Orders - Micropurchases);
- POC (Commodity Purchase Orders – Small Purchases); and
- PCC1s (Commodity Purchase Orders - Small Purchase Construction).

<sup>14</sup> Unlike prime contracts, individual subcontracts entered into by prime contractors pursuant to existing contracts are not registered by the Comptroller's Office. Prime vendors are required to receive prior approval from the contracting City agency for every subcontractor it intends to utilize during the contract term. "Subcontractor Approval Forms" are completed, signed and submitted to the contracting City agency for review and approval. Additionally, prime contractors are required to "self-report" subcontractor information by entering certain data into the "Payee Information Portal" ("PIP"). However, a significant number of prime contractors either do not enter this data into PIP at all or do not do so on a real-time basis. As a result, subcontractor data is not included in this Report since the available information does not allow for accurate reporting or analysis.

<sup>15</sup> For instance, this Report would include the FY14 Master and Maritime Contracts SBS entered and registered with NYCEDC, but not the individual projects captured through contracts between NYCEDC and the contracted entity pursuant to the Master or Maritime Contracts with SBS.

## Registration and Reporting - Who Registered City Contracts in FY14

The City's mayoral agencies, City-affiliated agencies, elected officials and the City Council all had contracts, franchises, concessions or revocable consents registered in FY14. The majority of the FY14 contract actions were registered by the City's mayoral agencies (i.e., DDC, DOT, DPR, DCAS, etc.). However, non-mayoral agencies such as DOE can also be credited with a significant volume of contract action registrations, both in terms of quantity and dollar value. Although the Offices of the Borough Presidents, District Attorneys, Community Boards and City Council as well as other elected officials are represented in this Report, the overall volume of their registered contract actions was relatively small when compared to the historically substantial and often diverse procurement portfolio of the mayoral and City-affiliated agencies.<sup>16</sup>

It is important to convey that, for some agencies, state law preempts the application of the City's procurement rules. For example, HHC, NYCHA, BOE, EDC, DOE, SCA and Water Board/Authority are either not subject to, or only partially subject to, the City's procurement rules. These entities, however, may be required by law to adhere to the contract registration requirements as set forth in § 328 of the City Charter.

## FY14 Summary Contracts Report - Use of Contract Award Method Categories to Present Data

The data presented through this Report is derived from the FMS database that is jointly administered by the Mayor and the Comptroller and maintained by the Financial Information Services Agency (FISA). FMS is one mechanism that the City uses to track contracts and is used to satisfy the City's legal obligation as set forth in § 6.116.2(a) of the Administrative Code.<sup>17</sup>

Although registered contract actions are catalogued in FMS through several identifiers including Contract Type<sup>18</sup>, Contract Category<sup>19</sup> and Contract Award Method<sup>20</sup>, the data published in PART II of this Report as well as other relevant areas, are primarily analyzed and presented by award method for both clarity and ease of comparison. As previously mentioned in the "Introduction," BCA has created six general procurement method categories from the current list of over 70 Contract Award Methods used by City agencies when inputting registration data into FMS. With the exception of the "Registered Revenue Contracts" subsection and unless otherwise indicated, all statistical information conveyed through this Report is based on this categorization. "Chart II" (below) defines these six categories as well as the individual Contract Award Method codes that each category is comprised of.

### Chart II: Report Award Method Categories<sup>21</sup>

#### Category 1: Registered Contracts Procured by Competitive Award Methods

<sup>16</sup> A complete list of the City's mayoral agencies, City-affiliated agencies, elected officials and the City Council, including agency numerical codes and short names is located in Appendix 9. For the most part, this list reflects those entities that registered at least one contract action in FY14.

<sup>17</sup> NYC Admin. Code § 6.116.2(a)

<sup>18</sup> "Contract Type" refers to the purpose or nature of the contract. There are over 30 contract types to select from when entering registration-related data into FMS. See Appendix 11 for a complete list.

<sup>19</sup> "Contract Category" refers to the detailed information on the agreement, contracts for goods and services, leases, franchises and concessions. There are approximately 60 Contract Category Codes to select from when entering registration-related data into FMS. See Appendix 12 for a complete list.

<sup>20</sup> Contract "Award Method" refers to the type of procurement used to select the contractor or vendor. There are currently over 70 Award Method codes to select from when entering registration-related data into FMS. See Appendix 10 for a complete list.

<sup>21</sup> See Appendix 10 for corresponding FMS award methods.

Award Method	Award Method Code(s)
Competitive Sealed Bid Contracts	01, 03, 35*, 37*
Competitive Sealed Proposal Contracts	02, 22, 36, 39*
Small Purchase Contracts	31, 32, 36, 60, 61, 109, 111, 112*, 113
Accelerated Procurement Contracts	27

#### Category 2: Registered Contracts Procured by Limited or Non-Competitive Award Methods

Award Method	Award Method Code(s)
Sole Source Contracts	05, 34*
Emergency Procurement Contracts	06, 33
Discretionary (Line Item) Contracts	12, 38
Negotiated Acquisition Contracts	21
Innovative Procurement Contracts	20*
Demonstration Project Contracts	23
Micropurchase Contracts	30
Government-to-Government Contracts	17, 103
Buy-Against Procurement Contracts	28, 106
Intergovernmental Procurement Contracts	25, 62, 251
Determined by Government Mandate	26
Determined by Legal Mandate	11

#### Category 3: Registered Contracts Exempt under § 1-02(f) of the PPB Rules

Award Method	Award Method Code(s)
Grant (including Grant Renewals) Contracts	51, 102, 511
Cable Service Negotiation Contracts	41
Professional Membership Negotiation Contracts	42, 101
Public Utility Contracts	44, 45
Subscription Contracts	43, 100

#### Category 4: Revenue Contract Registrations

Contract Type	Contract Type Code
Franchise Agreements	15

Concession Agreements	20
Revocable Consent Agreements	17
Corpus Funded Agreements	25
Other Expense Contracts	24
Miscellaneous Revenue – No Expense	30
Programs (Not Tax Levy)	72
Consultant	10
Other	99

#### Category 5: Registered Contract Management Actions

Award Method	Award Method Code(s)
Renewal Agreements	10*, 61
Negotiated Acquisition Extensions	211*

#### Category 6: Registered Contracts Procured by “Other” Award Methods

Award Method	Award Method Code(s)
Leases/Lessee Negotiation Agreements	7
Watershed Agreements	79, 107
Assignments	29*
Force Account Negotiation Contracts	68
DOE Listing Application Contracts	40
Non-Procurements	18
Contract Conversions	24
Real Estate Sales & Purchase Agreements	78
Loan Negotiations	8
Bonds	99**
Miscellaneous	99***

\* Excludes revenue contracts or "RCT1s" from the individual Award Method codes.

\*\*Contract Type 88 (Bonds); Contract Category 104 (Bonds/Letters of Credit).

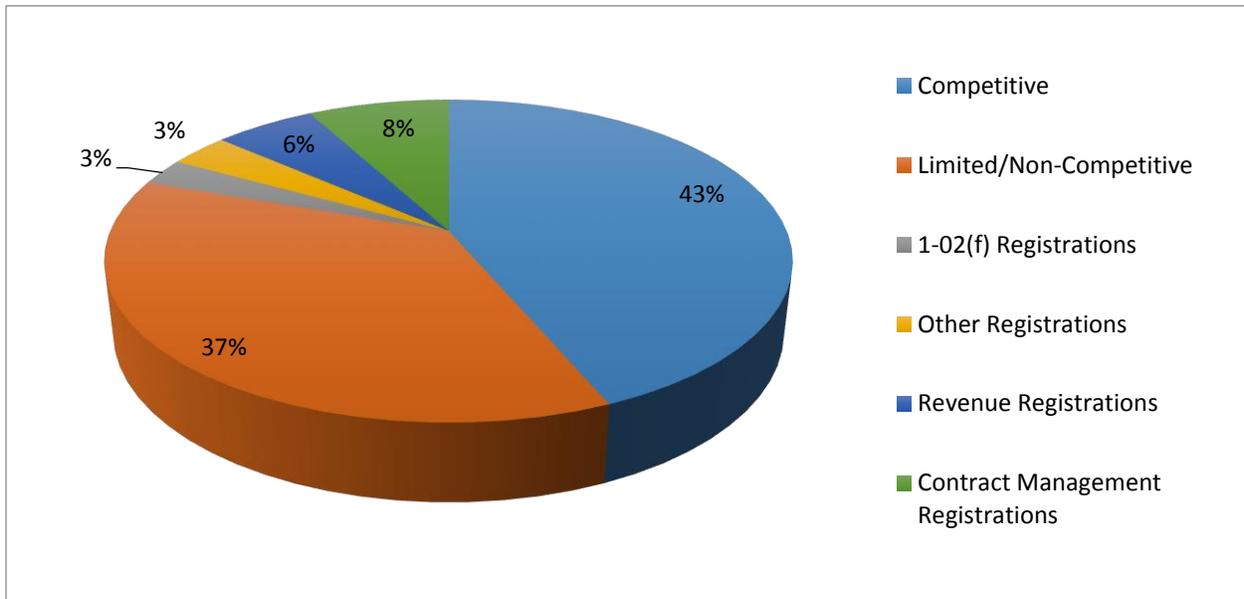
\*\*\*Miscellaneous excludes Contract Type 88 and Contract Category 104.

## Section 2: Contract Registrations by Award Method

This section of the Report provides statistical data, analysis and information pertaining to the registration of FY14 contract actions. For purposes of this Report, data is presented categorically based on the type of

selection method utilized to undertake the procurement. As discussed previously, there are six primary registration categories delineated in this section (listed below), each of which contains several individual FMS-based "Award Methods" which correspond to the numerical codes listed in Chart II. Although each category will be addressed in the text that follows, Chart III (below) provides an overall breakdown of FY14 registered contract actions as a percentage of the total share according to each of the six award methods above.

**Chart III: Total FY14 Registered Contract Actions by Award Method**



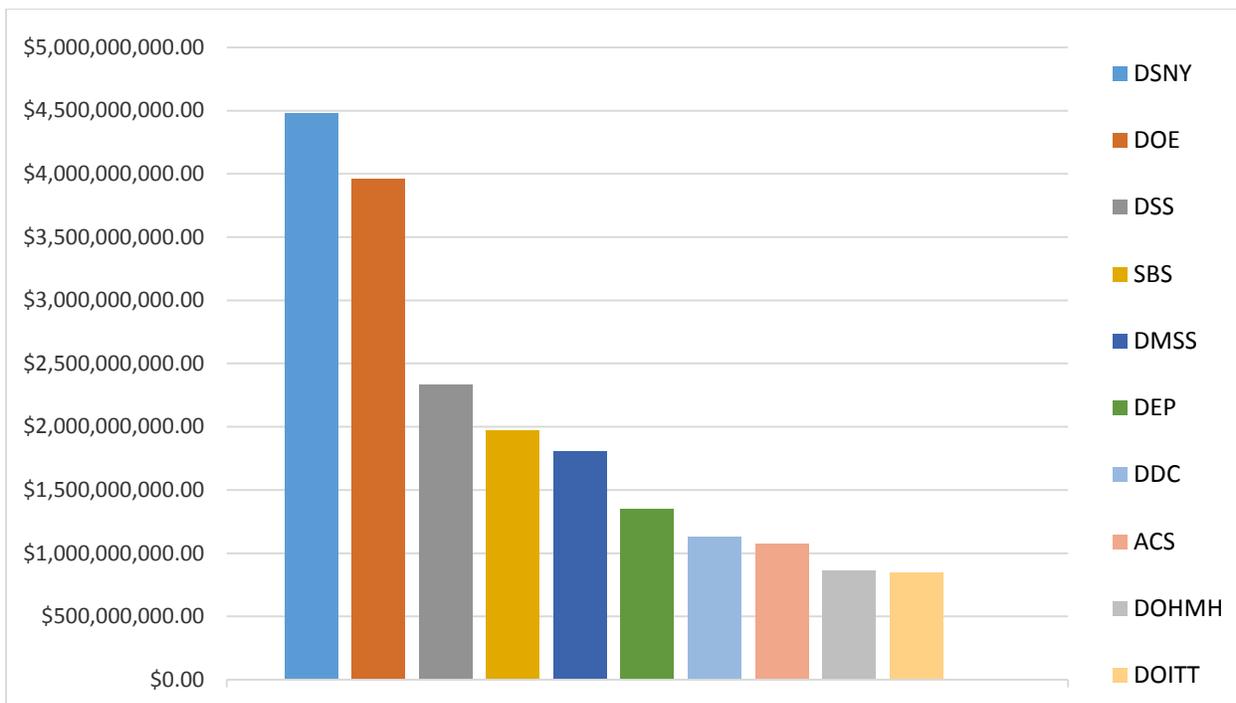
In addition to the data presented in Chart III, Charts listing the Top Ten Largest Registered Contracts ("Chart IV") and the Top Ten Agencies by Registered Volume ("Chart V") are provided below.

