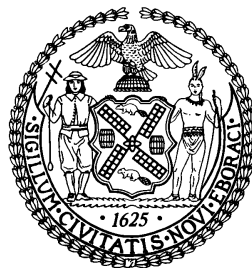




**City of New York  
Office of the Comptroller**



**JOHN C. LIU**  
Comptroller

**Fiscal Year 2013**

**Report on New York City Contracts**

John C. Liu  
Comptroller of the City of New York

New York City  
Office of the Comptroller  
Fiscal Year 2013  
Report on City Contracts

Geneith Turnbull  
Deputy Comptroller for Contracts and Procurement  
Bureau of Contract Administration

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# CITY CONTRACTS SUMMARY

(\$ in millions)

	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
<b>PROCUREMENT CONTRACTS REGISTERED</b>					
Client-Service Programs	2,150.5	3,576.6	7,606.8	2,984.2	5,409.0
Construction	4,702.2	4,000.9	1,666.6	1,360.8	2,537.1
Requirements	2,683.0	3,534.0	2,747.9	2,747.4	5,129.6
Consultant	1,577.5	525.7	915.6	995.8	1,647.0
Work/Labor	2,934.6	2,064.0	1,084.9	856.5	612.8
Supplies/Materials/Equipment	147.7	493.8	254.0	227.6	237.1
Others	2,842.6	1,303.9	1,707.9	1,762.9	1,791.3
<b>Total</b>	<b>\$17,038.2</b>	<b>\$15,498.9</b>	<b>\$15,983.6</b>	<b>\$10,935.3</b>	<b>\$17,364.0</b>
<b>Quantity Procurement Contract Registered</b>	<b>6,825</b>	<b>7,204</b>	<b>7,078</b>	<b>6,501</b>	<b>7,274</b>
<b>OTHER CONTRACTS &amp; AGREEMENTS REGISTERED</b>					
Lessee	\$717.9	\$803.5	\$1,591.7	\$525.2	\$2,728.1
Misc	80.6	5.8	48.1	19.8	4.2
<b>Total</b>	<b>\$798.6</b>	<b>\$809.4</b>	<b>\$1,639.8</b>	<b>\$545.0</b>	<b>\$2,732.2</b>
<b>REVENUE CONTRACTS &amp; AGREEMENTS REGISTERED</b>					
Franchises	-	0.2	6.9	1,203.9	3.3
Concessions	97.9	86.3	57.8	31.1	60.5
Revocable Consents	6.0	28.0	14.6	22.2	8.8
Misc. Revenue	214.4	125.9	93.0	457.3	397.5
<b>Total</b>	<b>\$318.4</b>	<b>\$240.4</b>	<b>\$172.3</b>	<b>\$1,714.6</b>	<b>\$470.1</b>
<b>Quantity of Other and Revenue Contracts &amp; Agreements</b>	<b>380</b>	<b>832</b>	<b>1,077</b>	<b>790</b>	<b>619</b>
<b>Total Dollar Amount of Contracts &amp; Agreements Registered</b>	<b>\$18,155.1</b>	<b>\$16,548.7</b>	<b>\$17,795.8</b>	<b>\$13,194.8</b>	<b>\$20,566.3</b>
<b>Total Quantity of Contracts (excludes HHC, TA, and Intra Agency Fund)</b>	<b>7,205</b>	<b>8,036</b>	<b>8,155</b>	<b>7,291</b>	<b>7,893</b>
<b>ALL SMALL PURCHASES</b>					
<b>Total</b>	<b>\$169.9</b>	<b>\$295.9</b>	<b>\$273.9</b>	<b>\$267.3</b>	<b>\$287.6</b>
<b>Quantity</b>	<b>89,910</b>	<b>83,327</b>	<b>75,512</b>	<b>69,696</b>	<b>70,616</b>

**Contract History By Contract Amounts By Award Method**  
**(\$ in millions)**

<b>AWARD METHOD</b>	<b>FY 2009</b>	<b>FY 2010</b>	<b>FY 2011</b>	<b>FY 2012</b>	<b>FY 2013</b>
COMPETITIVE BIDS	\$4,223.8	\$5,900.9	\$3,296.6	\$3,018.3	\$2,778.9
REQUEST FOR PROPOSAL	4,201.2	1,929.9	4,520.2	2,288.6	5,308.5
<b>PRE-QUALIFIED VENDORS LIST (PQVL)</b>					
Pre-qualified Bidders List	12.5	77.3	23.3	10.1	219.2
Pre-qualified Request for Proposal	460.3	262.0	151.6	139.5	295.9
Sub-Total PQVL	472.9	339.4	175.0	149.6	515.0
RENEWAL	1,879.3	3,184.4	2,856.3	3,049.8	3,033.3
SOLE SOURCE	1,462.9	156.6	208.3	744.5	1,014.4
NEGOTIATED ACQUISITION	558.1	1,322.1	1,761.7	860.3	962.2
EMERGENCY	68.5	39.4	65.2	68.8	763.8
INTERGOVERNMENTAL	897.6	358.6	806.6	781.2	488.5
INNOVATIVE PROCUREMENT	-	-	-	101.2	647.4
<b>OTHER PROCUREMENT METHODS</b>	4,390.8	3,317.4	4,106.0	2,132.5	5,054.3
TOTAL	\$18,155.1	\$16,548.7	\$17,795.8	\$13,194.8	\$20,566.3

