



NEW YORK CITY COMPTROLLER
SCOTT M. STRINGER

Bureau of Policy and Research



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Still Running Late: An Analysis of NYC Agency Contracts in Fiscal Year 2018

1 Centre Street, New York, NY 10007 • (212) 669-3500 • www.comptroller.nyc.gov • [@NYCComptroller](https://twitter.com/NYCComptroller)



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Executive Summary

New York City can be a tough place to do business, and when you are doing business with the City itself, it can be even tougher. The challenges of contracting with the City of New York are well known: a drawn out procurement process, multiple government agencies performing various oversight duties, and the inevitable delays that seem to haunt the vast majority of contracts from the time of award to the point of registration.

This lengthy procurement process is grounded in good intentions. The City has an obligation to spend public funds wisely and fairly, and to maximize tax dollars through a bid process that is both competitive and transparent. To achieve these goals, rigorous oversight from a number of agencies is required before a contract can be registered.

However, too often the City's procurement process gets mired in needless bureaucracy, causing hardship to vendors doing business with the City. It can delay the start of important construction projects, driving up costs, or stop projects midstream while change orders and contract amendments are processed. It can discourage minority and women-owned businesses from competing for City contracts, because the time it takes to get paid is too much for smaller businesses to bear. And it can drive non-profit organizations to the brink of financial collapse, because these mission-driven organizations will continue to provide critical services to New Yorkers in need, whether or not their contracts have been registered.

This report by New York City Comptroller Scott M. Stringer – the second annual analysis of its kind by the office – takes a data-driven look at the City's failure to register contracts in a timely fashion and finds, once again, that too often contracts are registered after the start date of the contract has passed. This is a critical shortcoming because a vendor can only be paid once a contract is registered. Like the Fiscal Year 2017 analysis, this report places particular emphasis on human service contracts and offers recommendations for speeding up City procurement without sacrificing crucial oversight.

For the first time this year, this report provides two separate analyses of late contracts: one that includes discretionary contracts and one that excludes them. This is being done to assess the impact of discretionary contracts on the City's contract registration crisis. Discretionary contracts are awarded by City Council members and Borough Presidents for projects within their districts, and are allocated in June when the budget for the coming year is adopted, with a contract start date of July 1. After the allocation, vendors must have their pre-qualification applications approved and negotiate a scope of work before contracts can be executed. This means that discretionary contracts are always submitted for registration late (or after their start date) due to the time-constrained manner in which they originate. By accounting for the impact of these contracts on the City's overall ability to register contracts on time, the Comptroller's Office is providing the most refined look to date at the universe of city contracts.

Key findings of this year's analysis include:

- In FY18, 80% of all new and renewal contracts arrived at the Comptroller's Office for registration after their start date had already passed. When removing discretionary contracts from the analysis, that rate improved only slightly to 75%.
- When examining human service contracts only, 89% arrived at the Comptroller's Office after the contract start date. This is a higher retroactivity rate than the city-wide average, suggesting that non-profit organizations wait longer for their contracts to be submitted for registration than vendors that do business with the City overall. When removing discretionary contracts from the analysis, that rate improved only slightly to 81%.
- In FY18, 40% of new and renewal contracts arrived at the Comptroller's office a full six months or more after their start date. When removing discretionary contracts from the analysis, this report found that over 23% of contracts were over six months late.
- The latest contracts are getting later. In FY18, all new and renewal contracts that were submitted for registration more than a year after their start date were on average 589 days late, compared to 558 days in FY17. Human services new and renewal contracts that were submitted more than one year after their start date in FY18 were on average 541 days late, compared to 504 days in FY17.

There are common sense solutions to these problems that would improve the contracting process for both vendors and the City. The City has launched the first phase of PASSPort – the “end to end” procurement system that the Mayor's Office of Contract Services has been developing to address some of these challenges – but more must be done to end the City's crisis of late contracts. With that in mind, the Comptroller's Office recommends the following:

- Agencies with an oversight role in the City's contract review process should be assigned a strict timeframe to complete their work, similar to the Comptroller's 30-day time limit for contract registration. This would provide clarity to the vendor community and hold city agencies accountable to complete their work expeditiously. In the absence of action towards this goal by the Administration, the 2019 Charter Commission should create a ballot measure to implement this reform.
- The City should create a public-facing tracking system that allows vendors to monitor the progress of their contract through each stage of the review process. This would introduce accountability to the City's oversight agencies and bring sunlight to a corner of government that is notoriously opaque.