**Chart IV: Top Ten Largest Contracts (\$)**

Rank	Contract No.	Agency	Vendor	Registered Contract Value	Contract Description	Award Method
1	20141400213	DSNY	Covanta 4Recovery LP	\$2,857,786,988	Management, Transportation and Disposal Services	Competitive Sealed Proposal (02)

2	20141428608	DSS	Vanderbilt Associates Owner LP	\$1,707,589,835	Change of ownership office lease space	Assignment (86)
3	20146200406	SBS	New York City Economic Development Corporation	\$1,665,534,000	Citywide Economic Development Services - Master	Sole Source (05)
4	20141412001	DSNY	Waste Management of New York, LLC	\$1,120,000,000	Municipal Solid Waste Management, Transportation for Queens 1-6	Competitive Sealed Proposal (02)
5	20141407891	DOHMH	Public Health Solutions	\$471,000,000	HIV/AIDS Master Contract	Renewal (10)
6	20149472811	DOE	Reliant Transportation Inc.	\$459,960,780	Transportation Services for Students with Disabilities	Competitive Sealed Bid (01)
7	20141418919	ACS	YMS Management Associates Inc.	\$418,808,487	Child Care Voucher Payment	Negotiated Acquisition Extension(21 1)
8	20141413127	DEP	New York Power Authority	\$240,000,000	Energy Service Program Agreement	Government-to-Government Procurement (17)
9	20146200361	DMSS	FJC Security Services, Inc.	\$205,000,000	Provide Uniformed Armed Security Guards and/or Supervisors	Competitive Sealed Proposal (02)
10	20146200422	DMSS	Allied Barton Security Services LLC	\$205,000,000	Procure Uniformed Armed Security Guard Service for NYC	Competitive Sealed Proposal (02)

Chart V: Top Ten Agencies by Volume (\$)



## 1. Registered Contracts Procured by Competitive Award Methods

Since one of the primary tenets of any procurement system is to achieve the best quality goods and/or services at either the lowest cost or at the best value, use of competitive award methods such as Competitive Sealed Bids and Competitive Sealed Proposals are frequently used by the City's mayoral agencies, City-affiliated agencies, elected officials and the City Council to enter into contracts. Moreover, not only are these considered the most effective means to procure goods and services for the City, but Competitive Sealed Bidding is the default award method in both the PPB Rules as well as General Municipal Law 103. Only when an agency determines that the use of competitive sealed bidding is not practicable or not advantageous to the City, may the agency then consider selecting the most competitive alternative method of procurement approved which is appropriate under the circumstance. Each agency contract file is required to contain documentation of such "Special Case" determination and of the basis upon which each contract is awarded.<sup>22</sup> For purposes of this Report, registered contracts procured via a "Competitive Award Method" include Competitive Sealed Bids ("CSBs"), Competitive Sealed Proposals ("CSPs"), Accelerated Procurements and Small Purchases.

**Table I: FY14 Contract Registrations Procured by Competitive Award Methods<sup>23</sup>**

Award Method	Total Number Registered	Total Registered Value
<b>Competitive Sealed Bid Contracts (01,03,35*,37*)</b>	1,091	\$5,256,236,296
<b>Competitive Sealed Proposal Contracts (02,22,36,39*)</b>	580	\$6,272,098,724
<b>Accelerated Procurement Contracts (27)</b>	119	\$44,740,361
<b>Small Purchase Contracts (31,32,61,109,111,112*,113)</b>	3,799	\$130,962,166
<b>TOTAL</b>	<b>5,589</b>	<b>\$11,704,037,547</b>

\*Excludes "RCT1s"

### Competitive Sealed Bid Contracts

"Competitive Sealed Bidding," "CSB" or "Bids" refers to a method of procurement where the award of a contract is made to the lowest responsible bidder whose bid meets the requirements and criteria set forth in the invitation for bids.<sup>24</sup> Bids are solicited through an invitation for bids that includes a purchase description and a notice of where vendors may obtain a copy of all contractual terms and conditions applicable to the procurement.<sup>25</sup> Bids may also be solicited by agencies from vendors who have been prequalified for the provision of a good, service or construction by mailing notice to each prequalified vendor or, if special circumstances require, to a selected list of prequalified vendors. A determination to employ selective solicitation for a particular procurement or for a particular category of procurement must be made in writing by the agency and approved by the mayor; unless the mayor, upon adequate assurances of an

<sup>22</sup> NYC Charter § 317

<sup>23</sup> For purposes of this Report, "Competitive Award Method" refers to those registered contract actions awarded through the following procurement methods: competitive sealed bidding (including competitive sealed bidding from a PQVL and small purchase bids), competitive sealed proposals (including competitive sealed proposals from a PQVL and small purchase RFPs), accelerated procurements and small purchases.

<sup>24</sup> NYC Charter §312

<sup>25</sup> NYC Charter § 313

agency's capacity to comply with procedural requirements has determined that such approval is not required for an agency's contracts or particular categories of contracts.<sup>26</sup> If an agency determines that the use of competitive sealed bidding is neither practicable nor advantageous to the City, the agency is required to select the most competitive alternative method of procurement approved by the City which is appropriate under the circumstance. The largest bid contract registered in FY14 was between DOE and Reliant Transportation for "Transportation Services for Student with Disabilities" in the amount of \$459,960,780 (CT120149472811). The largest PQVL bid registered in FY14 was between DDC and Rockmore Contracting Corp. for the "Renovation of DYCD/DFTA Offices" in the amount of \$35,986,000 (CT120131428340).

### Competitive Sealed Proposal Contracts

"Competitive Sealed Proposals" (or "CSPs") represent a competitive procurement method that an agency may use if the use of a bid is not practicable or advantageous to the City under the circumstances.<sup>27</sup> The CSP is typically used by the City to award contracts for information technology, architectural, engineering, accounting, legal, scientific, research and/or other similar services. CSPs may be solicited through a request for proposals ("RFP") with award being made to the responsive and responsible offeror whose proposal was determined to be the most advantageous to the City, taking into consideration the price and such other factors or criteria as set forth in the RFP. No other factors or criteria shall be used in the evaluation and award of the contract except those specified in the request for proposals. Discussions may be conducted with responsible offerors who submit proposals, provided that offerors shall be accorded fair treatment with respect to any opportunity for discussion and revision of the proposals. Like bids, CSPs may also be solicited from vendors who have been prequalified for the provision of a good or service by mailing notice to each prequalified vendor or, if special circumstances require, to a selected list of prequalified vendors through similar procedures described above for CSBs.<sup>28</sup> The largest agreement registered in FY14 was between DSNY and Covanta 4Recovery for "Management, Transportation and Disposal Services related to E.91st MTS" and valued at \$2,857,786,988 (CT120141400213). The second largest agreement was between DOE and Tempositions, Inc. for "Student Support Services" for \$7,250,000 (CT120139376086).

### Accelerated Procurement Contracts<sup>29</sup>

An accelerated procurement enables an agency to quickly procure specific City Chief Procurement Officer (CCPO)-approved commodities (i.e., chemicals, energy, food, etc.) due to PPB-approved markets experiencing significant shortages and/or short-term price fluctuations. The largest "Accelerated Procurement" Agreement registered in FY14 was between DCAS and Wild Penguin Corporation for "Commissary Items for NYC DOC" and had a projected value of \$3,968,310 (CT20141202851).

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<sup>26</sup> NYC Charter § 318

<sup>27</sup> NYC Charter § 319

<sup>28</sup> NYC Charter § 320

<sup>29</sup> 9 RCNY § 3-07

## Small Purchase Contracts

The PPB and the City Council may, by concurrent action, establish dollar limits for procurement of goods, services, construction, or construction-related services that may be made without competition or without public advertisement.<sup>30</sup> Awards pursuant to this section shall be made in accordance with rules of the PPB.<sup>31</sup>

Small purchases registrations accounted for a significant portion of agency purchasing activity in FY14. Although there are fewer formal requirements for competition at lower levels of spend, emerging competitors, such as M/WBEs, are afforded more opportunities to compete for City contracts through this award method. The current small purchase limit is \$100,000 and the PPB Rules lay out a competition objective for the way small purchases are awarded, known as the “5 + 5” method.<sup>32</sup> Procurements valued above the Micropurchase Limit and below the small purchase limit are solicited from a list of five randomly selected non-M/WBE vendors and at least five randomly selected M/WBE certified vendors.

A procurement conducted via any other method defined by the PPB rules may result in a contract below the small purchase limit, but only those contracts award via the “5 + 5” method are considered true small purchases. All “5 + 5” small purchases and most other contracts below the small purchase limit are submitted to the Comptroller for registration. Agencies also have the ability to self-register other contracts at lower amounts as “in-house” registrations.<sup>33</sup>

**Note on Small Purchases:** The figures provided for the “Small Purchases” subset of the “Competitive” award category do *not* include all individual award methods that FMS identifies as “Small Purchases” by name. Rather, certain “Small Purchase” FMS award methods are collapsed into the more general procurement award method. For instance, “Competitive Sealed Bids” (Award Method 01) in the “Competitive” award category includes “Small Purchase Competitive Sealed Bids” (Award Method 03), “Competitive Sealed Bids from a PQVL” (Award Method 35) and “Small Purchase Competitive Sealed Bids from a PQVL” (Award Method 37). A similar approach was used for “Competitive Sealed Proposals.”

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<sup>30</sup> 9 RCNY § 3-08

<sup>31</sup> NYC Charter § 314

<sup>32</sup> 9 RCNY § 3-08

<sup>33</sup> Agencies have delegation to process “in-house” registrations for goods and services transactions less than \$25,000 and for construction transactions less than \$50,000.

## 2. Registered Contracts Procured by Limited or Non-Competitive Award Methods

Registered contracts procured by a limited or non-competitive process include negotiated acquisitions, buy-against procurements, government-to-government procurements, sole sources as well as several others that are listed in "Table II" below. Use of these award methods is typically limited to situations where full competition is neither practicable nor possible due to factors such as: time-sensitive situations (i.e., the need to preserve continuity of service should an agency terminate a contract with an existing vendor); limited vendor pool with the requisite operating capacity; single provider of necessary goods and/or services; or where the selection process is dictated by the funding source (i.e., federal government grant).

In FY14, 4,714 contracts procured via limited or non-competitive award methods were registered for a total projected value of \$4,719,555,929.

**Table II: FY14 Registered Contracts Procured by Limited or Non-Competitive Award Methods**

Award Method	Total Number Registered	Total Registered Value
<b>Sole Source Contracts (05,34)</b>	82	\$2,295,857,379
<b>Emergency Procurement Contracts (06,33)</b>	208	\$337,131,682
<b>Negotiated Acquisition Contracts (21)<sup>34</sup></b>	351	\$303,127,047
<b>Innovative Procurement Contracts (20)</b>	9	\$3,573,806
<b>Demonstration Project Contracts (23)</b>	11	\$2,310,292
<b>Micropurchase Contracts (30)</b>	254	\$3,849,150
<b>Government-to-Government Procurement Contracts (17,103)</b>	70	\$285,473,218
<b>Buy-Against Procurement Contracts (28,206)</b>	32	\$224,772,256
<b>Intergovernmental Procurement Contracts (25,62,251)</b>	1,176	\$818,088,864
<b>Determined by Government Mandate (26)</b>	138	\$196,996,950
<b>Determined by Legal Mandate (11)</b>	4	\$14,046,473
<b>Discretionary (Line Item) Contracts (12,38)</b>	2,379	\$234,328,812
<b>TOTAL</b>	<b>4,714</b>	<b>\$4,719,555,929</b>

### Sole Source Contracts

Sole Source contracts are agreements awarded for a good, service or construction without competition when a determination is made that there is only one source for the required good, service or construction. Sole source contracts are also typically entered into with vendors that own proprietary software as they are the only source for the software. Whenever an determination is made that there is only a single source for a good, service or construction, an agency must publish notice in *The City Record* of such determination

<sup>34</sup> Includes DOE Negotiated Services

and shall solicit the application of vendors qualified to provide such good, service or construction, or interested in providing such good service or construction in the future.<sup>35</sup>

In FY14, the Comptroller's Office registered 82 sole source contracts from 23 agencies for a total of \$2,295,857,379. Out of those 23 agencies, SBS registered the highest cumulative value of sole sources at \$2,036,288,992 (across four contracts). DEP entered in more sole source contracts than any other agency as they had 15 contracts for a total of \$160,334,567. The largest sole source agreement registered in FY14 was SBS's Master Agreement with NYCEDC for \$1,665,534,000 (MMA120146200406). The second largest was SBS's Maritime Agreement with EDC for \$197,948,000 (MMA120146200407).

### Emergency Procurement Contracts

In the case of an unforeseen danger to life, safety, property or a necessary service, an emergency procurement (referred to in the PPB Rules as "Emergency Purchases") may be made with the prior approval of the Comptroller and Corporation Counsel, provided that such procurement shall be made with such competition as is practicable under the circumstances, consistent with applicable provisions of the Charter.<sup>36</sup> A written determination of the basis for the emergency and the selection of the contractor shall be placed in the agency contract file and the determination or summary of such determination shall be included in the required publication of the notice of contract award. At 59, HPD registered the largest volume of Emergency Procurements for a total of \$16,717,036, followed by DOE at 39. The registered value of DOE's combined Emergency Procurement contracts was the highest across all 23 agencies at \$211,087,392. The largest Emergency Procurement contract registered in FY14 was DOE's six-month "Food-Related Services" agreement with Teri Nichols Institutional Food Merchant for \$22,534,785 (MA120149473401).

### Negotiated Acquisition Contracts

The "Negotiated Acquisition" source selection method permits agencies, with prior CCPO-approval, to negotiate contracts, due to specific circumstances and subject to the enumerated PPB-based conditions, in which it is not practicable and/or advantageous to the City to make the procurement through CSBs or CSPs.<sup>37</sup> In FY14, HRA registered the largest contract procured via the Negotiated Acquisition method with Public Financial Management (CT120141400169). This \$50,219,564 contract was for "Crisis Intervention" services relating to Housing Recovery Office (HRO) which was set up for the purpose of rebuilding homes damaged or destroyed by flooding as a result of Hurricane Sandy in 2012. Another example of a Negotiated Acquisition registered in FY14 was between the NYPD and Bell Helicopter Textron Inc. (CT120141414162). The purpose of this \$37,903,594 contract was for purchasing patrol helicopters to be used by the NYPD. By number, DYCD submitted the most Negotiated Acquisition contracts at 201 contracts for a total registration value of \$19,221,619 whereas DOE processed the highest cumulative value at \$76,226,317.