**Contract History of Quantities of Contracts By Award Method**

<b>AWARD METHOD</b>	<b>FY 2009</b>	<b>FY 2010</b>	<b>FY 2011</b>	<b>FY 2012</b>	<b>FY 2013</b>
COMPETITIVE BIDS	1,035	995	940	792	710
REQUEST FOR PROPOSAL	477	831	647	632	1,009
<b>PRE-QUALIFIED VENDORS LIST (PQVL)</b>					
Pre-qualified Bidders List	10	8	5	2	11
Pre-qualified Request for Proposal	331	127	126	77	203
Sub-Total PQVL	341	135	131	79	214
RENEWAL	1,635	1,318	1,058	904	761
SOLE SOURCE	86	73	74	71	44
NEGOTIATED ACQUISITION	366	821	916	770	827
EMERGENCY	63	63	205	74	295
INTERGOVERNMENTAL	528	559	915	827	707
INNOVATIVE PROCUREMENT	-	-	1	11	266
<b>OTHER PROCUREMENT METHODS</b>	2,674	3,241	3,268	3,131	3,060
TOTAL	7,205	8,036	8,155	7,291	7,893

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## EXECUTIVE SUMMARY

The New York City Charter requires that the Comptroller register all contracts and agreements before they are legally implemented. New York City Administrative Code §6.116.2 (a) requires that the Comptroller maintain financial information on various contracts. Additionally, §6.116.2 (f) requires that, at the close of each fiscal year, the Comptroller publish a statistical report on registered franchises, concessions and contracts for goods and services. This report summarizes statistical data for fiscal year 2013 and reflects New York City's ("City") financial commitment assumed through registered agreements.

### **General Information**

The Financial Management System ("FMS") is the City's centralized accounting, budgeting and procurement software. Commissioned on July 1, 1999, the system was designed to maintain sound financial management practices. In January 2010, FMS was modernized to ensure continued fiscal control over the City's complex accounting, budgeting and procurement needs.

In FY 2013, the Comptroller's Office registered 7,893 agreements which include contracts for goods and services, leases franchises and concessions. The FY 2013 agreements totaled approximately \$20.6 billion.

### **Contract Type**

To better track expenses and revenues, agencies are required to specifically identify the type of contract submitted for registration by selecting, in FMS, one of the 36 predetermined contract type codes.<sup>1</sup> Agreements identified by the construction contract type code accounted for the largest projected dollar amount of all contract type codes. The City committed \$2.5 billion for new construction contracts in FY 2013.

### **Award Methods**

Agencies are also required to identify, in FMS, how a vendor was solicited. The City uses over 70 award method codes to identify the manner in which a vendor was solicited.<sup>2</sup> The New York City Charter and Procurement Policy Board Rules ("PPB Rules") note that there is a preference for awarding contracts by competitive sealed bidding. Despite the explicit preference for awarding contracts by competitive sealed bidding, agencies may elect to use a different vendor selection method. The PPB Rules empower Agencies to use eight other vendor selection methods if the Agency can make a "special case" determination that it is neither practicable nor advantageous for the City to use competitive sealed bidding.

In FY 2013, competitively awarded contracts totaled \$8.1 billion approximately 39% of all registered agreements. As a general matter, there are two types of competitively awarded contracts: (1) competitive bids and (2) request for proposals ("RFPs"). Competitive bids accounted for \$2.8 billion and RFPs accounted for \$5.3 billion of competitively awarded contracts.

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<sup>1</sup> Appendix B lists twelve (12) of the most frequently used contract type codes.

<sup>2</sup> Appendix B lists fifteen (15) of the most frequently used award method codes.

## **Small Purchases**

Small purchase, a type of award method, uses an abbreviated vendor selection process in procurements which do not exceed \$100,000. In FY 2013, the Comptroller registered 70,616 small purchase contracts<sup>3</sup> valued at \$287.6 million. In FY 2012 there was an increase in the number of small purchase contracts registered by the Comptroller when compared with FY 2011 in which 69,696 small purchase contracts were registered.

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<sup>3</sup> Small Purchase data based on FY 2013 information.



# SECTION I

## INTRODUCTION

Section 6.116.2(f) of the New York City Administrative Code requires the Comptroller to publish a statistical report, at the close of each fiscal year, on registered contracts. The statistical report is generated from a computerized data base which is jointly maintained by the Comptroller and the Mayor, pursuant to New York City Administrative Code §6.116.2 (a). The Local Law 52 requires that the data base include detailed information on contracts, agreements, franchises and concessions.

This report reflects the City's FY 2013 financial obligations resulting from contractual agreements<sup>4</sup>. It contains an overview of the number of FY 2013 contracts, and the projected contract amounts compared with previous fiscal years. This report does not include information on actual expenditures or annual budget figures.

Generally, contract data is analyzed by contract type and award method. Contract type indicates the purpose or nature of the contract. On the other hand, award method indicates the type of procurement used in selecting the contractor or vendor. This report also provides detailed information on which agencies were awarded the highest dollars amount by contract type and which contractors were awarded the largest contracts according to contract types and award method.

Except as specifically identified, this report covers only FY 2013 registered contracts. The dollar amounts indicated are the original contract award. Therefore, they are described as projected dollar amounts. Except where identified, increases and decreases in the value of the contracts, after their initial registration, are not included.

A separate section of this report is devoted to "small purchase agreements." These are purchases \$100,000 or below.

Appendix A contains more detailed information on the contract data collection process and agency participation in the FMS database.

Appendix B contains definitions of general terminology, types of contracts, and methods of award.

