



NEW YORK CITY COMPTROLLER  
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Bureau of Contract Administration



**December 2021**

# **Retroactivity Trends in NYC Agency Contracts**

**Fiscal Years 2021 and 2020**



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# Introduction

Doing business with the City of New York can be complicated and time consuming. The City has an obligation to spend public funds wisely, fairly, and prudently. To achieve these goals, the City’s procurement process involves procedural hurdles, notice periods, and oversight from numerous agencies before a contract can be registered – the final step in City procurement that allows vendors to be paid for contracted work. This report aims to analyze the length of time it took to register a City contract in Fiscal Year 2021 and 2020, with an emphasis on those contracts registered after the start date of the contract has passed.

While oversight and proper procedure are crucial in rooting out corruption, waste, and fraud in City spending, the slow pace of procurement presents a number of challenges for vendors and the City. It can delay the start of important projects, driving up costs, or cause construction projects to stop midstream while change orders and contract amendments are processed. Nonprofit human service providers that do not have the option to delay the provision of critical social services while waiting for contracts to be registered are often forced to take loans or make tough budget decisions to keep their doors open until they can be paid. Minority- and women-owned businesses, which may be smaller and newer than majority-owned firms, can be discouraged from competing for City contracts due to the time it takes to get paid.

To assess the length of this process and its impact on contract registration, the Comptroller’s Office examined the “retroactivity” of each contract received in Fiscal Years 2021 and 2020. Retroactivity refers to the length of time that passed between the contract’s start date and its registration date. If a contract arrives at the Comptroller’s Office for registration after the contract start date, it is considered retroactive.

The City’s leadership is well aware of these problems. This aim of this report, the fourth effort by the Comptroller’s Office to examine delayed contracts, is to provide the necessary data to support effective reform and help end the cycle of delayed contracts and payments for the City’s vendors.

It is important to note that this report encompasses the Fiscal Years during which the COVID-19 pandemic caused unprecedented loss of life and huge disruption to the previous ways of living. The impact of COVID-19 is evident in the data presented in this report, with significantly fewer contracts being submitted for registration during Fiscal Years 2021 and 2020 as compared to prior years, due a Mayoral Executive Order in effect during the pandemic that authorized the Mayor’s Office of Contract Services to directly register contracts.

# Total Contract Actions Received by the Comptroller's Office in Fiscal Years 2021 and 2020

The Comptroller's Office registered a total of 15,417 contract actions in Fiscal Year 2021 and 17,660 contract actions in Fiscal Year 2020, significantly less than the 20,863 contracts registered in Fiscal Year 2019.

This decrease is potentially explained by the impact of the COVID-19 pandemic on the City's procurement activities, including the enactment of Mayoral Emergency Executive Order 101, which suspended the requirement that certain contracts be registered with the Comptroller's Office from March 17, 2020 through July 16, 2021.

The contracts discussed in this report were submitted by all City agencies and include all procurement categories. After a contract is submitted to the Comptroller's Office, the City Charter mandates that the contract be either registered or returned to the submitting agency within 30 days. A contract may be returned to the submitting agency if it is incomplete or if questions arise that cannot be answered during the 30-day review period.

The Comptroller's Office took an average of 14.4 days to register a contract in Fiscal Year 2021 and 18.3 days in Fiscal Year 2020. However, it must be noted that it can take months or even years for a contract to work its way through the various stages of the procurement process before arriving at the Comptroller's Office for registration. Once a vendor is awarded a contract, there can be months of drafting and negotiating between the vendor and the contracting agency before the contract is sent to various City agencies for oversight. Up to five City agencies then play a role in reviewing contracts before they are submitted to the Comptroller's Office: the Mayor's Office of Contract Services, the Corporation Counsel, the Department of Investigation, the Office of Management and Budget, and the Department of Small Business Services. These agencies are not required to complete their reviews within a specified timeframe, which can lead to a lengthy and drawn-out process.