### Innovative Procurement Contracts

An "Innovative Procurement" is a prospective procurement method that tests and evaluates the feasibility and application of procurement methods not currently authorized by the PPB Rules.<sup>38</sup> In FY14, DFTA

<sup>35</sup> NYC Charter § 321

<sup>36</sup> NYC Charter § 315

<sup>37</sup> 9 RCNY § 1-01(e)

<sup>38</sup> 9 RCNY § 3-12 (a)

processed the largest Innovative Procurement contract at \$1,590,000 with Convent Avenue Church for the purposes of an "Innovative Senior Center," to provide "a mix of traditional senior center services in addition to enhanced programming in social, cultural and health areas" (CT12014142604).

### **Demonstration Project Contracts**

A "Demonstration Project" is a short-term, carefully planned, pilot exercise designed to test and evaluate the feasibility and application of an innovative product, approach or technology (for goods, services or construction) not currently used by the City.<sup>39</sup> Procurements authorized through this method permit an agency to observe and analyze effectiveness and efficiency without investing large resources. A total of 11 Demonstration Project contracts valued at over \$2,300,000 were registered in FY14. The largest Demonstration Project registered was between HRA and Gay Men's Health Crisis, for \$1,200,000 to provide "Vocational & Employment Services to eligible persons living with HIV/AIDS" (CT120141413567).

### **Micropurchase Contracts**

Micropurchases are considered a subset of the "Small Purchase" award method and consists of the purchase of goods and/or services in an amount not to exceed \$20,000.<sup>40</sup> Micropurchases accounted for \$3,849,150 in agency purchasing activity in FY14. As long as the procurement is within the \$20,000 "Micropurchase Limit," no formal competition is required. However, agencies must ensure that Micropurchase awards are distributed appropriately among responsible vendors, including M/WBEs and that the prices are fair and reasonable. By quantity, DCA registered the most Micropurchase actions at 68 whereas DYCD processed the highest cumulative total (\$1,137,530).

### **Government-to-Government Contracts**

"Government-to-Government" purchases are made by an agency when it determines that it is in the City's best interest to procure goods, services, construction, or construction-related services from another governmental entity.<sup>41</sup> The accepted price, terms and conditions for these procurements are achieved through negotiation between the City agency and the other governmental entity. In FY14, DEP registered the largest Government-to-Government contract at \$240,000,000 (CT120141413127). This contract was with New York Power Authority ("NYPA") and relates to an "Energy Service Program," where DEP will work with NYPA on implanting energy conservation projects and efficiency improvements as they relate to the City's power usage.

### **Buy-Against Procurement Contracts**

"Buy-Against Procurements" are used by City agencies to obtain goods and services to fulfill its requirements after a vendor defaults or fails to fulfill its contract responsibilities.<sup>42</sup> Thirty-three Buy-Against contracts with a projected value of nearly \$225,000,000 were registered in FY14. DOE was responsible for registering the largest Buy-Against contract in FY14 for \$68,156,139 (CT120149473784). This agreement was with SNT for "General Education Transportation."

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<sup>39</sup> 9 RCNY § 3-11(a)

<sup>40</sup> 9 RCNY § 3-09(c)(1)(ii)

<sup>41</sup> 9 RCNY § 3-13(a)

<sup>42</sup> 9 RCNY § 1-01(e)

## Intergovernmental Procurement Contracts

The “Intergovernmental Procurement” award method is used when an agency procures, orders or awards contracts for goods, services, construction or construction-related services through a contract let by another government entity pursuant to Section 3-09 of the PPB Rules.<sup>43</sup> The two most common government entities that City agencies purchase through are the United States General Services Administration (“GSA”)<sup>44</sup> and the New York State Office of General Services (“OGS”).<sup>45</sup> An agency can procure goods through OGS, GSA or another government entity provided that the price is lower than the prevailing market price. In order to purchase services or construction, an agency must certify that the price is fair and reasonable. The New York State Finance Law provides OGS with the expansive authority to allow the City to purchase through State contracts.<sup>46</sup> Cooperative purchasing, a procurement conducted by one government entity on behalf of other government entities, is also permissible so long as it is in the City’s best interest. Out of these 1,463 Intergovernmental contracts, DMSS submitted the majority (224) of them for registration valued at \$143,143,169, more than any other agency. DOE entered into the largest Intergovernmental contract with Staples for \$105,000,000 for the purchase of office supplies (MA120149473041).

## Determined by Government Mandate

### Required Method

A required method is utilized when City procurement rules do not apply because a source of funds outside the City, statute or rule, the terms of a court order or consent decree, or other applicable law authorizes or requires otherwise. While these contracts are not expressly governed by the PPB in the procurement method to be used, all other applicable PPB rules are followed.<sup>47</sup> For example, New York State Finance Law section 162 provides preferred source status to certain vendors for a pre-determined set of goods and services. Therefore, when an agency requires a good or service covered by this law, it follows the source selection method required by the State law.

### Required/Authorized Source

A required/authorized source applies in situations where the City’s source selection requirements are exempted because a source of funds outside the City, statute or rule, the terms of a court order or consent decree, or other applicable law authorizes or requires a procurement be made from a specified source; however, all other applicable PPB rules are followed. For example, if an agency applies for funding from an outside source such as the United States Department of Agriculture in which the vendor named, the agency will contract with the selected vendor directly.

For the purposes of this report, required method and required/authorized source are jointly counted as they share the same award method coding in FMS. In FY14, the Comptroller’s office registered 138 required method and required/authorized source for a total of \$196,996,950. The agency that processed

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<sup>43</sup> NYC Charter § 316

<sup>44</sup> Pursuant to 40 U.S.C. § 502(c)(1), GSA’s authority to allow other government entities to use its contracts is limited to Federal Supply Schedules 70 and 84.

<sup>45</sup> See GML §§ 103(1-b), 104 and 104-b. The City has broad authority to use the contracts let by other governments.

<sup>46</sup> SFL § 163(10)(e)

<sup>47</sup> 9 RCNY § 1-02(d)

the most required method and required/authorized source contracts was DOHMH at 43. DOHMH was also responsible for processing the largest aggregate volume of these contracts at \$60,887,603.15.

### **Discretionary (Line Item) Contracts**

Discretionary contracts are agreements made with community-based not-for-profits or other public service vendors identified by elected City officials other than the Mayor and the Comptroller.<sup>48</sup> The list of elected officials that are able to enter into discretionary contracts include the members of the City Council, the speaker of the City Council, the five borough presidents and the public advocate. The agreements are funded by the respected elected officials available discretionary funding but are administered by City agencies. In FY14, 2,552 discretionary contracts from 17 agencies and three elected officials were registered for a total of \$236,445,216. The agency that processed the most discretionary contracts was DYCD, with 581 contracts and a total value of \$81,481,977. ACS had the second highest cumulative value of discretionary contract registrations in FY14 at \$52,797,550 (53 individual registered agreements). The largest single discretionary contract was also registered by ACS with Colony South Brooklyn Houses at \$4,923,113 for "Child Care Services"(CT120141412604).

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<sup>48</sup> 9 RCNY § 1-02(e)

### 3. Registered Contracts Exempt under § 1-02(f) of the PPB Rules

*Section 1-02(f) of the PPB Rules lists five transactions that do not qualify as procurements under Chapter 13 of the Charter and are therefore not subject to the PPB Rules.<sup>49</sup> Although these transactions, which include grants, public utility, cable service negotiations, professional membership negotiations and subscriptions, are not subject to the same procurement requirements as award methods described in other sections of this Report, registration of the underlying transactions is still required prior to implementation.*

**Table III: FY14 Registered Contracts Exempt under § 1-02(f) of the PPB Rules**

Award Method	Total Number Registered	Total Registration Value
<b>Grant Agreements (51,102,511)</b>	182	\$114,158,711
<b>Public Utility Contracts (44,45)</b>	44	\$290,269,464
<b>Cable Service Negotiation Contracts (41)</b>	2	\$181,594
<b>Professional Membership Negotiation Contracts (42,101)</b>	15	\$297,213
<b>Subscription Contracts (43,100)</b>	105	\$5,193,777
<b>TOTAL</b>	<b>348</b>	<b>\$410,100,759</b>

#### Grant Agreements

A “Grant” is a cash transfer made by a government entity to another government entity, a quasi-public entity, a private organization, or an individual, for use by the recipient in accomplishing objectives established by the recipient.<sup>50</sup> A grant is permissible only to accomplish a public purpose authorized by Federal, State, or City law. A grant may be conditional, although awarded without other consideration. Federal and state grants are identified specifically by formula or specific allocations in law or in the annual operating budget act, bond authorizations, or other acts of Congress or the state legislature. Grants can be distinguished from procurement contracts, which call for the vendor to produce specific end products or to deliver specific goods or services. While there are requirements that result in an executed agreement between the grantor and grantee, this document is not a contract for services. The Department of Cultural Affairs (CULT) registered 97 grants in FY14 for a total of \$16,366,175. SBS processed 30 actions for \$1,171,554 and the DOE registered 30 actions for \$7,519,298. DDC registered the largest grant award for \$75,000,000 on behalf of CULT with the Culture Shed Inc., towards the purpose of beginning the first phase of building the Culture Shed’s facility in Manhattan (CT120141410894).

#### Public Utility Contracts

The “Public Utility” non-procurement transaction is utilized by agencies where the work or service is provided by public utilities that are regulated by the New York State Public Service Commission (“NYS PSC”) for which rates charged to customers have been tarified pursuant to the Public Service Law, or

<sup>49</sup> 9 RCNY § 1-02(f)

<sup>50</sup> 9 RCNY § 1-01(e); 9 RCNY § 1-02(f)(1)

where there are no practical competitive alternatives.<sup>51</sup> Such services typically include local telephone service, electric light and power, gas, water, and steam. During FY14, the Comptroller registered 44 Public Utility transactions totaling \$290,269,464. The majority of these transactions were registered by DCAS. Additionally, DCAS registered the largest dollar value contract (\$98,033,269) with Con Edison of New York for the purchase of natural gas (CT120155000136).

### **Cable Service Negotiation Contracts**

“Cable Service Negotiations” is another non-procurement method transaction for the provision of cable television services, or other public services, that are regulated by the NYS PSC.<sup>52</sup> This also includes any interstate public utility that is regulated by either the Federal Energy Regulatory Commission or the Federal Communications Commission. During FY14, the Comptroller registered two Cable Service Negotiations transactions totaling \$181,594.

### **Professional Membership Negotiation Contracts**

The “Professional Membership Negotiations” non-procurement method is a transaction used by agencies when there is a membership or need to renew membership in professional associations, such as bar associations and various industry associations.<sup>53</sup> During FY14, the Comptroller registered 15 Professional Membership Negotiations transactions totaling \$297,213.

### **Subscription Contracts**

The “Subscription” non-procurement method is a transaction used by agencies when there is a subscription or continuing need to renew including electronic subscriptions, for magazines and periodicals, orders for books and “off-the-shelf” training videotapes, and attendance at standard commercially-available training seminars.<sup>54</sup> Software licenses are also purchased through subscriptions as well as various periodicals (both print and online). During FY14, the Comptroller registered 105 Subscription agreements totaling \$5,193,777. The largest Subscription agreement registered was between DOITT and the Nielsen Company (\$710,304) for the provision of a rating service for the City’s NYCTV channel (CT120141404772).

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<sup>51</sup> 9 RCNY § 1-02(f)(2)

<sup>52</sup> 9 RCNY § 1-02(f)(3)

<sup>53</sup> 9 RCNY § 1-02(f)(4)

<sup>54</sup> 9 RCNY § 1-02(f)(5)

## 4. Revenue Contract Registrations

Franchises, concessions and revocable consents are three types of revenue-generating contracts registered by City agencies. Revenue contract awards are generally governed by Chapter 14 of the New York City Charter, Title 12, Chapter 1 of the Rules of the City of New York (“Concession Rules”) and Title 6, Chapter 2 of the Rules of the City of New York (“DCA Rules on Revocable Consents”). Unlike typical procurements where the City expends money to receive a good or service, most revenue contracts (franchises, concessions and revocable consents) are intended to generate money for the City by allowing a private vendor to operate on the City’s inalienable property. Often, these agreements require the selected vendor to pay the city a “Guaranteed Annual Minimum Fee” or a “Percentage of Gross Receipts,” whichever figure is higher.

Table IV: FY14 Revenue Contract Registrations

Contract Type	Total Number Registered	Total Registration Value
Franchises (15)	2	\$0
Concessions (20)	119	\$25,321,319
Revocable Consents (17)	553	\$37,332,859
Corpus Funded (25)	29	\$128,223,123
Other Expense Contract (29)	6	\$22,285,000
Miscellaneous Revenue-No Expense (30)	4	\$0
Programs (Not Tax Levy) (72)	11	\$0
Consultant (10)	1	\$0
Others (99)	2	\$352,378
<b>TOTAL</b>	<b>727</b>	<b>\$213,514,679</b>

### Franchise Agreements

A franchise is a grant by an agency of a right to occupy or use the inalienable property of the City to provide a *public* service.<sup>55</sup>

### Concession Agreements

A concession is a grant made by an agency for the *private* use of City-owned property for which the City receives compensation other than in the form of a fee to cover administrative costs.<sup>56</sup> Concessions do not include franchises, revocable consents and leases. An example of a concession registered in FY14 is the \$9,371,558, agreement between DPR and Custard’s First Stand LLC *doing business as* Shake Shack for the “Operation of the Outpost in Madison Square Park” (CT120148201131).