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<sup>4</sup> All dollar amounts are rounded off to the nearest billion or million, where appropriate.

## SECTION II

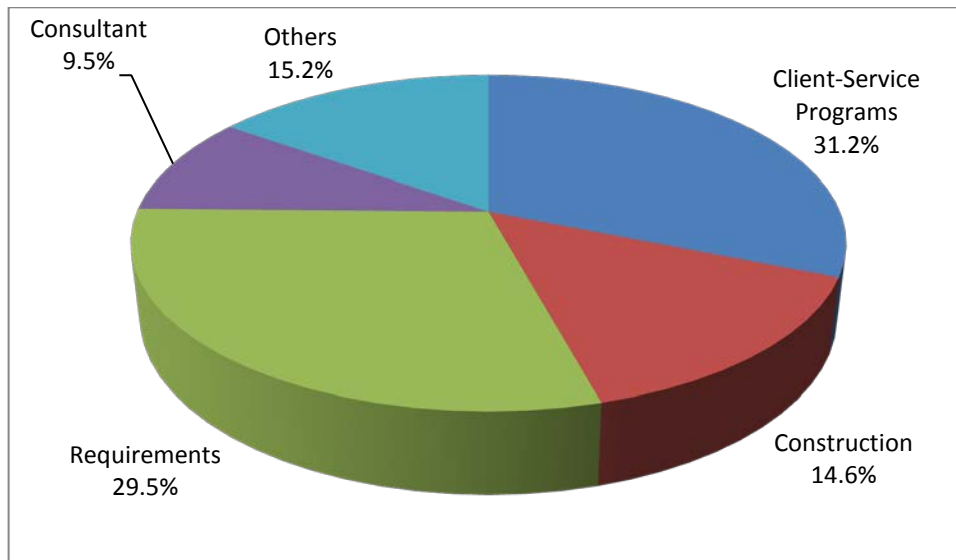
### STATISTICAL HIGHLIGHTS

#### Overview

This annual report is based upon the dollar amount of the entire term of the contract projected at the time of the award. Accordingly, the increases and decreases in a contract's projected dollar amount during the life of a contract are not used. This methodology provides a common framework for year-to-year analysis.

In FY 2013, the Comptroller's Office registered 7,893 contracts, lease agreements, franchises and concession agreements for a projected dollar amount of approximately \$20.6 billion as shown on the City Contracts Summary<sup>5</sup>. Of the 7,893 contracts and agreements, 7,274 were procurement contracts awarded by City agencies for a projected dollar amount of approximately \$17.4 billion. The remaining 619 agreements registered were for leases, miscellaneous awards, and revenue agreements. Figure 1 shows the percentage comparison of various procurement contract dollar amounts of \$17.4 billion according to contract types.

**Figure 1**  
**Percentage Comparison of Total Contract Dollar Amounts For Various Contract Types**



<sup>5</sup> Excluding contracts submitted by New York City of New York Health and Hospital Corporation (HHC) for registration. See Appendix A.

## Agency Procurements

Ten City agencies awarded \$16.5 billion worth of the FY 2013 contracts, which is approximately 80 percent of the projected dollar amount of contracts registered in FY 2013. The Department of Education (DOE) awarded the highest projected contract amount of any agency. DOE awarded 938 contracts worth \$2.9 billion. The agency with the second highest dollar amount of contracts awarded was the Human Resources Administration (HRA) with 216 contracts worth \$2.5 billion. Table 1 shows the history of projected contract dollar amounts for the top ten contracting agencies.

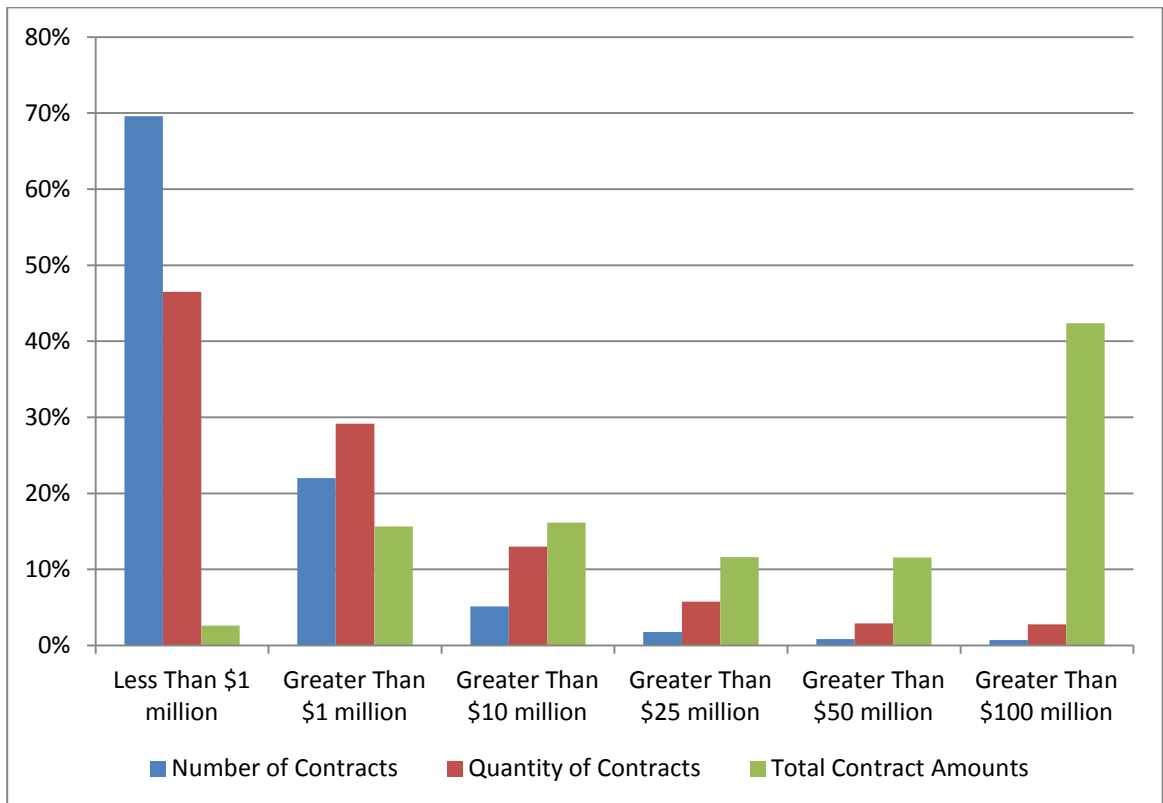
**Table 1**  
**History of Projected Contract Amounts for Top Ten Contracting Agencies**  
(\$ in millions)