Additionally, the data in this report highlights the effort taken by the Comptroller's Office to register human services contracts in a short period of time – an average of 9.5 days in Fiscal Year 2021 and 14.4 days in Fiscal Year 2020 – due to the unique pressures of the COVID-19 pandemic on those nonprofit providers. In the fourth quarter of Fiscal Year 2020 (April 1, 2020 through June 30, 2020), the Comptroller's Office was able to register 1,712 human services contracts within an average of 2.1 days. These results were achieved by the specific allocation of staff and resources to meet the extreme need to register human services contracts during a short period of time at the beginning of the COVID-19 pandemic. If such efforts are to be replicated in the future, similar allocation of expert staff and other resources would be necessary.

# Retroactivity Trends Among All City Contracts in Fiscal Years 2021 and 2020 (Discretionary Contracts Included)

To determine the retroactivity of each contract submitted in Fiscal Year 2021 (“FY 2021”, or “FY21”) and Fiscal Year 2020 (“FY 2020”, or “FY20”), this report tracks each contract action from the date it was first received at the Comptroller’s Office through the date it was ultimately registered. However, the figures presented below include only those new or renewal contracts submitted for registration, known as CT1s, and not extensions and amendments to existing contracts. This is because extensions and amendments to existing contracts can appear retroactive even when they are not. To control for that dynamic and ensure a fair analysis, this report focuses on those new and renewal contracts with easily identifiable start dates.

This data is presented next to the FY 2019 data for comparison.

## How retroactive were these contracts?

The following charts show the length of time from the contract start date until submission to the Comptroller’s Office for the 3,648 retroactive CT1 contracts that were registered in FY 2021 and the 4,571 retroactive CT1 contracts that were registered in FY 2020.

**Chart I: Length of Retroactivity Among Registered CT1 Contracts, FY21 & FY20 v FY19**

Fiscal Year 2021							
Number of Days Retroactive	Under 30	31-60	61-90	91-180	181-365	365+	Total
Number of Contracts	940	366	280	428	1,019	615	3,648
Percentage of Total	25.8%	10%	7.7%	11.7%	27.9%	16.9%	100%
Average Number of Days Retroactive	6.6	45.7	74.7	128.6	290.5	578	205.7

Fiscal Year 2020							
Number of Days Retroactive	Under 30	31-60	61-90	91-180	181-365	365+	Total
Number of Contracts	1,032	402	265	957	1,403	512	4,571
Percentage of Total	22.6%	8.8%	5.8%	20.9%	30.7%	11.2%	100%
Average Number of Days Retroactive	(1.9)	44	75.8	136.2	265.2	625	187.7

Fiscal Year 2019							
Number of Days Retroactive	Under 30	31-60	61-90	91-180	181-365	365+	Total
Number of Contracts	1,596	537	497	877	1,423	745	5,675
Percentage of Total	28.1%	9.5%	8.8%	15.5%	25.1%	13.1%	100%
Average Number of Days Retroactive	1.8	44.6	76.5	132.7	259.3	641.5	181.2

### How much time does registration add to the process?

While it can take months or sometimes years for a contract to work its way through all stages of the City's procurement process, in the vast majority of instances, contract registration itself does not add significant delay. In FY 2021, over 97% of contract submissions were registered by the Comptroller's Office within the initial 30-day review window, with 14.3 days being the average length of time to register such a contract. In Fiscal Year 2020, over 96% of contracts submissions were registered by the Comptroller's Office within the initial 30-day review window, with 18.2 days being the average length of time to register such a contract. In certain instances, contracts were withdrawn or returned to the agency for clarification within the initial 30-day review window and had to be resubmitted to the Comptroller's Office for a second review. When a contract is resubmitted, another 30-day review window begins. In these instances, the length of time it takes to register the contract has been calculated from the date the contract was first submitted to the Comptroller's Office to the final date of registration, even if it involved more than one review period.