<sup>55</sup> NYC Charter § 362(b)

<sup>56</sup> NYC Charter § 362(a)

## **Revocable Consent Agreements**

A revocable consent is a grant of a right by the City, revocable at will, (1) to any person to construct and use for private use pipes, conduits and tunnels under, railroad tracks upon, and connecting bridges over inalienable property; (2) to an owner of real property or, with the consent of the owner, to a tenant of real property to use adjacent inalienable property; or (3) to a public service corporation for facilities ancillary to, but not within a franchise granted prior to July 1, 1990. DOT and DCA collectively registered 553 revocable consent agreements in FY14 for a combined total value exceeding \$37 million.

## **Corpus Funded Agreements**

Corpus funds are utilized to finance pension related expenses, such as investment management services. Only two agencies (Comptroller's Office and Department of Education) were responsible for awarding and registering the 29 corpus funded agreements processed in FY14.

## 5. Registered Contract Management Actions

Registered "Contract Management Actions" refer to those procurement methods intended to continue or augment existing registered agreements. As indicated by "Table V" below, BCA registered a total of 1,018 Contract Management Actions in FY14 for a combined projected value of \$3,394,970,662.

**Table V: FY14 Registered Contract Management Actions**

Award Method	Total Number Registered	Total Registration Value
<b>Renewals (10)</b>	572	\$2,589,318,539
<b>Negotiated Acquisition Extensions (211)*</b>	446	\$805,652,123
<b>TOTAL</b>	<b>1,018</b>	<b>\$3,394,970,662</b>

\*Includes DOE Negotiated Services Extensions

### Renewal Agreements

A "Renewal" is the re-registration of a previous contract with the same vendor, with substantially unchanged terms and conditions, but possibly revised quantities, lists or schedules or items to be supplied.<sup>57</sup> A total of 580 renewals were registered in FY14. This figure does not include "Grant Renewals" which are captured in the "1-02(f)" Section under "Grants." Out of the renewals registered in FY14, DOHMH entered into the largest one for \$471,000,000, with Public Health Solutions for the continuation of their "HIV/AIDS Master Contract" (CT120141407891).

### Negotiated Acquisition Extensions

"Negotiated Acquisition Extensions" or "NAEs" represent a form of contract extension whereby an existing contract, regardless of the original procurement method, can be extended one or more times beyond the current cumulative twelve-month limit, provided that the vendor's performance is satisfactory or that any deficiencies have been or are addressed or are effectively addressed through a corrective action plan, and the extension(s) is for the minimum time necessary to meet the need.<sup>58</sup> A total of 446 NAEs were registered in FY14. One example of an NAE is the \$418,808,487 contract ACS entered into with YMS Management Associates Inc. towards the purpose of "Child Care Voucher Payment" (CT120141406032).

<sup>57</sup> 9 RCNY § 4-04(a)

<sup>58</sup> 9 RCNY § 3-04(b)(2)(iii)

## 6. Registered Contracts Procured by “Other” Award Methods

“Other” Registrations include those contract actions registered in FY14 that cannot be easily classified using one of the aforementioned general award categories. For purposes of this Report, these include the ten individual award methods listed in “Table VI” below. A total of 428 registrations by “Other” Award Methods were made in FY14 for a combined projected value of \$3,260,162,730.

Table VI: FY14 “Other” Award Methods Registrations

Award Method	Total Number Registered	Total Registered Value
Leases (7)	165	\$1,023,343,806
Watershed Agreements (79)	46	\$11,022,640
Assignments (29*)	113	\$2,072,517,718
Force Account Negotiations (68)	19	\$9,871,312
DOE Listing Application (40)	24	\$28,126,223
Non-Procurement Transactions (18)	1	\$39,483
Contract Conversions (24)	2	\$484,058
Real Estate Sales & Purchases (78)	3	\$65,424,096
Bonds (99**)	16	\$33,825,000
Miscellaneous (99)	39	\$15,508,394
<b>TOTAL</b>	<b>428</b>	<b>\$3,260,162,730</b>

\*Excludes “RCT1s.”

\*\* Contract Type 88 (Bonds); Contract Category 104 (Bonds/Letter of Credit).

### Leases

“Leases” are agreements between the City and a landlord for use of real property by the City. The acquisition of the use of real property through a Lease is not subject to the competitive bidding requirements. Most leases for real property are negotiated and entered into by DCAS, generally on behalf of other mayoral agencies, community boards and borough president’s offices.<sup>59</sup>

### Watershed Agreements

The NYC Watershed consists of three waterway systems; Catskills, Delaware and Croton, and provides the largest unfiltered water supply in the United States to the eight million residents of NYC and tourists. The City’s Watershed Agreement, which was signed in January 1997, grants DEP, in collaboration with other New York State and federal agencies, the authority to manage the City’s watershed properties as well as the responsibility to operate the City’s water assets through service contracts. During FY14, DEP registered 46 service contracts for a total registration value of \$11,022,640.

<sup>59</sup> NYC Charter § 824(a)

## Assignments

An "Assignment" of a contract is a transaction that is used when an entire agreement, or portion thereof, is transferred from the original contractor to a new contractor for completion of the original deliverables. The terms and conditions of the original agreement do not change. During FY14, 113 contract assignments were registered for a total value of \$2,072,517,718.

## Force Account Negotiation Agreements

Force account is the payment method used for extra work if the contractor, primarily the New York City Transit Authority ("NYCTA"), Long Island Rail Road ("LIRR"), and the City have not agreed on a unit price or lump sum amount, or if those methods are impracticable. Force account payments cover labor, materials, and equipment. They may also cover other miscellaneous expenses. Nineteen Force Account Negotiations contracts were registered during FY14 for a total value of \$9,871,312.

## DOE Listing Application Contracts

As the name suggests, the "Listing Application" method is unique to the DOE. Specifically, it permits the creation of a listing application for the purchase of content provided directly to students, materials that are available only from the publisher, artistic performances, and admission to programs offered by cultural institutions.<sup>60</sup> It may also be established for costs incidental to presentations or workshops geared toward explaining the methodology of a specific published/copyrighted item or costs incidental to the admission to a cultural event that includes workshops or presentations geared toward teaching tools that will enhance the use of the original materials, performances or programs purchased. Twenty-four DOE Listing Application contracts were registered in FY14 for a total registered value of \$28,126,223.

## Contract Conversions

A "Contract Conversion" is a special award method created to enable agencies to transfer or convert existing contracts during the City's 2010 migration from FMS2 to FMS3. During FY14, two contract conversions were registered for a total value of \$485,057.

## Real Estate Sales & Purchase Agreements

"Real Estate Sales & Purchases" Agreements typically refer to contracts for the purchase of land by an agency from a private seller in connection with a City project. Agencies may also use these agreements to reimburse property owners for use of all or a portion of their land rather than purchase the land outright. During FY14, three Real Estate Sales & Purchases Agreements were registered for a total value of \$65,424,096.

## Bond Agreements

"Bond" Agreements or "Letter of Credit" Agreements allow the City to issue variable rate bonds which are intended to reduce the interest rates the City must pay on its bonds and ensure that bonds are purchased in the event of a failed remarketing. Solicitations for these transactions are issued pursuant to § 4.90 of the NYS Local Finance Law and not the PPB Rules.<sup>61</sup> The Comptroller's Office registered 16 Bond/Letter of Credit Agreements during FY14 for a total value of \$33,825,000.

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<sup>60</sup> PPP § 3-06(a)

<sup>61</sup> § 4.90 of NYS Local Finance Law requires variable rate bonds to have letters of credit or liquidity facilities backing them.



## Section 3: Modifications

Generally, a “Modification” is used by a City agency to modify or adjust an existing registered contract with another party.<sup>62</sup> Most often, these changes are effectuated through methods such as “Amendment Extensions” and “Change Orders.”

An “Amendment Extension” is a contract amendment that extends the contract term for good and sufficient cause for a cumulative period not to exceed one year from the date of expiration of the current contract.<sup>63</sup> On the other hand, a “Change Order” is a mechanism used by agencies to alter, change, amend, or modify (in any way) an existing registered contract or agreement.<sup>64</sup> There are typically two types of “Change Orders”: Construction Change Orders and Design Change Orders. It should also be noted that contract Modifications are registered for administrative actions, such as changes to accounting lines and modifications to contract end dates on construction completion contracts. The total number of Modifications in this Report represent all categories of contract changes.

In FY14, 44,651 Modifications, Amendment Extensions and Change Orders were registered by City Agencies.

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<sup>62</sup> 9 RCNY § 4-02

<sup>63</sup> 9 RCNY § 4-02(b)(iii)

<sup>64</sup> 9 RCNY § 1-01(e)

## PART III

## Section 4: BCA Highlights from FY14

Significant BCA accomplishments during FY14 related to its registration function include:

- Closed Caption Television (“CCTV”) Systems: BCA worked closely with the New York City Housing Authority (NYCHA), the Office of Management and Budget (OMB) and the Mayor’s Office to efficiently expedite the registration of approximately 85 contracts for the purpose of installing CCTV Systems in NYCHA housing.
- IT Procurement: BCA continues to review and register agency IT contracts including those for professional services, software licenses, hardware, and support services. Several new Citywide IT services master contracts procured by DOITT via RFP were registered in FY14: eight Quality Control services contracts worth a total of \$96,000,000 and 16 Systems Integration services contracts totaling \$250,000,000.

In FY14, BCA received over 21,000 contract actions through for registration resulting in over two million pieces of paper in our workflow application known as the Omnibus Automated Image Storage and Information System (“OAISIS”). Despite the sheer volume of contract submissions, BCA aims to work towards increasing transparency and efficiency in the procurement process. In FY14, BCA undertook several initiatives, often in collaboration with other Comptroller bureaus, in furtherance of this goal. These include:

- Comptroller Directive No. 31 of 2014: BCA worked collaboratively with the Bureau of Accountancy, the Office of the General Council and the Bureau of Public Policy to issue Comptroller Directive No. 31, “Special Audit Procedures for Information Technology Consulting and other Information Technology Professional Services Payment Requests Under Contracts Specifying Payment to a Vendor Based on Time,” which provides guidance to City agencies intended to reign in the costs of IT consultant contracts.
- NYC Vendor Roadmap: In October 2014, BCA, in collaboration with multiple bureaus, launched *Vendor Roadmap: A Guide to Doing Business with the City* which serves as a “one-stop” shop for new and existing vendors to learn how to do business with the City (<http://comptroller.nyc.gov/vendorroadmap/>). Since its release on October 29, 2014, the website has received nearly 1,000 hits.
- Citywide Electronic Invoicing Request for Information (“RFI”): On December 5, 2014, the Comptroller’s Office released a RFI for Electronic Invoicing Solutions to invite responses and gather information regarding innovative ways to modernize the City’s contract invoicing process and transition away from its current paper-based workflow. A well-attended pre-submission conference was held on January 8, 2015.

## Section 5: Agency Specific Data & Analysis

### 1. Spotlight on DOE FY14 Contract Registrations

DOE oversees schools that serve approximately 1.1 million students each year. Its Division of Contracts and Purchasing ("DCP") is responsible for awarding goods and services contracts. Given the volume of DOE procurements, DOE's diverse procurement portfolio and DOE's sheer leverage from a buying/budget/accounting perspective, the Comptroller's Office determined that a more in-depth look into the agency's FY14 procurement activity as filtered through the lenses of "contract registrations" was an important inclusion in this Summary Report.

Although DOE is a creature of New York State Law and is therefore not subject to the PPB Rules, DOE is required by Education Law to create, implement and follow a set of procurement rules.<sup>65</sup> These rules, known as the "Procurement Policy & Procedures" or "PPP," were approved by the Panel of Education Policy ("PEP") on January 27, 2010.<sup>66</sup> Amendments to the PPP were subsequently approved by the PEP on December 21, 2012. The PPP was implemented to "ensure the wise, prudent, and economical use of public money."<sup>67</sup> Specifically, they are intended "to ensure that contracts are awarded consistent with law and on the basis of best value, including, but not limited to maximum quality, lowest cost or lowest possible cost, and efficiency," "to make as consistent as possible the uniform application of these policies throughout the DOE," and "to provide for increased public confidence in the DOE's public procurement procedures."

Section 3-01 ("Policy") of the PPP lists the twelve procurement award methods available to the DOE. Specifically, § 3-01(a) of the PPP ("Methods of Source Selection") states that, "Unless otherwise authorized by law, all DOE procurements shall be made by one of the methods below:

- (1) Competitive sealed bidding;
- (2) Request for proposals;
- (3) Multiple task award contract process;
- (4) Expedited competitive solicitation;
- (5) Listing application;
- (6) Sole source goods procurement;
- (7) Negotiated Services;
- (8) Emergency purchases;
- (9) Simplified procurement;
- (10) Purchases through governmental contracts;
- (11) Demonstration projects for innovative products, approaches, or technologies;
- (12) Innovative procurement methods;
- (13) Government-to-government purchases; or
- (14) Consultant contracts with individuals."<sup>68</sup>

<sup>65</sup> NYS Education Law § 2590-g

<sup>66</sup> See PPP § 1-01 ("Definitions") which states that the Panel for Educational Policy is the "The board of education of the city school district of the City of New York consisting of thirteen appointed members as set forth in the New York State Education Law Section § 2590-b of Article 52-A."