Total Contract Actions Received by Comptroller's Office in FY18

The Comptroller's office registered a total of 19,381 contracts in Fiscal Year 2018, just over 1,000 more than the prior year. These contracts were submitted by all City agencies and included all procurement categories.

After a contract is submitted, the Comptroller's Office is mandated by the City Charter to either register it or return it to the submitting agency if questions arise, within 30 days. In Fiscal Year 2018, the Comptroller's office took an average of 20 days to register a contract. However, it can take months or even years for a contract to work its way through the various stages of review before arriving at the Comptroller's office for registration. The lengthy process involves months of drafting and negotiation between the vendor and the contracting agency, and is followed by additional oversights. Five other City agencies 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. Compounding the problem, there are currently no timeframes within which these agencies must perform their tasks.

To assess this process and its impact on contract registration, the Comptroller's office examined the "retroactivity" of each contract received in Fiscal Year 2018. 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.

This report provides two separate analyses of contract data: one that includes discretionary awards and one that excludes them. This is being done to highlight the impact of discretionary contracts (which are always submitted after their start dates) on the City's overall ability to submit contracts for registration on time. However, since vendors are negatively impacted by late contract registration regardless of the contract type, the primary focus of this report is the analysis that includes discretionary contracts.

Retroactivity Trends Among All City Contracts In FY18 (Discretionary Contracts Included)

To determine the retroactivity of each contract submitted in FY 2018, our office tracked each distinct contract action from the date it was first received by our office to the date it was ultimately registered. We then further narrowed that group of contracts to identify ones that were received by our office after the contract start date.

Of the 19,381 contract submissions registered in FY18, 17,355 – or 90% – were already retroactive by the time they reached the Comptroller’s office. However, that figure does not account for certain contract actions, like extensions or amendments to existing contracts, which can be difficult to isolate and arguably could make more contracts appear to be retroactive. To control for this dynamic, the Comptroller’s Office removed contract amendments and extensions from our analysis, allowing us to look at the retroactivity of only new and renewal contracts, which have start dates that can be easily identified. The analysis found:

- Of the 19,381 contracts that were registered in FY18, 6,440 were new or renewal contracts, known as CT1s.
- Of those 6,440 CT1 contracts, 5,179 – or 80% – were retroactive.

How retroactive were these contracts?

The following chart shows the length of time from contract start date until submission to the Comptroller’s Office for 5,179 retroactive CT1 contracts that were registered in FY18. The data is presented next to the FY17 data to provide a year over year comparison.

Chart I: Length of Retroactivity Among Registered CT1 Contracts, FY18 v FY17

Fiscal Year 2018							
Number of days	Under 30	31 – 60	61 – 90	91 – 180	181 – 365	Over 365	Total
Number of contracts	1,520	552	273	777	1,381	676	5,179
% of total	29.3%	10.7%	5.3%	15.0%	26.7%	13.1%	100%
Average number of days retro	1.6	43.4	75.0	136.2	269.7	589.0	178.3

Fiscal Year 2017							
Number of days	Under 30	31 – 60	61 – 90	91 – 180	181 – 365	Over 365	Total
Number of contracts	1,680	462	328	873	1,247	558	5,148
% of total	32.6%	9.0%	6.4%	17.0%	24.2%	10.8%	100%
Average number of days retro	3.6	44.0	75.6	132.9	267.0	557.7	157.6

As the above chart illustrates, of the 5,179 retroactive CT1 contracts that were registered in FY18, 40% were more than 180 days retroactive. The real life impact of this statistic is that vendors who were awarded those contracts could not receive payment for at least six months after the contract start date. For the unlucky vendors that were awarded the 13%

of contracts that arrived at the Comptroller’s Office over one year late, the average length of retroactivity was an extraordinary 589 days. And the average length of retroactivity among all late CT1 contracts actually increased between FY17 and FY18 by an average of almost 21 days.

How much time does registration add to the process?

By comparison, in the vast majority of instances the contract registration process itself does not add significant time to the total processing and review time of a contract. For example, 96% of contract submissions in FY18 were registered by the Comptroller’s Office within the initial 30 day review window, with 20 days being the average length of time to register one of those contracts. In certain instances, contracts were withdrawn or returned for clarification to the agency 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, FY18

	Under 30 days	31 – 60 days	61 – 90 days	91 – 180 days	181 – 365 days	Over 1 year
Number of contracts	18,685	213	211	222	49	1
% of total	96.4%	1.1%	1.1%	1.1%	0.3%	0.0%
Average number of days to register	20.4	49.5	73.9	128.3	222.2	376.0

Retroactivity Trends Among Human Service Contracts In FY18 (Discretionary Contracts Included)

New York City relies heavily on non-profit human service organizations to meet the needs of children, families and communities. In many ways, they form the foundation of our City’s social safety net, providing front-line services to thousands of New Yorkers in need. Services provided include everything from Pre-K and after-school programs, to job training, adult literacy, supportive housing, community-based mental health services, senior centers, homeless shelters, services for domestic violence survivors, and much more. These services, paid for through thousands of City contracts, essentially make non-profit organizations an extension of City government.