**Chart II: Length of Time to Register a Contract Upon Submission to Comptroller's Office, FY21 & FY20 v FY19**

Fiscal Year 2021						
Number of Days to Register	Under 30	31-60	61-90	91-180	181-365	365+
Number of Contracts	14,999	163	102	126	27	0
Percentage of Total	97.3%	1.1%	0.7%	0.8%	0.2%	0%
Average Number of Days to Register	14.3	47.1	73.3	120.3	222.1	0

Fiscal Year 2020						
Number of Days to Register	Under 30	31-60	61-90	91-180	181-365	365+
Number of Contracts	17,036	189	213	193	22	0
Percentage of Total	96.5%	1.1%	1.2%	1.1%	0.1%	0%
Average Number of Days to Register	18.2	49.6	72.8	121.5	233.9	0

Fiscal Year 2019						
Number of Days to Register	Under 30	31-60	61-90	91-180	181-365	365+
Number of Contracts	19,957	294	287	260	65	0
Percentage of Total	95.7%	1.4%	1.4%	1.2%	0.3%	0%
Average Number of Days to Register	20.5	49.6	72.8	121.6	232	0

# Retroactivity Trends Among Human Service Contracts in Fiscal Years 2021 and 2020 (Discretionary Contracts Included)

Nonprofit organizations play a critical role delivering social services in New York City. Government agencies provide very few direct services and rely on contracts with nonprofit vendors to deliver meals to seniors, after school programs to youth, shelter to the homeless, and a huge range of other essential programs each year. But nonprofit organizations are not like other City vendors. Many nonprofits are primarily funded through government contracts, and when these contracts are not registered in a timely fashion, it can force them to make difficult financial decisions – like reducing staff or programming – or take out loans just to keep their doors open.

To examine the impact of contract registration delays on nonprofit organizations, this report analyzed contract retroactivity among the seven City agencies that contract for the majority of human service programs: Administration for Children’s Service (ACS), Department of Education (DOE), Department of Youth and Community Development (DYCD), Department for the Aging (DFTA), Department of Homeless Services (DHS), Human Resources Administration (HRA), and Department of Health and Mental Hygiene (DOHMH).

## How retroactive were these contracts?

The following charts shows the length of time from contract start date until first submission to the Comptroller’s Office for the 1,575 retroactive CT1 human service contracts registered in FY 2021 and the 2,042 retroactive CT1 human service contracts registered in FY 2020 for the seven agencies listed above.

**Chart III: Length of Retroactivity Among Registered CT1 Human Service Contracts for Seven Applicable Agencies, FY21 & FY20 v FY19**

Fiscal Year 2021							
Number of Days Retroactive	Under 30	31-60	61-90	91-180	181-365	365+	Total
Number of Contracts	351	174	102	127	481	340	1,575
Percentage of Total	22.3%	11%	6.5%	8.1%	30.5%	21.6%	100%
Average Number of Days Retroactive	11.9	45.9	74.2	126.6	295.0	538.7	229.1

Fiscal Year 2020							
Number of Days Retroactive	Under 30	31-60	61-90	91-180	181-365	365+	Total
Number of Contracts	290	131	89	520	700	312	2,042
Percentage of Total	14.2%	6.4%	4.4%	25.5%	34.3%	15.3%	100%
Average Number of Days Retroactive	(4.8)	44.2	76.6	135.3	262.9	552.5	214.5

Fiscal Year 2019							
Number of Days Retroactive	Under 30	31-60	61-90	91-180	181-365	365+	Total
Number of Contracts	644	275	299	533	831	434	3,016
Percentage of Total	21.4%	9.1%	9.9%	17.7%	27.6%	14.4%	100%
Average Number of Days Retroactive	3.9	43.9	77.1	130.4	255.3	564.2	187.1

### Reviewing the numbers by Agency

The following chart shows the number and percentage of CT1 human service contracts that were already retroactive when submitted to the Comptroller’s Office in FY 2021 and FY 2020, by individual agency.