<sup>67</sup> PPP § 1-01

<sup>68</sup> PPP § 3-01(a)

In many ways, the PPP is very similar to the PPB in terms of intent, award methods, and requirements. However, there are some considerable differences between the two which offers DOE significantly more discretion in the contract solicitation, vetting and award process. One constant, however, is the requirement that DOE contracts funded partially or in full by the city treasury be registered with the Comptroller's Office prior to implementation. According to § 2-09(a) of the PPP ("Applicability"), "Unless otherwise provided by law or these Procedures, all contracts, franchises, revocable consents and concessions shall be presented to the Comptroller for registration. Registration of a contract by the Comptroller shall not constitute an approval of the contract nor an approval of the process by which the contract or agreement was awarded."<sup>69</sup>

Although § 3-01(b) of the PPP specifies a "Preference for Competitive Sealed Bidding," the majority of DOE's procurements were awarded and registered via "Alternate Source Selection Methods."<sup>70</sup> Section 3-01(d) of the PPP ("Justification for Alternative Source Selection Method") states that, "Upon determining that there is a situation which warrants awarding a contract using alternatives to competitive sealed bidding where competitive sealed bidding is not practicable or not advantageous, the Procurement Manager shall use the most competitive alternative method of procurement provided for in § 3-01(a) of these Procedures which is appropriate under the circumstances. The Procurement Manager shall make a written determination justifying the basis, including the efficiency, benefit and necessity, for awarding a contract using a procurement method other than competitive sealed bidding."

Additionally, the PPP does not require registration of purchase orders used to make purchases pursuant to requirements contracts that have been registered with the Comptroller<sup>71</sup> nor does the PPP require that "Emergency" contracts be registered by the Comptroller's Office prior to implementation.<sup>72</sup> Notwithstanding, a significant distinction between the PPP and PPB centers on the process required to award "Emergency" contracts. Unlike mayoral agencies, the PPP does not require that DOE receive prior approval from the Comptroller and Corporation Counsel to invoke use of the "Emergency Procurement" method. Rather, the prior approval is handled internally rather than through independent third party oversight agencies. During FY14, 40 Emergency Procurements were registered by DOE for a total registration value of \$211,087,391. Compared to the average mayoral agency, DOE frequency of use, total volume and registered contract value for these contracts is significantly higher.

### **Notable Observations Pertaining to DOE FY14 Registered Agreements**

- A total of 2,395 DOE contracts were registered in FY14 for a total projected contract value of \$3,955,309,967. This represents 16.84 percent of the total projected citywide registration value.
- While DOE's use of "Emergency" Procurements accounted for approximately 1.67 percent of its own total FY14 contract registration portfolio (40 of 2,395 contracts), it accounted for approximately 19.23 percent of the total citywide Emergency Contracts awarded and registered by agencies (40 of 208 contracts). This represented only 5.34 percent of DOE's total value of registered contracts, but 62.61 percent of the value of all registered Emergency Contracts citywide.

<sup>69</sup> PPP § 2-09(a)

<sup>70</sup> See § 3-01(b) ("Except as otherwise provided in these Procedures, contracts shall be awarded by competitive sealed bidding.")

<sup>71</sup> See PPP § 2-09(b) ("Registration is not required for purchase orders used to make purchases pursuant to requirements contracts that have been registered with the Comptroller.")

<sup>72</sup> NYC Charter § 328(d)(1)

- While DOE's use of "Negotiation Acquisition" Procurements accounted for approximately 1.93 percent of its total FY14 contract registrations (41 of 2,395 contracts), it accounted for approximately 11.68 percent of the total citywide Negotiated Acquisition Contracts awarded and registered citywide (41 of 351 contracts).
- While DOE's use of "Buy-Against" Procurements accounted for approximately 1.04 percent of its total FY14 contract registrations (25 of 2,395 contracts), it accounted for approximately 78.13 percent of the total citywide Buy-Against Contracts awarded and registered citywide (25 of 32 contracts).
- DOE's use of the "Assignment" method accounted for approximately 1.34 percent of its total FY14 contract registrations (32 of 2,395 contracts), it accounted for approximately 28.32 percent of the total citywide Buy-Against Contracts awarded and registered citywide (32 of 113 contracts)

Table VII: FY14 DOE Contract Registrations

Award Method	Total Number Registered	Total Registered Value
Competitive Sealed Bids (01)	197	\$2,136,008,667
Competitive Sealed Proposals (02)	139	\$296,442,962
PQVL Competitive Sealed Proposals (22)	101	\$68,517,882
Renewals (10)	112	\$68,070,274
Intergovernmental (25)	15	\$185,333,666
Emergency Procurements (06)	40	\$211,087,392
Negotiated Acquisitions (21)	41	\$76,226,317
Buy-Against Procurements	25	\$216,343,604
Discretionary (Line Item) Awards (12)	18	\$4,723,953
Lessee (07)	26	\$415,684,856
Grants (51)	24	\$7,010,061
Grant Renewal (511)	6	\$509,237
Assignment (86)	32	\$200,301,659
DOE Listing Application (040)	24	\$26,971,223
Sole Source (05)	2	\$631,014
Determined by Government Mandate (26)	1	\$450,000
Small Purchase-Written (32)	1,591	\$39,775,000
Corpus Funded (Contract Type 25)	1	\$67,200
<b>TOTAL</b>	<b>2,395</b>	<b>\$3,955,309,967</b>

## 2. Spotlight on DOITT FY14 Information Technology Contract Registrations (Task Orders Awarded through Master Agreements)

Master agreements are set up for the provision of general categories of goods and services that are needed by one or more agencies. Agencies utilize master agreements by issuing task orders to fulfill specific needs. For example, DOITT's Citywide Quality Assurance and System Integration services contracts are set up as master agreements which agencies may use to support individual IT projects.

Master agreements as well as agency task orders are submitted to the Comptroller for registration. The protocol for awarding task orders is established in the terms of each master agreement and may include assignment on a rotational basis, by area or expertise, or via a second tier of competition such as a mini-bid or mini-proposal process.

Over 1,000 CTA1s or "Task Orders" ("TOs") issued pursuant to master agreements held by several agencies were registered in FY14 for a total registration value of nearly \$941 million. Of these, 174 or 16.48 percent were TOs issued and registered from master information technology contracts held by DOITT and had a total registration value of approximately \$28,056,871.

**Table VIII: Task Orders Awarded through Master Agreements**

CTA1s	Total Number Registered	Total Registered Value
<b>Total CTA1s (DOITT)</b>	174	\$28,056,871
<b>Total CTA1s (ALL Other Agencies)</b>	882	\$912,602,233
<b>TOTAL</b>	<b>1,056</b>	<b>\$940,659,104</b>

## PART IV

## Section 6: Glossary

**Accelerated Procurement:** An accelerated procurement is a procurement of commodities that is required to be made quickly due to markets experiencing significant shortages and/or short-term price fluctuations. Such markets must be identified by specific rule of the PPB. Accelerated procurement shall only be authorized when the CCPO determines those specific commodities subject to accelerated procurement, i.e., chemicals, energy, food, etc. (9 RCNY § 3-07).

**ACCO:** An acronym that stands for Agency Chief Contracting Officer. Position delegated authority by the Agency Head to organize and supervise the procurement activity of subordinate agency staff in conjunction with the CCPO. (9 RCNY § 1-01 (e)).

**Agency Head:** A term referring to heads of city, country, borough, or other office, administration, department, division, bureau, board, or commission, or a corporation, institution or agency of government, the expenses of which are paid in whole or in part from the City treasury. (9 RCNY § 1-01 (e)).

**Amendment:** Modification or adjustments made to an existing contract. (9 RCNY § 4-02).

**Amendment Extension:** A contract amendment that allows for an extension of a contract term for good and sufficient cause for a cumulative period not to exceed one year from the date of expiration of the current contract. (9 RCNY § 4-02(b)(iii)).

**Buy-Against:** The process by which, as part of contract administration, an agency obtains goods and services to fulfill its requirements after a vendor defaults or fails to fulfill its contract responsibilities. This action is also known as an assignment. (9 RCNY § 1-01(e)).

**Capital Project (budget, or funding):** Capital projects or contracts are funded with monies from the Capital budget typically for the purposes of funding physical infrastructure. Capital projects are at least \$35,000 and have a life of five years.<sup>73</sup>

**Change Order:** Any alteration, change, amendment, or modification to any contract or agreement approved as required by law or rule. (9 RCNY § 1-01(e)).

**CCPO:** An acronym that stands for City Chief Procurement Officer. Position delegated authority by the Mayor to coordinate and oversee the procurement activity of Mayoral agency staff, including the ACCOs. (9 RCNY § 1-01(e)).

**Charter:** The New York City Charter. (9 RCNY § 1-01(e)).

**City:** City of New York. (9 RCNY § 1-01(e)).

**Competitive Sealed Bidding (CSB):** The source selection method in which sealed bids are publicly solicited and opened and a contract is awarded to the lowest responsive, responsible bidder. (9 RCNY § 1-01(e)).

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<sup>73</sup> <http://www.ibo.nyc.ny.us/iboreports/understandingthebudget.pdf>

**Competitive Sealed Proposals (CSP)**: The source selection method in which a solicitation is made to potential vendors, and between receipt of proposals and award, discussions with vendors may take place to resolve uncertainties in the proposal, advise vendors of deficiencies in meeting the agency's requirements, allow for resulting price changes, etc. (9 RCNY § 1-01(e)).

**Concession**: A grant made by an agency for the private use of City-owned property for which the City receives compensation other than in the form of a fee to cover administrative costs, except that concessions shall not include franchises, revocable consents and leases. (NYC Charter § 362(a)).

**Construction**: The process of constructing, reconstructing, demolishing, excavating, renovating, altering, improving, rehabilitating, or repairing any building, facility, or physical structure of any kind, excluding the performance of routine maintenance. (9 RCNY § 1-01(e)).

**Construction Management Contract**: A form of construction contract that provides the vendor is to furnish management and supervisory services necessary for the construction of facilities that may also include construction services and the ability to award the underlying construction contract. (9 RCNY § 1-01(e)).

**Construction-Related Services**: Those services that may reasonably be required in the planning, design, or construction of real property or other public improvements. Such services shall include, but not be limited to, engineering, construction supervision, construction management, testing and investigation. (9 RCNY § 1-01(e)).

**Contract**: A written agreement between the City and a vendor in an amount generally in excess of the small purchase limits that gives rise to obligations that are enforced and recognized by law. (9 RCNY § 1-01(e)).

**Contractor**: Any person having a contract with a governmental body. (9 RCNY § 1-01(e)).

**Cost Analysis**: The process of examining the reasonableness of a vendor's price by evaluation of the separate cost elements and proposed profit in part on the basis of cost data supplied and certified by the vendor. Cost analysis is used on contract actions (including change orders) where price cannot be determined as fair and reasonable by using price analysis alone. (9 RCNY § 1-01(e)).

**Demonstration Project**: A short-term, carefully planned, pilot exercise designed to test and evaluate the feasibility and application of an innovative product, approach or technology not currently used by the City. Demonstration projects may be proposed for goods, services or construction. They allow the City to observe and analyze effectiveness and efficiency without a large commitment of resources. (9 RCNY § 3-11(a)).

**Emergency**: An unforeseen danger to life, safety, property, or a necessary service. (9 RCNY § 1-01(e)).

**Emergency Procurement**: Method of procurement for goods when there is an unforeseen danger to life, safety, property, or a necessary service, the existence of which creates an immediate and serious need for goods, services, or construction that cannot be met through normal procurement methods. (9 RCNY § 3-06(a)).

**Emerging Business Enterprise (EBE)**: A business enterprise authorized to do business in this state, including sole proprietorships, partnerships and corporations, in which such individuals have demonstrated that they are socially and economically disadvantaged. (NYC Charter § 1304 (6)(c)).

**Encumbrance**: An action to set aside or reserve all, or a portion, of an appropriation of funds for the

payment of future expenses such as payments for the receipt of goods, services or construction pursuant to a contract or agreement. (NYS Office of the State Comptroller Guide to Financial Operations Chapter XI.2.C.).

**Expense Contract (budget, or funding):** An expense contract is sourced with funding from the expense budget that has the explicit function of funding present City operations.<sup>74</sup>

**Fiscal Year:** Unless otherwise indicated, the word “year” as it related to terms of contracts shall mean the City’s fiscal year. (9 RCNY § 1-01(e)). For the purpose of this Report, the fiscal year covered is Fiscal Year 2014 which runs from July 1, 2013 through June 30, 2014.

**FMS:** An acronym stands for Financial Management System. (9 RCNY § 1-01(e)).

**Franchise:** A grant by an agency of a right to occupy or use the inalienable property of the City to provide a public service. (NYC § 362(b)).

**Franchise and Concession Review Committee (FCRC):** The FCRC consists of six members: the Mayor who serves as chair, the director of the Office of Management and Budget (OMB), the Corporation Counsel, the Comptroller and one additional appointee of the mayor. The FCRC is primarily responsible for the establishment of rules for the granting of concessions to ensure a competitive and fair process. Each member of the FCRC is entitled to one vote, with the exception of the borough president who collectively share a single vote. Franchises require at least five votes to be approved whereas applicable concession awards typically require four votes. (NYC Charter § 373).

**Goods:** All personal property, including but not limited to equipment, materials, printing, and insurance, excluding land or a permanent interest in land. (9 RCNY § 1-01(e)).

**Government-to-Government Procurement:** Purchases made when it is in the City’s best interest to procure from another governmental entity goods, services, construction, or construction-related services where the accepted price, terms and conditions are achieved through negotiation between the agency and the governmental entity. (9 RCNY § 3-13(a)).