Non-profits usually struggle the most with delayed contract registration due to tight budgets and the need to deliver services to vulnerable populations regardless of payment. An emergency shelter does not shut its doors to homeless families if its City contract is not registered. And the organization providing home delivered meals to seniors doesn't fail to show up for its clients, even when the City is months late in providing payments for those services.

To examine the unique impact of contract registration delays on non-profit organizations, our office looked at contract retroactivity among the seven City agencies that contract for the majority of human service programs: Administration for Children's Services (ACS), Department of Education (DOE), Department of Youth & 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).

In Fiscal Year 2018, these seven agencies registered a total of 4,920 Type 70 contracts – the contract category that is primarily used for human service programming. Of those 4,920 contracts 4,639 – or 94% – were already retroactive by the time they reached our office. When isolating only new and renewal contracts (CT1s) to paint a more refined picture of retroactivity rates among human service contracts, a total of 2,543 contracts were registered for the seven agencies, and 2,262 – or 89% – were retroactive by the time they reached the Comptroller's Office.

This is a higher percentage than the 80% retroactivity rate that was found among new and renewal contracts across all City agencies, suggesting that non-profit organizations wait longer for their contracts to be submitted for registration than vendors that do business with the City overall. This is problematic for several reasons. First, many non-profit organizations have smaller budgets and rely more heavily on government funding for their revenue than corporate vendors, making cash flow tighter. But more significantly and as mentioned previously, non-profit organizations often begin work *before* a contract is registered so as not to interrupt the provision of critical services to vulnerable clients. This can put non-profit vendors in the position of having to take loans in order to make payroll while waiting for their contracts to be registered.

How retroactive were these contracts?

The following chart shows the length of time from contract start date until first submission to the Comptroller's Office for the 2,262 retroactive CT1 human service contracts that were registered in FY18. The data is presented next to the FY17 data to provide a year over year comparison.

**Chart III: Length of Retroactivity Among Registered
CT1 Human Service Contracts, FY18 v FY17**

Fiscal Year 2018							
Number of days	Under 30	31 – 60	61 – 90	91 – 180	181 – 365	Over 365	Total
Number of contracts	382	226	99	378	732	445	2,262
% of total	16.9%	10.0%	4.4%	16.7%	32.4%	19.7%	100%
Average number of days retro	5.3	42.3	76.6	138.0	268.1	540.6	224.7

Fiscal Year 2017							
Number of days	Under 30	31 – 60	61 – 90	91 – 180	181 – 365	Over 365	Total
Number of contracts	428	158	155	371	709	403	2,224
% of total	19.2%	7.1%	7.0%	16.7%	31.9%	18.1%	100%
Average number of days retro	7.1	45.1	76.5	133.7	269.7	504.0	209.5

As this chart illustrates, of the 2,262 retroactive CT1 human service contracts that were registered in FY18, 52% were more than 180 days retroactive – an even higher rate than FY17. Again, this means vendors are waiting more than six months for payment on services they have already been delivered. For the almost 20% of vendors who waited more than one year for their contracts to be registered, the average length of retroactivity was 540 days, 37 days more on average than the prior fiscal year.

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 FY18, by individual agency, in aggregate. DHS submitted over 98% of these contracts retroactively. However, HRA, DFTA and DOE did not do much better. HRA submitted over 97% of CT1 contracts retroactively and DFTA and DOE both submitted over 94% retroactively.

Chart IV: Retroactivity Among Registered CT1 Human Service Contracts by Agency, FY18

Agency	# of Contracts	# Retroactive	% Retroactive
DHS	176	174	98.9%
HRA	227	221	97.4%
DFTA	271	256	94.5%
DOE	468	441	94.2%
DOHMH	462	425	92.0%
ACS	62	56	90.3%
DYCD	877	689	78.6%

The following chart shows the length of time from contract start date until submission for the 2,262 retroactive CT1 human service contracts that were submitted for registration to the Comptroller’s Office in FY18, broken down by individual human service agency. It is worth noting that several agencies submitted a large number of contracts more than six months retroactively: 50% of ACS contracts, 52% of DFTA contracts, and over 65% of HRA and DYCD contracts were retroactive by more than six months. Over 22% of DYCD and HRA contracts were retroactive by more than a year.