**Chart IV: Retroactivity Among Registered CT1 Human Service Contracts by Agency,  
FY21 & FY20 v FY19**

<b>Fiscal Year 2021</b>			
<b>Agency</b>	<b>Number of Contracts</b>	<b>Number of Retroactive</b>	<b>Percentage of Retroactive</b>
DOE	296	291	98.3%
DHS	56	52	92.9%
DYCD	780	647	82.9%
HRA (DSS)	188	172	91.5%
DFTA	511	227	44.4%
DOHMH	177	134	75.7%
ACS	130	52	40%

<b>Fiscal Year 2020</b>			
<b>Agency</b>	<b>Number of Contracts</b>	<b>Number of Retroactive</b>	<b>Percentage of Retroactive</b>
DOE	402	402	100%
DHS	79	66	83.5%
HRA (DSS)	284	233	82.0%
DYCD	1,043	830	79.6%
DOHMH	377	263	69.8%
DFTA	485	220	45.4%
ACS	172	28	16.3%

<b>Fiscal Year 2019</b>			
<b>Agency</b>	<b>Number of Contracts</b>	<b>Number of Retroactive</b>	<b>Percentage of Retroactive</b>
DOE	671	628	93.6%
DYCD	1,464	1,346	91.9%
HRA (DSS)	274	241	88%
DHS	111	94	84.7%
DFTA	269	207	77%
DOHMH	615	436	70.9%
ACS	99	64	64.6%

The following chart shows the length of time from contract start date until submission for the retroactive CT1 human service contracts that were submitted for registration to the Comptroller’s Office in FY 2021 and FY 2020, broken down by individual human service agency.

**Chart V: Retroactivity of CT1 Human Service Contracts, Agency by Agency Breakdown, FY21 & FY20 v FY19**

Fiscal Year 2021								
Agency	Subcategories	Number of days						Total
		Under 30	31-60	61-90	91-180	181-365	365+	
DYCD	Number of Contracts	208	60	16	52	155	156	647
	Percentage of Total	32.1%	9.3%	2.5%	8%	24%	24.1%	100%
DOE	Number of Contracts	8	66	60	19	82	56	291
	Percentage of Total	2.7%	22.7%	20.6%	6.5%	28.2%	19.2%	100%
DFTA	Number of Contracts	9	5	0	0	124	89	227
	Percentage of Total	4%	2.2%	0%	0%	54.6%	39.2%	100%
HRA (DSS)	Number of Contracts	59	27	10	26	40	10	172
	Percentage of Total	34.3%	15.7%	5.8%	15.1%	23.3%	5.8%	100%
DOHMH	Number of Contracts	24	8	4	14	61	23	134
	Percentage of Total	17.9%	6%	3%	10.4%	45.5%	17.2%	100%
ACS	Number of Contracts	24	7	5	1	12	3	52
	Percentage of Total	46.2%	13.5%	9.6%	1.9%	23.1%	5.8%	100%
DHS	Number of Contracts	19	1	7	15	7	3	52
	Percentage of Total	36.5%	1.9%	13.5%	28.8%	13.5%	5.8%	100%

Fiscal Year 2020								
Agency	Subcategories	Number of days						Total
		Under 30	31-60	61-90	91-180	181-365	365+	
DYCD	Number of Contracts	72	30	27	247	318	136	830
	Percentage of Total	8.7%	3.6%	3.3%	29.8%	38.3%	16.4%	100%
DOE	Number of Contracts	117	56	20	59	69	81	402
	Percentage of Total	29.1%	13.9%	5%	14.7%	17.2%	20.1%	100%
DOHMH	Number of Contracts	10	11	10	69	147	16	263
	Percentage of Total	3.8%	4.2%	3.8%	26.2%	55.9%	6.1%	100%
HRA (DSS)	Number of Contracts	52	24	22	62	45	28	233
	Percentage of Total	22.3%	10.3%	9.4%	26.6%	19.3%	12%	100%
DFTA	Number of Contracts	10	4	0	60	102	44	220
	Percentage of Total	4.5%	1.8%	0%	27.3%	46.4%	20%	100%
DHS	Number of Contracts	25	4	6	22	5	4	66
	Percentage of Total	37.9%	6.1%	9.1%	33.3%	7.6%	6.1%	100%
ACS	Number of Contracts	4	2	4	1	14	3	28
	Percentage of Total	14.3%	7.1%	14.3%	3.6%	50%	10.7%	100%