FY 2009		FY 2010		FY 2011		FY 2012		FY 2013	
AGENCY	VALUE	AGENCY	VALUE	AGENCY	VALUE	AGENCY	VALUE	AGENCY	VALUE
<b>SBS</b>	3,364.9	ACS	2,569.1	ACS	3,774.1	DOITT	1,808.1	DOE	2,855.8
<b>DEP</b>	2,437.7	DCAS	2,170.8	DCAS	2,044.7	DOE	1,502.8	HRA	2,466.4
<b>SAN</b>	2,321.4	DOE	1,923.0	DOHMH	1,966.0	DCAS	1,215.4	ACS	2,105.6
<b>DOE</b>	1,668.3	DDC	1,422.5	DOE	1,915.2	DHS	1,164.2	DOHMH	1,803.1
<b>DDC</b>	1,545.7	SAN	1,390.4	SBS	1,170.9	SBS	1,149.1	DCAS	1,802.8
<b>DCAS</b>	1,477.8	DOT	1,385.2	DHS	991.5	DDC	1,045.9	DDC	1,437.9
<b>DOT</b>	788.8	DEP	1,338.7	HRA	927.2	DEP	655.3	SAN	1,158.8
<b>DHS</b>	533.2	SBS	832.7	DDC	886.5	SAN	637.6	DEP	1,149.5
<b>DOITT</b>	524.9	DHS	562.0	DOITT	772.1	ACS	536.7	SBS	963.9
<b>DOHMH</b>	446.2	HRA	530.1	SAN	683.0	COMPT	466.3	DHS	738.5
	15,109.0		14,124.5		15,131.2		10,181.4		16,482.4
<b>Others</b>	3,046.0	Others	2,424.2	Others	2,664.6	Others	3,013.4	Others	4,083.9
	<b>\$18,155.1</b>		<b>\$16,548.7</b>		<b>\$17,795.8</b>		<b>\$13,194.8</b>		<b>\$20,566.3</b>

**Awards to Contractors**

The City awarded contracts, franchises, leases and concessions to 4,021 contractors. Figure 2, shows the distribution of the number of contractors, the number of contracts awarded, and total contract amounts as percentages among various ranges of contractor dollar amounts.

**Figure 2  
Contract Distribution Profile among Various Ranges of Contract Dollar Amounts  
(Represented as Percentages of All Contracts)**



The list of top ten vendors is shown in Table 2. The total projected contract amount for these ten contractors was \$6.1 billion or 30 percent of the total projected dollar amounts awarded citywide.

**Table 2**  
**Top Ten Contractors with the Highest Dollar Amount of Contracts**

Name of Vendor	Quantity	Contract Amounts (\$ in millions)	Percentage Total Contract Amounts
AV 2 REALTY LLC	1	1,731.5	8.4%
COVANSYS CORP	1	1,011.3	4.9%
NEW YORK CITY ECONOMIC DEVELOPMENT CORPORATION <sup>6</sup>	2	896.1	4.4%
PORT AUTHORITY OF NEW YORK AND NEW JERSEY	1	754.9	3.7%
CONSOLIDATED EDISON COMPANY OF NEW YORK INC	8	409.3	2.0%
100 CHURCH FEE OWNER LLC	1	302.0	1.5%
FJ SCIAME CONSTRUCTION CO INC	1	297.4	1.4%
CORRECTIONAL MEDICAL ASSOCIATES OF NEW YORK PC	1	270.7	1.3%
GENUINE PARTS COMPANY	1	225.0	1.1%
TEMCO SERVICES INDUSTRIES INC	1	207.6	1.0%
<b>Sub-Total</b>	<b>18</b>	<b>6,105.7</b>	<b>29.7%</b>
<b>Others</b>	<b>7,875</b>	<b>14,460.6</b>	<b>70.3%</b>
<b>Total</b>	<b>7,893</b>	<b>20,566.3</b>	<b>100.0%</b>

<sup>6</sup> The third vendor, The New York City Economic Development Corp. (EDC) is a local development corporation organized pursuant to Sections 402 and 1411 of the Not-For-Profit Corporation Law of the State of New York.