Chart V: Retroactivity of CT1 Human Service Contracts, Agency By Agency Breakdown, FY18

		Under 30 days	31 – 60 days	61 – 90 days	91 – 180 days	181 – 365 days	Over 1 year	Total
DHS	Number of contracts	27	52	10	23	34	28	174
	% of total	15.5	29.9	5.7	13.2	19.5	16.1	100%
HRA	Number of contracts	16	18	19	24	95	49	221
	% of total	7.2	8.1	8.6	10.9	43.0	22.2	100%
DFTA	Number of contracts	65	18	0	40	79	54	256
	% of total	25.4	7.0	0.0	15.6	30.9	21.1	100%
DOE	Number of contracts	142	86	25	38	67	83	441
	% of total	32.2	19.5	5.7	8.6	15.2	18.8	100%
DOHMH	Number of contracts	87	26	16	101	122	73	425
	% of total	20.5	6.1	3.8	23.8	28.7	17.2	100%
ACS	Number of contracts	6	3	4	15	27	1	56
	% of total	10.7	5.4	7.1	26.8	48.2	1.8	100%
DYCD	Number of contracts	39	23	25	137	308	157	689
	% of total	5.7	3.3	3.6	19.9	44.7	22.8	100%

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

By comparison, in the vast majority of instances, contract registration by the Comptroller's office does not add significant time to the overall contract review process. Over 96% of all human service contract submissions for these seven agencies were registered within the initial 30 day review window, with 20 days being the average length of time to register. 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, FY18

	Under 30 days	31 – 60 days	61 – 90 days	91 – 180 days	181 – 365 days	Over 1 year
Number of contracts	4,731	75	62	45	7	0
% of total	96.2%	1.5%	1.3%	0.9%	0.1%	--
Average number of days to register	20.3	50.6	73.4	124.2	226.0	--

The Impact of Discretionary Contracts

Discretionary contracts are always registered after the contract start date due to the way funding for these contracts is allocated. Discretionary contracts are awarded by City Council members and Borough Presidents for projects within their districts, and are typically allocated in June, with a contract start date of July 1. After the allocation, vendors must have their pre-qualification application approved and negotiate a scope of work before contracts can be executed. Due to the length of time this process takes, discretionary contracts are never submitted for registration before July 1. By examining the impact of these contracts, we get a clearer understanding of the retroactivity rates among *non-discretionary contracts*, which should theoretically not need to be submitted late for registration. Excluding discretionary contracts from this report's calculations improved retroactivity rates, but not by a huge amount.

Retroactivity Trends Among City Contracts In FY18 (Discretionary Contracts Excluded)

Of the 6,440 CT1 contracts registered in FY18, 5,179 – or 80% – were retroactive. However, 1,424 of these CT1 contracts were discretionary awards, and after removing

them from the calculation, we were left with 5,016 non-discretionary CT1 contracts, of which 3,765 – or 75% – were retroactive.

The following chart shows the length of time from contract start date until first submission to the Comptroller’s Office for the 3,765 retroactive *non-discretionary* CT1 contracts that were registered in FY18. The data is presented next to the comparable FY17 data.

Chart VI: Length of Retroactivity Among Registered CT1 Contracts - Excluding Discretionary Contracts, FY18 v FY17

Fiscal Year 2018							
Number of days	Under 30	31 – 60	61 – 90	91 – 180	181 – 365	Over 365	Total
Number of contracts	1,498	551	267	574	609	266	3,765
% of total	39.8%	14.6%	7.1%	15.2%	16.2%	7.1%	100%
Average number of days retro	1.7	43.4	74.8	133.1	263.2	673.2	122.8

Fiscal Year 2017							
Number of days	Under 30	31 – 60	61 – 90	91 – 180	181 – 365	Over 365	Total
Number of contracts	1,663	461	321	753	598	261	4,057
% of total	41.0%	11.4%	7.9%	18.6%	14.7%	6.4%	100%
Average number of days retro	3.7	44.1	75.5	131.5	259.2	623.0	115.2

As Chart VI illustrates, over 23% of the 3,765 retroactive non-discretionary CT1 contracts that were registered in FY18 were more than 180 days retroactive. For the vendors that were awarded the 7% of contracts that arrived at the Comptroller’s Office over one year late, the average length of retroactivity was 673 days, or roughly 22 months. This is compared to an average of 623 days among contracts that were over one year retroactive in FY17, meaning contracts that were submitted more than one year late in FY18 were on average 50 days later than in the prior fiscal year. Overall, retroactive contracts were on average submitted one week later in FY18 than in FY17.