Fiscal Year 2019

Agency	Subcategories	Number of days						Total
		Under 30	31-60	61-90	91-180	181-365	365+	
DYCD	Number of Contracts	336	66	127	184	422	211	1,346
	Percentage of Total	25%	4.9%	9.4%	13.7%	31.4%	15.7%	100%
DOE	Number of Contracts	101	165	94	74	105	89	628
	Percentage of Total	16.1%	26.3%	15%	11.8%	16.7%	14.2%	100%
DOHMH	Number of Contracts	107	9	21	124	136	39	436
	Percentage of Total	24.5%	2.1%	4.8%	28.4%	31.2%	8.9%	100%
HRA (DSS)	Number of Contracts	13	17	32	68	78	33	241
	Percentage of Total	5.4%	7.1%	13.3%	28.2%	32.4%	13.7%	100%
DFTA	Number of Contracts	29	2	13	60	57	46	207
	Percentage of Total	14%	1%	6.3%	29%	27.5%	22.2%	100%
DHS	Number of Contracts	36	13	9	11	12	13	94
	Percentage of Total	38.3%	13.8%	9.6%	11.7%	12.8%	13.8%	100%
ACS	Number of Contracts	22	3	3	12	21	3	64
	Percentage of Total	34.4%	4.7%	4.7%	18.8%	32.8%	4.7%	100%

## How much time does human service contract registration add to the process?

Contract registration by the Comptroller’s Office typically does not add significant time to the overall contract review process. Over 98% of all human service contract submissions in Fiscal Year 2021 for these seven agencies were registered within the initial 30-day review window, with 9.2 days being the average length of time to register such a contract. In Fiscal Year 2020, over 96% of all human service contract submissions from these seven agencies were registered within the initial 30-day review window, with 14.7 days being the average length of time to register such a contract. In instances where contracts were returned to or withdrawn by the agency, the length has been calculated from the first date of submission to the final date of registration, even if it involved more than one review period.

**Chart VI: Average Length of Time to Register a Human Service Contract Upon Submission to Comptroller’s Office, FY21 & FY20 v FY19**

Fiscal Year 2021							
Number of Days Retroactive	Under 30	31-60	61-90	91-180	181-365	365+	Total
Number of Contracts	4,661	35	25	15	3	0	4,739
Percentage of Total	98.4%	0.7%	0.5%	0.3%	0.1%	0%	100%
Average Number of Days Retroactive	9.2	46.2	74.8	116.3	247.3	0	10.3

Fiscal Year 2020							
Number of Days Retroactive	Under 30	31-60	61-90	91-180	181-365	365+	Total
Number of Contracts	5,212	63	87	47	12	0	5,421
Percentage of Total	96.1%	1.2%	1.6%	0.9%	0.2%	0%	100%
Average Number of Days Retroactive	14.7	51	71.9	117.5	245.6	0	17.4

Fiscal Year 2019							
Number of Days Retroactive	Under 30	31-60	61-90	91-180	181-365	365+	Total
Number of Contracts	6,585	121	102	119	23	0	6,950
Percentage of Total	94.7%	1.7%	1.5%	1.7%	0.3%	0%	100%
Average Number of Days Retroactive	19.6	47.5	75.1	120.4	224.3	0	23.3

## The Impact of Discretionary Contracts

Discretionary contracts are awarded by City Council Members and Borough Presidents for projects within their districts. Unlike other contracts, discretionary contracts are always registered after their start dates because they are not allocated until the end of the budget cycle in June, yet they go into effect on July 1. After a discretionary award is allocated, vendors must complete required paperwork and negotiate a scope of work before contracts can be executed. Due to the length of time this process takes, it simply is not possible for agencies to submit discretionary contracts for registration before July 1. By examining the impact of these contracts, we can better understand the retroactively rates among non-discretionary contracts, which do not need to be submitted late for registration but often are.