## Analysis of Contract Types

Agencies are required to indicate what the contracts are for by entering one of 36 contract type codes when submitting contracts for registration. Twelve of the most frequently used contract type codes are described in Appendix B. Four contract-type categories, (i.e., client-service programs, construction, requirements contracts, and work/labor contracts) totaled \$13.7 billion, which is 79 percent of the projected dollar amount for FY 2013 contracts. The change in dollar amounts for the major contract types from FY 2012 to FY 2013 are shown in Table 3.

**Table 3**  
**Contract History of Contract Amounts by Contract Type**  
(\$ in millions)

Type of Contracts	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	% Change from FY 2012
<b>Programs</b>	2,150.5	3,576.6	7,606.8	2,984.2	5,409.0	81.3%
<b>Construction</b>	4,702.2	4,000.9	1,666.6	1,360.8	2,537.1	86.4%
<b>Requirements</b>	2,683.0	3,534.0	2,747.9	2,747.4	5,129.6	86.7%
<b>Consultant</b>	1,577.5	525.7	915.6	995.8	1,647.0	65.4%
<b>Work/Labor</b>	2,934.6	2,064.0	1,084.9	856.5	612.8	-28.5%
<b>Supplies/Materials/Equipment</b>	147.7	493.8	254.0	227.6	237.1	4.2%
<b>Others</b>	2,842.6	1,303.9	1,707.9	1,762.9	1,791.3	1.6%
<b>Total</b>	\$17,038.2	\$15,498.9	\$15,983.6	\$10,935.3	\$17,364.0	58.8%

## Analysis by Award Method

Award method codifies the way the vendors were solicited by the use of one of over 70 award method codes. Fifteen of the most frequently used award method codes are described in Appendix B. The New York City Charter and Procurement Policy Board Rules (“**PPB Rules**”) specify a preference for competitive sealed bidding for goods, services and construction. Agencies may also solicit by competitive sealed proposals (also referred to as “requests for proposals”, or RFPs) as the preferred method for awarding City contracts for professional services. Despite these preferences, agencies may, however, elect to make a “special case” determination by stating that it is not practicable or advantageous to the City to use competitive sealed bidding or proposals.

In FY 2013, competitively awarded contracts (bids and RFPs) totaled \$8.0 billion, which is 39 percent of the projected dollar amount for all contracts, and consisted of 1,719 contracts, which is 22 percent of the total number of all contracts awarded.

Other procurement methods such as renewal, negotiated acquisition and sole source procurement are available to agencies. To use either a negotiated acquisition or sole source procurement, an agency must make a “special case” determination explaining that the proposed procurement vehicle is more beneficial to the City.

While negotiated acquisition and sole source procurements allow agencies some flexibility in solving special problems when dealing with the market place, these solicitations involve only a limited number of suppliers. Therefore, agencies must assess whether the benefits of using a procurement method that restricts competition ultimately exceeds the benefits of awarding the contract through full competition.

In addition, the PPB Rules allow agencies to make small purchases, emergency procurements, or intergovernmental purchases of goods, services and construction related work.

For FY 2013, the largest number of non-competitive procurements in a single category was 827 negotiated acquisition contracts awarded for a total of \$962.2 million (i.e., 4.7 percent of the total contract amounts). In addition, there were 214 contracts awarded, worth \$515.0 million, using pre-qualified suppliers, 44 sole source contracts worth \$1.01 billion and 295 emergency procurements for a total of \$763.8 million. Renewal contracts totaled \$3.03 billion, which is nearly 15 percent of the total projected contract amount for FY 2013. See Table 4 for details.

**Table 4**  
**Distribution of FY 2012 Contracts**  
**By Award Method**

AWARD METHOD	Quantity	Percent Of Contracts Awarded	Projected Contract Amount (\$ in millions)	Percent Of Total Dollar Value Awarded
<b>Competitive Bids &amp; RFPs</b>	1,719	21.8%	\$8,087.4	39.3%
<b>Pre-Qualified Lists</b>	214	2.7%	515.0	2.5%
<b>Renewals</b>	761	9.6%	3,033.3	14.7%
<b>Sole Source</b>	44	0.6%	1,014.4	4.9%
<b>Emergency</b>	295	3.7%	763.8	3.7%
<b>Negotiated Acquisition</b>	827	10.5%	962.2	4.7%
<b>Sub-Total</b>	3,860	48.9%	14,376.1	69.9%
<b>Intergovernmental</b>	707	9.0%	488.5	2.4%
<b>Other</b>	3,326	42.1%	5,701.7	27.7%
<b>Total</b>	7,893	100.0%	\$20,566.3	100.0%

## SECTION III

### SMALL PURCHASE CONTRACTS

In July 2004, Resolution 36 amended the City Charter and the Procurement Policy Board Rules to raise the dollar limits for Small Purchases to \$100,000.

Notwithstanding these changes, the City complied with the Local Law 52 requirement that agencies shall enter contract information into FMS on the \$10,000 and \$15,000 limits and up. Therefore, the City did not lose its ability to report on contracts despite the increase to the Small Purchase limits. In fact, in order to streamline the purchasing capabilities of agencies, at the time that FMS was modified to accommodate the increased limits, it was also changed to allow for the entering of contract information for contracts of any value.

In total, there were 70,616 small purchase contracts entered into the contract database, valued at \$287.6 million for FY 2013. The quantities for small purchases increased when compared to FY 2012 when there were 69,696 small purchase contracts. See Table 5.