**Grant:** A cash transfer made by a government entity to another government entity, a quasi-public entity, a private organization, or an individual, for use by the recipient in accomplishing objectives established by the recipient. A grant is permissible only to accomplish a public purpose authorized by federal, state, or City law. A grant may be conditional, although awarded without other consideration. Federal and state grants are identified specifically by formula or specific allocations in law or in the annual operating budget act, bond authorizations, or other acts of Congress or the state legislature. Grants can be distinguished from procurement contracts, which call for the vendor to produce specific end products or to deliver specific goods or services. While there are requirements under a grant that result in an executed agreement between the grantor and grantee, this document is not a contract for services. (9 RCNY § 1-01(e)).

**HHS (Health and Human Services) Accelerator:** HHS Accelerator is an office that facilitates the central management of the procurement process for client services vendors and contractual by creating and maintaining a web-based document vault for client services vendors; creating and maintaining a centralized, electronic and web accessible categorization system of services provided for all City agencies;

<sup>74</sup> <http://www.ibo.nyc.ny.us/iboreports/understandingthebudget.pdf>

prequalifying client services providers; and managing procurements for client services. (9 RCNY § 1-01(e)).

**Human/Client Services:** Programs contracted for by the City of New York on behalf of third party clients, including programs to provide social services, health or medical services, housing and shelter assistance services, legal services, employment assistance services, and vocational, educational or recreational programs. Agencies whose mission involves the award and administration of such contracts, or provisions of the same or similar services by agency staff are sometimes known as “Human Services agencies.” Examples of human services include but are not limited to: day care, foster care, mental health treatment, operation of senior centers, home care, employment training, homeless assistance, preventive services, health maintenance organizations, and youth services. (9 RCNY § 1-01(e)).

**IFB:** An acronym that stands for Invitation for Bids. (9 RCNY § 1-01(e)).

**Information Technology:** Systems or components thereof including, but not limited to, hardware, software, firmware, and telecommunications that integrate and process data; and services including, but not limited to, planning, consulting, project managing, developing requirements definitions, analyzing, designing, programming, testing, training, implementing, as well as conversion capacity management and quality assurance for the purpose of using, creating, maintaining, operating, or repairing computer systems or networks or computer systems or components thereof. (9 RCNY § 1-01(e)).

**Innovative Procurement:** Prospective procurement method that tests and evaluates the feasibility and application of procurement methods not currently used by the City or provided for under the PPB rules. (9 RCNY § 3-12 (a)).

**Intergovernmental Purchase:** The issuance of a purchase order or contract to procure goods, services, or construction through the United States General Services Administration, any other federal agency, the New York State Office of General Services, any other state agency or in cooperation with another public agency subject to the rules set forth under the PPB rules. (9 RCNY § 1-01(e)).

**Investigative or Confidential Services:** Services provided by law enforcement, scientific, and/or legal consultants, or other experts or professionals that are necessary in connection with an official matter within the scope of the acquiring agency’s authority and that directly or indirectly relate to a pending or contemplated case, trial, litigation, or confidential or sensitive investigation or negotiation for which such services of the nature and kind envisioned herein are ordinarily used. (9 RCNY § 1-01(e)).

**Line Item Appropriation:** Method of procurement in which contract awards are made from line items appropriations and/or discretionary funds to community-based not-for-profit organizations or other public service organizations identified by elected City officials other than the Mayor and the Comptroller. Public officials that are able to designate awards for discretionary funding include the Public Advocate, individual members of the City Council, the City Council Speaker, and the Borough Presidents. These contract awards are typically designated by an elected official and are then administered and processed by a Mayoral agency. (9 RCNY § 1-02(e)).

**Master Service Agreement:** A Master Agreement (or Multiple Award Task Order Contract) may be awarded for standard services or multiple award purchase order contracts for goods upon a determination by the ACCO that it is in the best interest of the City to award multiple contracts for goods or standard services to multiple contractors and to allocate work among such contractors through a task order or purchase order system. Master Service Agreements can be awarded through either CSBs or CSPs. Once a master contract is set up, individual task orders are issued for the specific amount of the goods

and or services. Task orders are typically assigned by rotation though they can also be awarded through a mini-bid or competition. These types of contracts (typically for standard services) are commonly set up by DCAS and can be utilized by other City agencies. (9 RCNY §§ 3-02(t), (j)).

**Micropurchases:** Procurements of which the value is \$20,000 or less where no competition is required except that in making purchases below the limit, contracting officers shall ensure that the noncompetitive price is reasonable and that purchases are distributed appropriately among responsible vendors, including M/WBE vendors. (9 RCNY§ 3-08(c)(1)(ii)).

**M/WBE:** An acronym that stands for Minority and/or Women-owned Business Enterprise; a business authorized to do business in the state, including sole proprietorships, partnerships, and corporations, in which (i) at least fifty-one percent of the ownership interest is held by United States citizens or permanent resident aliens who are (a) either minority group members or (b) women, (ii) the ownership interest of such person is real, substantial, and continuing, and (iii) such persons have and exercise the authority to control independently the day to day business decisions of the enterprise. (9 RCNY § 1-01(e)).

**Negotiated Acquisition:** A method of source selection under which procurements can be made through negotiation due to circumstances and subject to conditions, as specified in these rules, in which it is not practicable and/or advantageous to the City to make the procurement through competitive sealed bidding or competitive sealed proposals. The use of negotiated acquisition requires CCPO approval. (9 RCNY § 1-01(e)).

**Negotiated Acquisition Extension:** A form of contract extension in which an existing contract regardless of the original procurement method, can be extended one or more times beyond the now permissible cumulative twelve-month limit, provided that the vendor's performance is satisfactory or that any deficiencies have been or are addressed or are effectively addressed through a corrective action plan, and the extension(s) is for the minimum time necessary to meet the need. (9 RCNY § 3-04(b)(2)(iii)).

**Person:** Any business, individual, partnership, corporation, union, firm, company, committee, club, other organization, governmental body, or group of individuals. (9 RCNY § 1-01(e)).

**Prequalification:** The screening of potential vendors in which a purchaser may consider factors such as financial capability, reputation, and management in order to develop a list of prospective vendors qualified to be sent invitations to bid or requests for proposals. (9 RCNY § 1-01(e)).

**Procurement:** Buying, purchasing, renting, leasing, or otherwise acquiring any goods, services, or construction. It also includes all functions that pertain to the obtaining of any good, service, or construction, including planning, description of requirements, solicitation and selection of sources, preparation and award of contract, and all phases of contract administration, including receipt and acceptance, evaluation of performance, and final payment. (9 RCNY § 1-01(e)).

**Procurement Policy Board (PPB):** The PPB is the governing entity responsible for the promulgation of the City's procurement rules. Members of the PPB set forth rules that include but are not limited to: the use of different types of procurements, how bids and proposals may be solicited, the award and administration of contracts and the resolving of contract disputes. The PPB consists of five members, three of whom are appointed by the mayor and two of whom are appointed by the Comptroller. The PPB is required to assess and review its rules, policies and procedures annually and report to the Mayor, Comptroller and City Council on recommendations to make procurement more efficient. (NYC Charter § 311).

**Professional Services:** Services other than human/client services that require specialized skills and the exercise of judgment, including but not limited to: (i) accountants, (ii) lawyers, (iii) doctors, (iv) computer programmers and consultants, (v) architectural and engineering services, and (vi) construction management services. (9 RCNY §1-01(e)).

**Proposer:** A person submitting a proposal in response to a Request for Proposal. (9 RCNY § 1-01(e)).

**Protest:** A complaint about a governmental action or decision concerning procurement brought by an interested party to the appropriate administrative section with the intention of achieving a remedial result. (9 RCNY § 1-01(e)).

**Purchase Order:** An official document of the City directing the vendor to perform. A purchase order formalizes a purchase transaction with a vendor for purchases generally at or below the small purchase limits unless the purchase order is placed against an existing contract. (9 RCNY § 1-01(e)).

**Registration:** The process through which the Comptroller (1) encumbers funds to insure that monies are available to pay vendors upon the satisfactory completion of contract work; (2) maintains a registry of City contracts and agreements; (3) presents objections, if, in the Comptroller's judgment, there is sufficient reason to believe that there is possible corruption in the letting of the contract or that the proposed contractor is involved in corrupt activity, and (4) tracks City expenditures and revenues associated with those contracts and agreements. No contract or agreement (including agreements memorializing the terms of franchises, revocable consents or concession) will be executed pursuant to the NYC City Charter or other law shall be implemented until (1) a copy has been filed with the comptroller and (2) either the comptroller has registered it or thirty days have elapsed from the date of filing, whichever is sooner. Registration authority for contracts, franchises and concessions are derived from the NYC City Charter. (9 RCNY § 1-01(e); NYC City Charter §§ 328, 375).

**Renewals:** Re-registration of previous contracts with the same vendor, with substantially unchanged terms and conditions, but possibly revised quantities, lists or schedules or items to be supplied. (9 RCNY §4-04(a)).

**Required Method/Preferred Source:** Method of procurement in which the PPB rules do not apply to procurements to the extent that a source of funds outside the City of New York, a Federal or State statute or rule, the terms of a court order or consent decree, or other applicable law expressly authorizes or requires otherwise. (9 RCNY § 1-02 (d)(1)).

**Required Authorized Source:** Method of procurement in which the source selection requirements of the PPB rules do not apply to procurements where a source of funds outside the City of New York, a Federal or State statute or rule, the terms of a court order or consent decree, or other applicable law expressly authorizes or requires that a procurement be made from a specified source. (9 RCNY § 1-02 (d)(2)).

**Requirement Contract:** Contract for standard services or multiple award purchase order contracts for goods that are awarded when it is determined by the ACCO that it is in the best interests of the City to award multiple contracts for goods or standard services to multiple contractors and to allocate work among such contractors through a task order or purchase order system. (9 RCNY § 3-02(t)(1)).

**Responsible Bidder or Proposer:** A vendor who has the capability in all respects to perform in full the contract requirements, and the business integrity and reliability that will assure good faith performance. (9 RCNY § 1-01(e)).

**Responsive Bidder or Proposer:** A vendor whose bid or proposal conforms to the terms set out by the City in the solicitation. (9 RCNY § 1-01(e)).

**Revocable Consent:** A grant of a right, revocable at will, (1) to any person to construct and use for private use pipes, conduits and tunnels under, railroad tracks upon, and connecting bridges over inalienable property, (2) to an owner of real property or, with the consent of the owner, to a tenant of real property to use adjacent inalienable property, or (3) to a public service corporation for facilities ancillary to, but not within a franchise granted prior to July 1, 1990. (NYC Charter § 362 (d)).

**RFP:** An acronym that stands for Request for Proposals. All documents, whether attached or incorporated by reference, used for soliciting competitive proposals. (9 RCNY § 1-01(e)).

**Service Contract:** A contract that calls for a vendor's time and effort rather than for delivery of goods and construction. The term as defined here does not include employment agreements or collective bargaining agreements. (9 RCNY § 1-01(e)).

**Small Purchases:** Any procurement at or below the small purchase limit. The small purchase limit is currently set as \$100,000. (9 RCNY §§ 1-01(e), 3-08(a)).

**Sole Source:** An award of a contract for a good, service, or construction to the only source for the required good, service, or construction. (9 RCNY § 1-01(e)).

**Special Case:** A situation in which it is either not practicable or not advantageous to the City to use competitive sealed bidding as defined in § 312 of the NYC Charter. (9 RCNY § 1-01(e)).

**Solicitation:** The process of notifying prospective vendors that a governmental body wishes to receive bids or proposals for furnishing goods, services, or construction. The process may consist of public advertising, mailing invitations for bids or requests for proposals, posting notices, telephone or facsimile messages to prospective vendors, or all of these. (9 RCNY § 1-01(e)).

**Subscription:** A method of transaction in which there is a subscription or continuing need to renew including electronic subscriptions, for magazines and periodicals, orders for books and "off-the-shelf" training videotapes, and attendance at standard commercially-available training seminars. (9 RCNY § 1-02(f)(5)).

**Standard Services:** Services other than professional services and human/client services such as custodial services, security guard services, stenography services and office machine repair. (9 RCNY § 1-01(e)).

**Task Order:** An agreement that defines the requested scope of work and price under the parameters issued via a master services contract. (9 RCNY § 3-02(t)).