Retroactivity Trends Among Human Service Contracts In FY18 (Discretionary Contracts Excluded)

Of the 2,543 CT1 human services contracts registered in FY18, 2,262 – or 89% – were retroactive by the time they reached the Comptroller’s Office. However, 1,071 of the CT1 contracts were discretionary awards, and after removing them from the calculation, we were left with 1,472 non-discretionary CT1 contracts, of which 1,191 – or 81% – were retroactive.

Chart VII: Length of Retroactivity Among Registered CT1 Human Service Contracts - Excluding Discretionary Contracts, FY18 v FY17

Fiscal Year 2018							
Number of days	Under 30	31 – 60	61 – 90	91 – 180	181 – 365	Over 365	Total
Number of contracts	382	226	93	194	189	107	1,191
% of total	32.1%	19.0%	7.8%	16.3%	15.9%	9.0%	100%
Average number of days retro	5.3	42.3	76.2	131.3	263.0	561.1	129.2

Fiscal Year 2017							
Number of days	Under 30	31 – 60	61 – 90	91 – 180	181 – 365	Over 365	Total
Number of contracts	428	158	151	265	237	150	1,389
% of total	30.8%	11.4%	10.9%	19.1%	17.1%	10.8%	100%
Average number of days retro	7.1	45.1	76.2	130.4	271.5	498.7	140.7

As Chart V illustrates, 25% of the 1,191 retroactive CT1 *non-discretionary* human service contracts that were registered in FY18 were more than 180 days retroactive. For the vendors that were awarded the 9% of human service contracts that arrived at the

Comptroller's Office over one year late, the average length of retroactivity was 561 days, or almost 19 months. Among human service contracts that were over a year retroactive, the average length of retroactivity was 499 days in FY17, meaning contracts that were submitted more than one year late in FY18 were on average 62 days later than in the prior fiscal year. However, overall, retroactive *non-discretionary* human service contracts were submitted an average of 11 days earlier in FY18 compared to FY17 – a small but welcome improvement.

Recommendations

The needlessly slow pace of New York City procurement process causes unnecessary hardship to the City's vendors, but our broken procurement system can be repaired. The City should consider the following recommendations to create a more efficient procurement process.

Institute strict timeframes for City agencies with an oversight role in the procurement process to complete their tasks.

The Comptroller's Office is currently the only agency with a role in the City's procurement process that performs its duties within a specified timeframe as required by the New York City Charter. All other oversight agencies perform their tasks without mandated timeframes, or with timeframes that can be easily waived. This leads to a drawn out process and a lack of accountability among agencies.

Instituting strict timeframes for City agencies with an oversight role in the procurement process to complete their tasks would both standardize the length of the process so vendors know what to expect, and ensure agencies complete their tasks promptly. Last year, this report recommended that the New York City Procurement Policy Board (PPB) adopt rules to this effect. The PPB has failed to consider this proposal but there are other avenues to achieve this reform. The 2019 Charter Revision Commission is currently exploring which areas of the City Charter to amend and this proposal should be considered as part of that effort.

Create a transparent contract tracking system that would allow vendors to view the status of their contracts.

Vendors that do business with the City of New York have very limited visibility into the contracting process. Most vendors typically wait many months or longer for a contract to be registered, but have no idea what is actually happening to their contract during that time. The only real transparency in the contracting process happens when contracts are submitted to the Comptroller's office and the registration status automatically appears in

checkbooknyc.com, the Comptroller's transparency website for City spending and contracts.

To bring more transparency to the process, the City should create a tracking system that allows vendors to follow their contracts throughout each stage of the procurement process. With such a system, vendors would be able to see if their contracts are under review at the Mayor's Office of Contract Services, the Office of Management and Budget, or Corporation Counsel, and track how much time each agency is taking to execute their tasks.

Conclusion

New York City's procurement process is in need of real reform, and as two years of contract retroactivity data show, the slow pace of procurement has not improved in FY18. The City has already launched the first phase of PASSPort – the “end to end” procurement system that the Mayor's Office of Contract Services has been developing – but more must be done to end the City's crisis of late contracts. Creating timeframes and transparency during contract review would help the City's thousands of vendors strengthen their operations and deliver crucial services to the public, while helping the City contain costs and deliver projects on time.

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SCOTT M. STRINGER

1 Centre Street, New York, NY 10007

(212) 669-3500 • comptroller.nyc.gov

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