**Table 5**  
**Small Purchases**  
**(\$ in millions)**

FMS2 Document Codes: CT, CE, PC, PD, and PCC					
FMS3 Document Codes: CT1, MA1, MMA1, RCT1, POC, POD, and PCC1					
ALL SMALL PURCHASES	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Total	\$169.9	\$295.9	\$273.9	\$267.3	\$287.6
Quantity Small Purchases	89,910	83,327	75,512	69,696	70,616



## APPENDIX A

### CONTRACT DATA COLLECTION PROCESS

#### Reporting Agencies

This report used data compiled from the Financial Management System (FMS). FMS was placed in service on July 1, 1999 and upgraded in 2010. FMS is the City's computerized accounting and budgeting system, which contains information on each contract processed and payments made to contractors. The system is maintained by the Financial Information Services Agency (FISA), a joint Mayoral-Comptroller agency.

The Administrative Code Section 6-116.2(a) requires that the contract database includes information on contracts in excess of \$10,000 for goods and services, and \$15,000 for construction or construction related contracts. This information is entered into FMS by the agencies when they submit their contracts to the Comptroller for registration.<sup>7</sup> Typical information collected is the name of the agency doing the procurement, the type of contract, the term of the contract, the dollar amount, and the type of vendor selection process used to award contracts. The data also identifies the contractors that received those contracts.

The City Charter establishes the ground rules for conducting City business, including procurement activities. Under Section 310, the Charter states that the procurement requirements apply to:

"(1) All goods, services or construction to be paid for out of the city treasury or out of moneys under the control of or assessed or collected by the city ... and (2) all goods, services or construction to be procured by an entity, the majority of the members of whose board are city officials, or are individuals appointed directly or indirectly by city officials shall be procured as prescribed in this chapter...."

However, in December 1990, the Corporation Counsel issued an opinion that a number of entities established by or pursuant to New York State law -- such as the Economic Development Corporation (EDC), the Housing Development Corporation (HDC) and the School Construction Authority (SCA) -- were not subject to the Charter provisions on procurement. Since these agencies do not have to comply with the PPB rules, they have not generally submitted their contracts to the Comptroller for registration.<sup>8</sup>

On July 7, 1992 -- seven days into Fiscal Year 1993--the City enacted Local Law 44; it became effective on October 5, 1992. Local Law 44 amends Section 6-116.2(a) of the City's Administrative Code to include the requirement that "New York City affiliated agencies" submit information concerning their contractual expenditures for inclusion in the contract

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<sup>7</sup> Pursuant to PPB Rules Section 4-06(a), registration of contracts and agreements is the process through which the Comptroller: 1) encumbers funds to insure that the encumbered monies are available to pay contractors for contract work to be performed; 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.

The Charter grants the Comptroller 30 days from the date the contract and all requisite related materials are received by the Comptroller to register, reject or object to the contract. Within the 30 days, the Comptroller may, under certain circumstances, either reject the contract or object to registering it. (See Charter §328.)

<sup>8</sup> See section on Non-Mayoral Agencies.

database.<sup>9</sup> The intent of Local Law 44 was not to require these agencies to register their contracts with the Comptroller's Office, but to ensure that information concerning their contracts would be captured. Local Law 44 states that "in no event shall any New York City affiliated agencies be required to submit such information prior to the award of any contract."

### **City Agencies are the Source of Data Appearing in FMS**

Contracts generally must be registered with the Comptroller before they can be implemented. The agencies -- not the Comptroller's Office -- supply the data (such as the award method, number of responses, and length of the contract) appearing in the database. As part of the normal registration process, the Comptroller's Bureau of Contract Administration (BCA) typically contacts the agency if it determines that the agency has supplied incorrect information.

### **Contract Data Elements**

The following data is included in the FMS database and is available for every contract in the detailed comprehensive computer report:

- the name and address of the vendor;
- the agency that awarded the contract;
- the type of contract and the dollar amount of each contract for goods and services over \$10,000 and construction over \$15,000;
- the purpose of the contract;
- the contract term and any extensions;
- the method used to select the vendors;
- whether the vendor offered the lowest price;
- expenditures and encumbrances;
- the contract number;
- the number of responses to the solicitation of the contract;
- the type of Fund (Capital or Expense);
- the date of registration;
- revised maximum amount;
- contract budget category code;
- procurement identification number (PIN);<sup>10</sup>
- address of work site and/or delivery of services location;
- community boards within which the work is to be performed or delivered.<sup>11</sup>

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<sup>9</sup> Local Law 44 defines "New York City Affiliated Agency" as "any entity the expenses of which are paid in whole or in part from the City treasury and the majority of the members of whose board are city officials or are appointed directly or indirectly by city officials, but shall not include any entity established under the New York City Charter, this code or by executive order, any court or any corporation or institution maintaining or operating a public library, museum, botanical garden, arboretum, tomb, memorial building, aquarium, zoological garden or similar facility" (see §6-116.2(i)(6) of the New York City Administrative code).

Some agencies that meet the definition of "New York City Affiliated Agency" and are therefore covered by Local Law 44 are: New York City Health and Hospitals Corporation; New York City Economic Development Corporation; New York City Water Board; New York City Municipal Water Finance Authority; New York City School Construction Authority, and Municipal Assistance Corporation. This list is illustrative.

<sup>10</sup> A PIN is a unique identifying number for each solicitation or contract notification, which must be used by an agency, each time any action related to the procurement is published.

<sup>11</sup> Information on PIN, worksite address and Community Board(s) was required to be submitted as of January 1991; data on Contract Budget Category Code was required as of September 1991. Data on these elements are included in the comprehensive computer printouts.