## Retroactivity Trends Among All City Contracts in Fiscal Years 2021 and 2020 (Discretionary Contracts Excluded)

The following chart shows the length of time from contract start date until first submission to the Comptroller's Office for the 2,819 retroactive non-discretionary CT1 contracts registered in FY 2021 and 3,084 retroactive non-discretionary CT1 contracts registered in FY 2020. The data is presented next to the comparable FY 2019 data.

**Chart VII: Length of Retroactivity Among Registered CT1 Contracts – Excluding Discretionary Contracts, FY21 & FY20 v FY19**

Fiscal Year 2021							
Number of Days Retroactive	Under 30	31-60	61-90	91-180	181-365	365+	Total
Number of Contracts	934	365	278	421	606	215	2,819
Percentage of Total	33.1%	12.9%	9.9%	14.9%	21.5%	7.6%	100%
Average Number of Days Retroactive	6.7	45.7	74.7	128.9	278.2	666.2	145.4

Fiscal Year 2020							
Number of Days Retroactive	Under 30	31-60	61-90	91-180	181-365	365+	Total
Number of Contracts	1,019	401	242	618	575	229	3,084
Percentage of Total	33.0%	13.0%	7.8%	20.0%	18.6%	7.4%	100%
Average Number of Days Retroactive	(1.9)	44.0	74.9	134.1	256.2	698.4	137.5

Fiscal Year 2019							
Number of Days Retroactive	Under 30	31-60	61-90	91-180	181-365	365+	Total
Number of Contracts	1,580	536	466	540	654	350	4,126
Percentage of Total	38.3%	13.0%	11.3%	13.1%	15.9%	8.5%	100%
Average Number of Days Retroactive	38.3%	13.0%	11.3%	13.1%	15.9%	8.5%	136.6

# Retroactivity Trends Among Human Service Contracts in Fiscal Years 2021 and 2020 (Discretionary Contracts Excluded)

Chart VIII: Length of Retroactivity Among Registered CT1 Human Service Contracts – Excluding Discretionary Contracts, FY21 & FY20 v FY19

Fiscal Year 2021							
Number of Days Retroactive	Under 30	31-60	61-90	91-180	181-365	365+	Total
Number of Contracts	351	174	102	125	147	50	949
Percentage of Total	37.0%	18.3%	10.7%	13.2%	15.5%	5.3%	100%
Average Number of Days Retroactive	11.9	45.9	74.2	126.4	267.4	699.8	115.7

Fiscal Year 2020							
Number of Days Retroactive	Under 30	31-60	61-90	91-180	181-365	365+	Total
Number of Contracts	290	131	69	214	100	126	930
Percentage of Total	31.2%	14.1%	7.4%	23.0%	10.8%	13.5%	100%
Average Number of Days Retroactive	(4.8)	44.2	74.2	128.8	249.8	586.8	146.2

Fiscal Year 2019							
Number of Days Retroactive	Under 30	31-60	61-90	91-180	181-365	365+	Total
Number of Contracts	644	275	269	221	263	129	1,801
Percentage of Total	35.8%	15.3%	14.9%	12.3%	14.6%	7.2%	100%
Average Number of Days Retroactive	3.9	43.9	76.9	122.4	247.4	617.7	115.0

## Conclusion

The COVID-19 pandemic and the launch of the City's end-to-end procurement system, PASSPort, have not lessened the significant number of contracts submitted for registration after their start date, with the negative consequences inherent in such retroactivity. However, there is great opportunity for the City to institute meaningful reform through the Procurement Policy Board and leverage the data in the PASSPort system to stop this cycle of retroactivity and ensure vendors can be paid on time.

Comptroller Stringer recently announced a [Procurement Reform Plan](#) to protect human services providers supporting children, families, and seniors. This Plan details various reforms to improve the contracting process and ensure human services vendors have the resources to effectively provide their essential services. The adoption of any number of these recommendations, or alternative ideas to solve procurement challenges posed by other stakeholders, will surely improve the City's procurement process in the years to come.

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