**VENDEX:** A computerized citywide system providing comprehensive contract management information. (9 RCNY §1-01(e)).

**Vendor:** An actual or potential contractor. (9 RCNY § 1-01(e)).

## Section 7: Appendices<sup>75</sup>

### **Appendix 1: FY14 Registered Contracts Procured by Competitive Award Methods**

[http://comptroller.nyc.gov/wp-content/uploads/2015/01/Appendix-1\\_Annual\\_Report\\_Competitive.pdf](http://comptroller.nyc.gov/wp-content/uploads/2015/01/Appendix-1_Annual_Report_Competitive.pdf)

### **Appendix 2: FY14 Registered Contracts Procured by Limited or Non-Competitive Award Methods**

[http://comptroller.nyc.gov/wp-content/uploads/2015/01/Appendix-2\\_Annual\\_Report\\_Limited\\_or\\_No\\_Competition.pdf](http://comptroller.nyc.gov/wp-content/uploads/2015/01/Appendix-2_Annual_Report_Limited_or_No_Competition.pdf)

### **Appendix 3: FY14 Registered Contracts Exempt under § 1-02 of the PPB Rules**

[http://comptroller.nyc.gov/wp-content/uploads/2015/02/Appendix\\_3\\_Annual\\_Report\\_1-02f.pdf](http://comptroller.nyc.gov/wp-content/uploads/2015/02/Appendix_3_Annual_Report_1-02f.pdf)

### **Appendix 4: FY14 Registered Revenue Contracts**

[http://comptroller.nyc.gov/wp-content/uploads/2015/02/Appendix\\_4\\_Annual\\_Report\\_Revenue.pdf](http://comptroller.nyc.gov/wp-content/uploads/2015/02/Appendix_4_Annual_Report_Revenue.pdf)

### **Appendix 5: FY14 Registered Contract Management Actions**

[http://comptroller.nyc.gov/wp-content/uploads/2015/02/Appendix\\_5\\_Annual\\_Report\\_Contract\\_Management\\_Actions.pdf](http://comptroller.nyc.gov/wp-content/uploads/2015/02/Appendix_5_Annual_Report_Contract_Management_Actions.pdf)

### **Appendix 6: FY14 Registered Contracts Procured by "Other" Award Methods**

[http://comptroller.nyc.gov/wp-content/uploads/2015/02/Appendix\\_6\\_Annual\\_Report\\_Other.pdf](http://comptroller.nyc.gov/wp-content/uploads/2015/02/Appendix_6_Annual_Report_Other.pdf)

### **Appendix 7: FY14 DOE Contract Registrations**

[http://comptroller.nyc.gov/wp-content/uploads/2015/02/Appendix\\_7\\_Annual\\_Report\\_Appendix\\_DOE.pdf](http://comptroller.nyc.gov/wp-content/uploads/2015/02/Appendix_7_Annual_Report_Appendix_DOE.pdf)

### **Appendix 8: FY14 Task Orders Awarded through Master Agreements**

[http://comptroller.nyc.gov/wp-content/uploads/2015/02/Appendix\\_8\\_Annual\\_Report\\_Task\\_Orders.pdf](http://comptroller.nyc.gov/wp-content/uploads/2015/02/Appendix_8_Annual_Report_Task_Orders.pdf)

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<sup>75</sup> The column heading labeled "Award Level" in Appendices 1 through 8 refers to the level of competition received for an individual procurement. The numbers listed in the "Award Level" column correspond to the following level of competition received: (1) Single Bid; (2) Multiple Responses/Lowest Chosen; (3) Multiple Responses/Not Lowest Chosen; (30) Conversion; (4) Revenue-Single Response Received; (5) Revenue-Highest of Multiple Responses; (6) Revenue-Not Highest/Multiple Responses; and (7) Best Value/Not Lowest Selected.

### Appendix 9: Agency List

Agency Code	Agency Name	Agency Short Name
002	Mayoralty	MAYOR
003	Board of Elections	BOE
004	Campaign Finance Board	CFB
008	Office of the Actuary	OTA
010	Borough President - Manhattan	MBP
011	Borough President - Bronx	BXBP
012	Borough President - Brooklyn	BKBP
013	Borough President - Queens	QBP
014	Borough President - Staten Island	SIBP
015	Office of the Comptroller	COMP
017	Department of Emergency Management	OEM
021	Office of Administrative Tax Appeals	OATA
025	Law Department	LAW
030	Department of City Planning	DCP
032	Department of Investigation	DOI
035	New York Research Libraries	NYRL
037	New York Public Library	NYPL
038	Brooklyn Public Library	BPL
039	Queens Borough Public Library	QBPL
040	Department of Education	DOE
042	City University of New York	CUNY
043	City University Construction Fund	CUCF
054	Civilian Complaint Review Board	CCRB
056	Police Department	NYPD
057	Fire Department	FDNY
059	Board of Standards & Appeals	BSA
068	Administration for Children's Services	ACS
069	Department of Social Services (Human Resources Administration)	DSS (HRA)
071	Department of Homeless Services	DHS
072	Department of Correction	DOC
Agency Code	Agency Name	Agency Short Name

096	Human Resources Administration	HRA
101	Public Advocate	PA
102	City Council	CC
125	Department for the Aging	DFTA
126	Department of Cultural Affairs	CULT
127	Financial Information Services Agency	FISA
130	Department of Juvenile Justice	DJJ
131	Office of Payroll Administration	OPA
132	Independent Budget Office	IBO
136	Landmarks Preservation Commission	LPC
156	NYC Taxi and Limousine Commission	TLC
226	Commission on Human Rights	HRC
260	Department of Youth and Community Development	DYCD
312	Conflicts of Interest Board	COIB
313	Office of Collective Bargaining	OCA
341	Manhattan Community Board # 1	MCB1
342	Manhattan Community Board # 2	MCB2
343	Manhattan Community Board # 3	MCB3
344	Manhattan Community Board # 4	MCB4
345	Manhattan Community Board # 5	MCB5
346	Manhattan Community Board # 6	MCB6
347	Manhattan Community Board # 7	MCB7
348	Manhattan Community Board # 8	MCB8
349	Manhattan Community Board # 9	MCB9
350	Manhattan Community Board # 10	MCB10
351	Manhattan Community Board # 11	MCB11
352	Manhattan Community Board # 12	MCB12
381	Bronx Community Board # 1	BXCB1
382	Bronx Community Board # 2	BXCB2
383	Bronx Community Board # 3	BXCB3
384	Bronx Community Board # 4	BXCB4
385	Bronx Community Board # 5	BXCB5
<b>Agency Code</b>	<b>Agency Name</b>	<b>Agency Short Name</b>

386	Bronx Community Board # 6	BXCB6
387	Bronx Community Board # 7	BXCB7
388	Bronx Community Board # 8	BXCB8
389	Bronx Community Board # 9	BXCB9
390	Bronx Community Board # 10	BXCB10
391	Bronx Community Board # 11	BXCB11
392	Bronx Community Board # 12	BXCB12
431	Queens Community Board # 1	QCB1
432	Queens Community Board # 2	QCB2
433	Queens Community Board # 3	QCB3
434	Queens Community Board # 4	QCB4
435	Queens Community Board # 5	QCB5
436	Queens Community Board # 6	QCB6
437	Queens Community Board # 7	QCB7
438	Queens Community Board # 8	QCB8
439	Queens Community Board # 9	QCB9
440	Queens Community Board # 10	QCB10
441	Queens Community Board # 11	QCB11
442	Queens Community Board # 12	QCB12
443	Queens Community Board # 13	QCB13
444	Queens Community Board # 14	QCB14
471	Brooklyn Community Board # 1	BKCB1
472	Brooklyn Community Board # 2	BKCB2
473	Brooklyn Community Board # 3	BKCB3
474	Brooklyn Community Board # 4	BKCB4
475	Brooklyn Community Board # 5	BKCB5
476	Brooklyn Community Board # 6	BKCB6
477	Brooklyn Community Board # 7	BKCB7
478	Brooklyn Community Board # 8	BKCB8
479	Brooklyn Community Board # 9	BKCB9
480	Brooklyn Community Board # 10	BKCB10
481	Brooklyn Community Board # 11	BKCB11
<b>Agency Code</b>	<b>Agency Name</b>	<b>Agency Short Name</b>

482	Brooklyn Community Board # 12	BKCB12
483	Brooklyn Community Board # 13	BKCB13
484	Brooklyn Community Board # 14	BKCB14
485	Brooklyn Community Board # 15	BKCB15
486	Brooklyn Community Board # 16	BKCB16
487	Brooklyn Community Board # 17	BKCB17
488	Brooklyn Community Board # 18	BKCB18
491	Staten Island Community Board # 1	SICB1
492	Staten Island Community Board # 2	SICB2
493	Staten Island Community Board # 3	SICB3
781	Department of Probation	DOP
801	Department of Small Business Services	SBS
806	Housing Preservation and Development	HPD
810	Department of Buildings	DOB
816	Department of Health and Mental Hygiene	DOHMH
819	Health and Hospitals Corporation	HHC
820	Office of Administrative Trials and Hearings	OATH
826	Department of Environmental Protection	DEP
827	Department of Sanitation	DSNY
829	Business Integrity Commission	BIC
836	Department of Finance	DOF
841	Department of Transportation	DOT
846	Department of Parks and Recreation	DPR
850	Department of Design and Construction	DDC
856	Department of Citywide Administrative Services	DCAS
857	DCAS Division of Municipal Supply Service	DMSS
858	Department of Information Technology and Telecommunications	DOITT
860	Department of Records and Information Services	DORIS
866	Department of Consumer Affairs	DCA
901	District Attorney - New York County	DANY
902	District Attorney - Bronx County	DABX
903	District Attorney -Kings County	DAKINGS
<b>Agency Code</b>	<b>Agency Name</b>	<b>Agency Short Name</b>

<b>904</b>	District Attorney - Queens County	DAQ
<b>905</b>	District Attorney -Richmond County	DARICH
<b>996</b>	Housing Authority	NYCHA
<b>998</b>	Transit Authority	TRANSIT

**Appendix 10: List of Award Method Codes**

Award Method Code	Award Method
100	Small Purchase - Subscription etc.
101	Small Purchase - Professional Membership
102	Small Purchase - Grants
103	Small Purchase - Government-to-Government
41	Cable Service Negotiation
42	Professional Membership Negotiation
43	Subscriptions Etc. per PPB
44	Public Utility
45	Small Purchase – Public Utility
51	Grants
511	Grant Renewal
01	Competitive Sealed Bidding (CSB)
02	Request for Proposal (RFP)
03	PQVL COMPETITIVE BID LIST
109	Small Purchase - Information Technology
111	Small Purchase – IT 25K to 100K
112	Small Purchase Goods and Services 100k
113	Small Purchase Construction 50k to 100k
22	RFP from a PQL
27	Accelerated Procurement
31	Small Purchase – Oral Solicitation
32	Small Purchase – Written
35	Small Purchase – Publicly Let
36	Small Purchase – RFP
37	Small Purchase – PQL CSB
39	Small Purchase – PQL RFP
60	Small Purchase Rotation List
61	Small Purchase – Renewal
29	Assignment
05	Sole Source
06	Emergency
10	Renewal of Contract

106	Small Purchase - Buy Against
11	Determined by Legal Mandate
115	Multiple Awards
12	Boro Needs/Discretionary Fund
17	Government-to-Government
20	Innovative Procurement
21	Negotiated Acquisition and DOE Negotiated Services
211	Negotiated Acquisition Extension and DOE Negotiated Services Extension
23	Demonstration Project
25	Intergovernmental Procurement
251	Intergovernmental Procurement Renewal
26	Determined by Government Mandate
28	Buy Against
30	Micropurchase – Under \$20,000
33	Small Purchase – Emergency
34	Small Purchase – Sole Source
38	Micropurchase Council & BP Needs
62	Small Purchase – Intergovernmental
040	DOE Listing Application
07	Lessee Negotiation
08	Loan Negotiation
09	Rental Subsidy Negotiation
104	Small Purchase – Assignment
105	Condemnations – Exempt OCA Processing
107	Small Purchase Watershed Land Acquisition
18	Non-Procurement Transaction
24	Contract Conversion
68	Force Account Negotiation
78	Real Estate Sales and Purchases
79	Watershed Land Negotiation
99	Miscellaneous
13	Petition Private Use/Franchise
14	Concessionaire by Procedure
15	Renewal Franchise/Concession
16	Exempt Concession – Public Bid

### Appendix 11: Contract Types List

Contract Type Code	Contract Type Name
05	Construction
10	Consultant
15	Franchises
17	Revocable Consents
18	Permits
20	Concessions
25	Corpus Funded
26	Compensating Balance from Proceeds
29	Other Expense Contract or Revenue Related
30	Miscellaneous Revenue – No Expense
35	Lessee
36	Miscellaneous Property Rental
39	Lessor – Revenue
40	Lessor – Accounting Lines Exist
41	Cable Service
42	Professional Membership
43	Subscriptions
44	Public Utility
45	Requirements
46	Requirements – Goods
47	Requirements – Services
48	Requirements – Construction
50	Work/Labor
51	Supplies/Materials/ Build
52	Construction Management/Build
65	Loans
68	Force Account Agreement
70	Programs
72	Programs (Not Tax Levy Funded)
78	Real Estate Sales and Purchases
79	Watershed Land Acquisition
80	DoITT – Requirements Contract
81	DMS – Requirements Contract
83	Condemnations – Expect OCA Processing
85	Intra-Agency Fund Agreements
86	Department of Education – Requirements Contract
88	New York City Bond Financing
99	Others

## Appendix 12: Contract Categories List

Contract Category Code	Contract Category Name
001	Professional Services – Accounting, Audit, & Actuarial
002	Professional Services – Legal
003	Professional Services – Engineering & Architectural
004	Professional Services – Computer Related
005	Professional Services – Management Analysis, Special Studies & Other
010	Maintenance & Operation – Data Processing Equipment
011	Maintenance & Operation – Office Equipment
012	Maintenance of Telecommunications Equipment
013	Maintenance of Motorized Equipment
014	Maintenance & Operation of Infrastructure – Lighting Systems
015	Maintenance & Operation – Infrastructure – Surface Trams System
016	Maintenance & Operation of Infrastructure – Buildings
017	Maintenance & Operation – Infrastructure – Parks & Recreational Facility
018	Maintenance & Operation – Infrastructure – Water Supply System
019	Maintenance & Operation – Infrastructure – Sewage Disposal System
020	Custodial Services
021	Security Services
022	Secretarial & Other Services
023	Advertising Services
024	Employee Related Services
025	Transportation Related Services
026	Collection Agency Services
027	Food Related Services
030	Cultural Related Services
035	Economic Development
040	Education – Contract Schools
041	Congregate Care
042	Family Rehabilitation Program Services
043	Independent Living Services
050	Home Care