## **Geographic Distribution Data**

Agencies previously provided only the "business address" of the contractor, and not other addresses, such as where the work was produced, or the location where services were performed. For example, the City may use trucks on a Staten Island project it procured from a manufacturer with a sales office in New Jersey and a production plant in Oklahoma. FMS allows the agencies to provide, for each contract, information on the location of the delivery point and/or the use of the goods or services specified in the contract. The data specifies the borough, or boroughs, and community board, or boards, in which the work is performed, as well as the vendor's "business address."

## **Items not Included in the Summary Report**

Non-Procurement Contracts and Agreements:

The FMS database includes information on several types of transactions entered into by the City and that are registered with the Comptroller's Office. Among these types of transactions are leases and loan negotiations.

### **Leases**

When the City rents space for City use, it enters into a lease agreement with the landlord. Many leases may be for a term of more than one year, in which case the projected dollar amount of the contract registered covers the entire term of the lease. For FY 2013, agencies registered 92 new lease agreements worth \$2.7 billion. Compared to FY 2012, there was an increase in the number of leases for FY 2013 and an increase in the projected dollar amount. In fact, for FY 2012 76 lease agreements were registered having a projected value of \$525.2 million. For the prior three fiscal years, FY 2011, FY 2010, and FY 2009, 91 lease agreements were registered having a projected value of \$1.6 billion; 92 lease agreements were registered having a projected dollar value of \$803.5 million and 74 lease agreements were registered having a projected dollar value of \$717.9 million, respectively.

Though leases comprise a significant portion of what may be considered the City's "contracting" activities, they do not constitute "procurements" within the definition of Chapter 13 of the City Charter and the PPB rules.

## APPENDIX B

### GENERAL TERMINOLOGY

#### **Agreement:**

A binding arrangement between the City and another entity set forth in writing and enforceable by law.

#### **Budgets:**

The City has three main budgets:

The *Capital Budget* shows the appropriations for new projects and additions to existing projects for a specific fiscal year for: (1) the design, construction, and renovation of public facilities (e.g., highways, subways, sewers, water mains), (2) the purchase of major items with a period of probable usefulness of at least five years and a value of at least \$15,000 (e.g., buses, fire and sanitation trucks, computers), and (3) land acquisitions. The budget also indicates how the City proposes to pay for each project: City bonds, federal aid, state aid or other sources.

The *Expense Budget* shows annual appropriations authorizing and limiting the amounts to be spent by agencies by unit of appropriation for a specific fiscal year for ongoing operations (e.g., social services, materials, equipment, and supplies).

The *Revenue Budget* identifies anticipated revenue sources and estimates of amounts to be collected to fund the expense budget.

#### **Contract:**

A binding agreement formally set forth in writing and enforceable by law between the City and another entity. The written contract document contains the terms and conditions to be performed by both parties as well as the terms of payment, if any. For purposes of this report, contracts can either be of the type where the City is contracting and paying for some kind of goods, services, construction, etc., or where the City is the recipient of funds from another entity (revenue contract).

#### **Contract Registration:**

The registration of contracts, pursuant to Sections 93(p) and 328 of the New York City Charter, is designed to achieve a wide variety of public policy goals that cannot otherwise be attained. The process is designed to ensure that sufficient funds exist to make payments for that contract, that all appropriate documentation has been collected, and that no legal or administrative impediment exists to registering the contract. Pursuant to PPB Rules, registration of contracts and agreements is the process through which the Comptroller: (1) encumbers funds to insure that monies are available to pay contractors for 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. The Charter grants the Comptroller 30 days from the date the contract and all requisite related materials are received by the Comptroller to register, reject or object to the contract.

**Contract Value:**

The contract value is the estimated maximum amount of payments to be paid over the life of the contract.

**Encumbrance:**

An encumbrance of funds is the setting aside of funds to be used for payment pending receipt of goods or services. Agencies must encumber funds to be sure there are sufficient funds in their budget to pay vendors. Encumbrances for expense-funded contracts cover up to the current fiscal years. Encumbrances for capital-funded contracts may cover longer periods of time.

**Financial Information Services Agency (FISA):**

A joint agency of the Mayor and Comptroller. FISA's Board of Directors consists of a representative of the Mayor, a representative of the Comptroller and a member of the private sector, appointed on the recommendation of the other two.

**Fiscal Year:**

An accounting period of 12 months. In New York City this period begins July 1st and ends the following June 30th. The fiscal year is numbered for the year it ends in--not the year it begins in. For example, the fiscal year beginning July 1, 2012 and ending June 30, 2013 is referred to as fiscal year 2013.

**Purchase Order:**

An official document of the City notifying the successful vendor of authority to supply goods or services. A purchase order formalizes a purchase transaction with a vendor.<sup>12</sup>

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<sup>12</sup> PPB Rules, §1-01

## **TYPES OF CONTRACTS AND AGREEMENTS**

### **Concession Agreement:**

An agreement incorporating a grant made by the City for the private use of City-owned property for which the City receives compensation that is separate from the fees that cover administrative costs. Concessions do not include franchises, revocable consents and leases. An example of a concession is a vendor in a City park.

### **Construction Contract:**

A contract for the process of building, reconstructing, rehabilitating, converting, altering, extending, improving, repairing, maintaining or demolishing of City real property or other public improvements.<sup>13</sup>

### **Consultant Contract:**

A contract for technical, consultant or professional services supplied by an individual or firm.

### **Expense Contract/Revenue Related:**

A contract under which the City pays a vendor to collect fees due the City. An example would be a contract with a collection agency to collect a debt owed to the City.

### **Franchise Agreement:**

An agreement incorporating a grant by the City of a right to occupy or use the inalienable property of the City to provide a public service (e.g., cable television).

### **Lessee Contract:**

Where the City enters into a lease with a landlord to rent space for use by a City agency.

### **Lessor Contract:**

Where the City, as the landlord, enters into a lease with a lessee, designated as tenant, whereby the latter pays the City for the use of property.

### **Program Contract (also known as Human or Client Services Contract):**

A contract with a vendor to provide services to third-party clients, including programs that provide social services; health and medical services; housing and shelter assistance; legal services; employment services; and vocational, educational, or recreational services.

### **Requirements Contract:**

A term contract established for the purpose of procuring specific materials, supplies, or equipment needed by agencies over a specified period of time. Although the price per unit is fixed, the quantity is not limited; rather, it is "as required" with reasonable limits. Requirements contracts, which are primarily originated by the Department of Citywide Administrative Services, allow individual agencies to submit Purchase Orders referring to the contract to effect purchases.

### **Revocable Consent:**

An agreement incorporating a grant by the City of a right, revocable at will, to use the inalienable property of the City for a private use (e.g., gas company pipes running under City property).

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<sup>13</sup> PPB Rules, §1-01

**Supplies, Materials & Equipment Contract:**

A contract to purchase supplies, materials, or equipment from a vendor.

**Work & Labor Contract:**

A contract for purchase of work or labor-related services to be performed by a contractor, including incidental furnishings of materials and supplies (e.g., painting, air-conditioning maintenance, and temporary office help).

## METHODS OF AWARD

### **Borough Needs Budget Item:**

The contractor has been selected and funds allocated by either an elected official (e.g., Borough President or Council member awards) or through the budget process itself (e.g., line-item appropriations).

### **Competitive Sealed Bid (also known as Public Letting):**

The procurement process by which sealed bids are publicly solicited and opened, and a contract is awarded to the lowest priced responsive and responsible bidder.<sup>14</sup>

### **Competitive Sealed Bids From a Pre-Qualified List:**

A competitive sealed bid process where competition is limited to contractors that were pre-qualified by an agency to bid on specific types or categories of contracts.

### **Competitive Sealed Proposal (also known as Request for Proposals):**

The procurement method by which a solicitation is made to a number of potential contractors, and price as well as other factors are used to determine the awardee...<sup>15</sup>

### **Competitive Sealed Proposal From a Prequalified List:**

A competitive sealed proposal process where competition is limited to vendors that were prequalified by an agency to respond to a specific type or categories of contracts.

### **Determined by Government Mandate:**

Contracts awarded that are funded in whole or in part by New York State or federal dollars where State or federal regulations restrict the City from using its own procurement processes. For example, there are certain State-funded mental health contracts where State law requires City reliance on the State's award methodology for the State's choice of vendors, in place of the City's competitive process.

### **Determined by Legal Mandate:**

Where the method of award (or the contractor itself) is prescribed by law or a court.

### **Emergency Procurement:**

An emergency is an unforeseen danger to life, safety, property or a necessary service. The existence of an emergency creates an immediate and serious need for goods, services, or construction that cannot be met through normal procurement methods. In these instances, the agency is encouraged to obtain as much competition as is possible and practicable in procuring these goods and services.

### **Negotiated Acquisition:**

The negotiation of a contract for legal, investigative, confidential, human, investment-related, or construction-related services, construction, or information technology where it has been determined that:

(1) there is one contractor or a very limited number of contractors uniquely qualified to provide the legal, investigative, confidential, human or investment-related service, construction, or information technology; or

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<sup>14</sup> PPB Rules, §3-02

<sup>15</sup> PPB Rules, §3-03



(2) because of an urgent need to retain a contractor quickly, selective solicitation and negotiation with a limited number of potential contractors is necessary and it is not practicable or advantageous to make the procurement by means of competitive sealed bidding or competitive sealed proposals.<sup>16</sup>

(3) to extend the contract for the minimum time necessary beyond the permissible 12 month extension period.

**Other:**

Used when a contract or agreement is entered into by an agency that is not awarded by any of the standard methods.

**Public Letting:**

See Competitive Sealed Bid.

**Renewal of Contract:**

Registration of a new contract, for an additional term which was specified in a previous contract, with the same vendor or service provider. The renewal must have substantially the same terms and conditions as the original contract, but may possibly have revised quantities, lists, or schedules of items to be supplied which do not alter the scope of the contract.

**Request for Proposals:**

See Competitive Sealed Proposal.

**Small Purchase:**

A procurement with a value that is not more than \$25,000 for goods and services, not more than \$50,000 for construction and construction-related services, and not more than \$100,000 for information technology.<sup>17</sup>

**Sole Source:**

The procurement process whereby a contract is negotiated and awarded to the single source available for the required good, service, or construction. In the case of certain agencies not subject to the PPB rules, (e.g., Department of Education and the Health and Hospitals Corporation), this classification is also used when a contractor is awarded a contract because the contractor purportedly best fits the agency's need, even though the contractor is not a single source.<sup>18</sup>

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<sup>16</sup> PPB Rules, §3-04

<sup>17</sup> PPB Rules, §3-08

<sup>18</sup> PPB Rules, §3-05