<b>051</b>	Child Welfare Services
<b>052</b>	Family Services
<b>053</b>	Employment
<b>054</b>	Public Assistance/Child Support
<b>055</b>	Day Care
<b>056</b>	Homeless Families
<b>057</b>	Homeless Singles
<b>058</b>	AIDS
<b>059</b>	Senior Citizens/Other Services
<b>060</b>	Services for the Elderly
<b>061</b>	Youth Services
<b>062</b>	Adult Services including Education
<b>063</b>	Health Services
<b>064</b>	Prison, Detention, Probation Health Services
<b>065</b>	Student Services
<b>066</b>	Mental Health
<b>067</b>	Mental Retardation
<b>068</b>	Alcoholism
<b>099</b>	All Other Services
<b>100</b>	Foster Care
<b>101</b>	Preventative Services
<b>102</b>	Head Start
<b>103</b>	Crisis Intervention
<b>104</b>	Bonds and Letters of Credit
<b>300</b>	Goods/Commodities
<b>444</b>	Department of Education FMS Interface
<b>888</b>	Information Technology
<b>N/A</b>	Contract Budget Category Not Available

## Appendix 13: Applicable Sections of the NYC Administrative Code

### NYC Admin. Code § 6.116.2 (a)-(f)

(a) The comptroller and the mayor shall jointly maintain, at the financial information services agency, a computerized database. Such data base shall contain information for every franchise and concession and every contract for goods or services involving the expenditure of more than ten thousand dollars or in the case of construction, repair, rehabilitation or alteration, the expenditure of more than fifteen thousand dollars, entered into by an agency, New York city affiliated agency, elected official or the council, including, but not limited to: (1) the name, address, and federal taxpayer's identification number of the contractor, franchisee or concessionaire where available in accordance with applicable law; (2) the dollar amount of each contract including original maximum and revised maximum expenditure authorized, current encumbrance and actual expenditures; (3) the type of goods or services to be provided pursuant to the contract; (4) the term of the contract, or in the case of a construction contract the starting and scheduled completion date of the contract and the date final payment is authorized; (5) the agency, New York city affiliated agency, elected official or the council that awarded the contract, franchise or concession and the contract registration number, if any, assigned by the comptroller; (6) the manner in which the contractor, franchisee or concessionaire was selected, including, but not limited to, in the case of a contractor, whether the contractor was selected through public letting and if so, whether the contractor was the lowest responsible bidder; whether the contractor was selected through a request for proposal procedure, and if so, whether the contractor's response to the request offered the lowest price option; whether the contractor was selected without competition or as a sole source; whether the contractor was selected through the emergency procedure established in the charter or the general municipal law, where applicable; or whether the contractor was selected from a list of prequalified bidders, and if applicable, whether the contractor was the lowest responsible bidder; and (7) the date of any public hearing held with respect to the contract and the date and agenda number of action taken with respect to a concession or franchise by the franchise and concession review committee; and (8) the contract budget category to which the contract is assigned, where applicable.

b. (i) The mayor and comptroller shall be responsible for the maintenance of a computerized data system which shall contain information for every contract, in the following manner: the mayor shall be responsible for operation of the system; the mayor and the comptroller shall be jointly responsible for all policy decisions relating to the system. In addition, the mayor and the comptroller shall jointly review the operation of the system to ensure that the information required by this subdivision is maintained in a form that will enable each of them, and agencies, New York City affiliated agencies, elected officials and the council, to utilize the information in the performance of their duties. This system shall have access to information stored on other computerized data systems maintained by agencies, which information shall collectively include, but not be limited to: (1) the current addresses and telephone numbers of: A. the contractor's principal executive offices and the contractor's primary place of business in the New York city metropolitan area, if different, B. the addresses of the three largest sites at which it is anticipated that work would occur in connection with the proposed contract, based on the number of persons to be employed at each site, C. any other names under which the contractor has conducted business within the prior five years, and D. the addresses and telephone numbers of all principal places of business and primary places of business in the New York city metropolitan area, if different, where the contractor has conducted business within the prior five years; (2) the dun & bradstreet number of the contractor, if any; (3) the taxpayer identification numbers, employer identification numbers or social security numbers of the contractor or the division or branch of the contractor which is actually entering into the contract; (4) the type of business entity of the contractor

including, but not limited to, sole proprietorship, partnership, joint venture or corporation; (5) the date such business entity was formed, the state, county and country, if not within the United States, in which it was formed and the other counties within New York State in which a certificate of incorporation, certificate of doing business, or the equivalent, has been filed within the prior five years; (6) the principal owners and officers of the contractor, their dates of birth, taxpayer identification numbers, social security numbers and their current business addresses and telephone numbers; (7) the names, current business addresses and telephone numbers, taxpayer identification numbers and employer identification numbers of affiliates of the contractor; (8) the principal owners and officers of affiliates of the contractor and their current business addresses and telephone numbers; (9) the principal owners and officers of every subcontractor; (10) the type, amount and contract registration number of all other contracts awarded to the contractor, as reflected in the database maintained pursuant to subdivision a of this section; (11) the contract sanction history of the contractor for the prior five years, including, but not limited to, all cautions, suspensions, debarments, cancellations of a contract based upon the contractor's business conduct, declarations of default on any contract made by any governmental entity, determinations of ineligibility to bid or propose on contracts and whether any proceedings to determine eligibility to bid or propose on contracts are pending; (12) the contract sanction history for the prior five years of affiliates of the contractor including, but not limited to, all cautions, suspensions, debarments, cancellations of a contract based upon such entity's business conduct, declarations of default on any contract made by any governmental entity, determinations of ineligibility to bid or propose on contracts and whether any proceedings to determine eligibility to bid or propose on contracts are pending; (13) the name and telephone number of the chief contracting officer or other employee of the agency, elected official or the council responsible for supervision of those charged with day-to-day management of the contract; (14) judgments or injunctions obtained within the prior five years in any judicial actions or proceedings initiated by any agency, any elected official or the council against the contractor with respect to a contract and any such judicial actions or proceedings that are pending; (15) record of all sanctions imposed within the prior five years as a result of judicial or administrative disciplinary proceedings with respect to any professional licenses held by the contractor, or a principal owner or officer of the contractor; (16) whether city of New York income tax returns, where required, have been filed for the past five years; (17) outstanding tax warrants and unsatisfied tax liens, as reflected in the records of the city; (18) information from public reports of the organized crime control bureau and the New York state organized crime task force which indicates involvement in criminal activity; (19) criminal proceedings pending against the contractor, and any principal owner or officer of such contractor; (20) record of all criminal convictions of the contractor, any current principal owner or officer for any crime related to truthfulness or business conduct and for any other felony committed within the prior ten years, and of any former principal owner or officer, within the prior ten years, for any crime related to truthfulness or business conduct and for any other felony committed while he or she held such position or status; (21) all pending bankruptcy proceedings and all bankruptcy proceedings initiated within the past seven years by or against the contractor and its affiliates; (22) whether the contractor has certified that it was not founded or established or is not operated in a manner to evade the application or defeat the purpose of this section and is not the successor, assignee or affiliate of an entity which is ineligible to bid or propose on contracts or against which a proceeding to determine eligibility to bid or propose on contracts is pending; (23) the name and main business address of anyone who the contractor retained, employed or designated to influence the preparation of contract specifications or the solicitation or award of this contract. (ii) When personnel from any agency, elected officials or their staff, or members of the council or council staff learn that the certification required by subparagraph twenty-two of paragraph (i) may not be truthful, the appropriate law enforcement official shall be immediately informed of such fact and the fact of such notification shall be reflected in the data

base, except when confidentiality is requested by the law enforcement official. (iii) Information required from a contractor consisting of a contractor's social security number shall be obtained by the agency, elected official or the council entering into a contract as part of the administration of the taxes administered by the commissioner of finance for the purpose of establishing the identification of persons affected by such taxes. (iv) In the event that procurement of goods, services or construction must be made on an emergency basis, as provided for in section three hundred fifteen of the charter, on an accelerated basis as provided for in section three hundred twenty-six of the charter, or expedited action is required due to urgent circumstances, or in such other circumstances as may be determined by rule of the procurement policy board, where applicable, or any rule of the council relating to procurement, where it is not feasible to submit the information required by subdivision b prior to contract award, the required information may be submitted after award of the contract. However, all of the information required by subdivision b herein shall be submitted no later than thirty days from the date of the award. A contractor or subcontractor who fails to provide such information as required by this paragraph shall be ineligible to bid or propose on or otherwise be awarded a contract or subcontract until such information is provided and shall be subject to such other penalties as may be prescribed by rule of the procurement policy board, where applicable, or any rule of the council relating to procurement. (v) Where a contractor or subcontractor becomes obligated to submit information required by this subdivision by reason of having been awarded a contract or subcontract, the value of which, when aggregated with the value of all other contracts or subcontracts awarded to that contractor or subcontractor during the immediately preceding twelve-month period, is valued at one hundred thousand dollars, or more, such information shall be submitted no later than thirty days after registration of the contract which resulted in the obligation to submit such information. A contractor or subcontractor who fails to provide such information as required by this paragraph shall be ineligible to bid or propose on a contract or subcontract until such information is provided and shall be subject to such other penalties as may be prescribed by rule of the procurement policy board, where applicable, or any rule of the council relating to procurement. (vi) For the calendar year commencing on January 1, 1992, subcontractors shall be required to provide the information required by subparagraph nine of paragraph i and on or after June 30, 1994, subcontractors shall be subject to paragraph i in its entirety. (vii) This subdivision shall not apply to any New York City affiliated agency, except that such New York City affiliated agency shall report cautionary information and the name and telephone number of the employee responsible for responding to inquiries concerning such information.

c. The information maintained pursuant to subdivision b shall be made accessible to the computerized data system established pursuant to subdivision a of this section in a form or format agreed upon by the mayor and the comptroller. The information contained in these computerized data systems shall be made available to any other data retrieval system maintained by an agency, New York city affiliated agency, elected official or the council for the purpose of providing information regarding contracts, franchises and concessions awarded and the contractors, franchisees and concessionaires to which they were awarded. The information concerning the past performance of contractors that is contained in a computerized data base maintained pursuant to section 6-116.1 of this code for such purposes shall be made available to these data systems.

d. All of the information as required by subdivisions a and b contained in these computerized data bases shall be made available on-line in read-only form to personnel from any agency or New York city affiliated agency, elected officials, members of the council and council staff, and shall be made available to members of the public, in accordance with sections three hundred thirty four and one thousand sixty four of the charter and article six of the public officers law.

e. No contract for goods or services involving the expenditure of more than ten thousand dollars or in the case of construction, repair, rehabilitation or alteration, the expenditure of more than fifteen thousand dollars, franchise or concession shall be let by an agency, elected official or the council, unless the contract manager or other person responsible for making the recommendation for award has certified that these computerized data bases and the information maintained pursuant to section 6-116.1 of this code have been examined. This shall be in addition to any certifications required by chapter thirteen of the charter, the rules of the procurement policy board, where applicable, or any rules of the council relating to procurement.

f. Not later than January thirtieth following the close of each fiscal year, the comptroller shall publish a summary report setting forth information derived from the data base maintained pursuant to subdivision a of this section and the following information for each franchise, concession or contract for goods or services having a value of more than ten thousand dollars or in the case of construction, having a value of more than fifteen thousand dollars, including, but not limited to: (1) the types and dollar amount of each contract, franchise or concession entered into during the previous fiscal year; (2) the registration number assigned by the comptroller, if any; (3) the agency, New York city affiliated agency, elected official or the council entering into the contract, franchise or concession; (4) the vendor entering into the contract, franchise or concession and the subcontractors engaged pursuant to each contract; (5) the reason or reasons why the award of each such contract was deemed appropriate pursuant to subdivision a of section 312 of the charter, where applicable;<sup>76</sup> and (6) the manner in which the contractor, franchisee or concessionaire was selected, including, but not limited to, in the case of a contractor, whether the contractor was selected through public letting and if so, whether the contractor was the lowest responsible bidder; whether the contractor was selected through a request for proposal procedure and if so, whether the contractor's response to the request offered the lowest price option; whether the contractor was selected without competition or as a sole source; whether the contractor was selected through the emergency procedure established in the charter or the general municipal law, where applicable; or whether the contractor was selected from a list of prequalified bidders, and if applicable, whether the contractor was the lowest responsible bidder.<sup>77</sup> For franchises, this information shall also include whether the authorizing resolution of the council was complied with.<sup>78</sup>

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<sup>76</sup> The "displacement" analysis required by Section 312(a) of the Charter occurs prior to the submission of a contract action for registration. Confirmation that such award was "deemed appropriate" is conducted by the head of submitting agency or his/her official designee. Additionally, the Mayor or his/her official designee is required to certify, prior to the agency's filing of the contract action with the Comptroller for registration, that the procedural requisites for the solicitation and award of the contract have been met, including compliance with Section 312(a) of the Charter.

<sup>77</sup> The PPB Rules require agencies to award contracts procured through a competitive sealed bid to the lowest responsible bidder. Confirmation that each applicable award was appropriately made is attested to by the submitting agency's "Agency Chief Contracting Officer" and/or the Mayor or his/her official designee who are required to certify, prior to the agency's filing of the contract action with the Comptroller for registration, that the procedural requisites for the solicitation and award of the contract have been met.

<sup>78</sup> The awarding agency and the Corporation Counsel certify, prior to the agency's filing of the franchise action with the Comptroller for registration, that the requirements set forth in an authorizing resolution adopted by the City Council were complied with. Notwithstanding, the two agreements submitted by DCAS and listed in the Appendix 4 as registered franchises (RCT120148200436 and RCT120148200541) were improperly categorized. The agency should have registered both of these contracts as concessions awarded pursuant to § 1-14(f) of the Concession Rules ("Certain DCAS concessions") and not franchise awards.

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