



NEW YORK CITY COMPTROLLER
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Later Than Ever: An Analysis of NYC Agency Contracts in Fiscal Year 2019



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Executive Summary

Doing business with the City of New York is a challenging proposition. The City's procurement process, designed to protect public funds and ensure contracts are awarded fairly and competitively, can take many months when working smoothly, and longer when delays occur. With multiple government agencies performing various oversight duties, delays are common. In the worst case scenario, months can become years.

The slow pace of procurement presents a number of challenges for vendors and the City. Since vendors cannot legally be paid for work on City projects until contracts are registered, important projects can stall when contracts aren't registered, which ultimately drives up costs. Non-profit 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. And 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.

The City's leadership is well aware of these problems. This report, the third annual effort by the Comptroller's Office to examine delayed contracts, is being issued alongside a number of initiatives to improve procurement. The Mayor's Office of Contract Services has released the first phase of PASSPort – a new end-to-end procurement system that aims to create efficiencies within the process; advance payments of 25 percent are now being issued to non-profit vendors at the start of their contract period; and the Mayor announced a streamlined approval process that improved the on-time submission rate of human service contracts for registration in Fiscal Year 2020¹. While all this is promising, the effects of these interventions did not take effect during FY19, and this report found that the time it took to register a contract in New York had not improved during the period under review.

For the second year in a row, this report provides two separate analyses of late contracts: one that includes discretionary contracts and one that excludes them. Discretionary contracts are awarded by City Council members and Borough Presidents for projects within their districts, and are allocated in June with a contract start date of July 1. Due to the time-constrained manner in which they are awarded, discretionary contracts are always submitted for registration after their start date. By removing them from the analysis, it is easier to assess the lateness of all other contracts.

¹ <https://www1.nyc.gov/office-of-the-mayor/news/393-19/mayor-de-blasio-results-streamlined-contracting-process-health-human-service>

Key findings of this year's analysis include:

- In FY19, 81% 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 76%.
- When examining human service contracts only, 86% arrived at the Comptroller's Office after the contract start date. This is a higher retroactivity rate than the citywide 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 slightly to 79%.
- In FY19, 38% of new and renewal contracts arrived at the Comptroller's office more than six months after their start date. When removing discretionary contracts from the analysis, this report found that 24% of contracts were over six months late.
- The latest contracts continue to get later each year. In FY19, new and renewal contracts that were submitted for registration more than a year after their start date were on average 642 days late, compared to 589 days late in FY18, and 558 days late in FY17. New and renewal contracts for human services that were submitted more than one year after their start date in FY19 were on average 564 days late, compared to 541 days late in FY18, and 504 days late in FY17.

There are numerous ways to improve the City's procurement process, increase efficiency, and reduce the prevalence of late contract registration. The Comptroller's Office recommends the following solutions:

- 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.
- Contracting agencies should pay interest to vendors when a contract is submitted for registration more than 30 days after the contract start date. This would create a strong financial incentive for agencies to submit contracts for registration in a timely fashion, and would ease the financial burden on vendors when timely registration does not happen.

Total Contract Actions Received by the Comptroller's Office in FY19

The Comptroller's office registered a total of 20,863 contracts in Fiscal Year 2019, just over 1,400 more than the prior year. These contracts were submitted by all City agencies and included 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. In Fiscal Year 2019, the Comptroller's office took an average of 20.5 days to register a contract. 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. Lay out process/sequence question

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 Year 2019. 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 has passed, it is considered retroactive.

Retroactivity Trends Among All City Contracts in FY19 (Discretionary Contracts Included)

To determine the retroactivity of each contract submitted in FY 2019, 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.

Of the 20,863 contract submissions registered in FY19, 18,820 – or 90% – were already retroactive by the time they reached the Comptroller’s office. However, that figure includes certain contract actions that can appear retroactive in the data even if they aren’t, like extensions or amendments to existing contracts. To control for this dynamic and ensure a fair analysis, the Comptroller’s Office removed contract amendments and extensions and focused only on new and renewal contracts which have start dates that can be easily identified.

The analysis found:

- Of the 20,863 contracts that were registered in FY19, 7,001 were new or renewal contracts, known as CT1s.
- Of those 7,001 CT1 contracts, 5,675 – or 81% – were retroactive.

How retroactive were these contracts?

The following chart shows the length of time from contract start date until submission to the Comptroller Office for the 5,675 retroactive CT1 contracts that were registered in FY19. The data is presented next to FY18 data for a year over year comparison.

Chart I: Length of Retroactivity Among Registered CT1 Contracts, FY19 v FY18

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

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

As Chart I illustrates, of the 5,675 retroactive CT1 contracts that were registered in FY19, 38% were more than 180 days retroactive. This is only a slight improvement from the year before when 40% of retroactive contracts were more than 180 days late. For the past two years in a row, 13% of retroactive CT1 contracts were more than 365 days late, but the average length of retroactivity among these contracts has increased from an already alarming 589 days in FY18, to 642 days in FY19. This means that vendors with the most retroactive contracts waited over 21 months on average for their contracts to be registered.

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 FY19, 96% of contract submissions were registered by the Comptroller’s Office within the initial 30 day review window, with 20.5 days being the average length of time to register 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, FY19

	Under 30 days	31 – 60 days	61 – 90 days	91 – 180 days	181 – 365 days	Over 1 year
Number of Contracts	19,957	294	287	260	65	0
% of total	95.7%	1.4%	1.4%	1.2%	0.3%	-
Average number of days to register	20.5	49.6	72.8	121.6	232.0	0.0

Retroactivity Trends Among Human Service Contracts In FY19 (Discretionary Contracts Included)

Non-profit organizations play a critical role delivering social services in New York City. Government agencies provide very few direct services, and rely on contracts with non-profit 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 non-profit organizations are not like other City vendors. Many non-profits 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 non-profit 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).

These seven agencies registered a total of 6,950 Type 70 contracts – the contract category that is primarily used for human service programming – in Fiscal Year 2019. Of those 6,950 contracts 6,455 – or 93% – were already retroactive by the time they were submitted to the Comptroller’s office for registration. When examining only new and renewal contracts (CT1s) for the most precise look at retroactivity rates, a total of 3,503 contracts were registered for the seven agencies, and 3,016 – or 86% – were retroactive by the time they reached the Comptroller’s Office.

This is a higher percentage than the 81% retroactivity rate that was found among new and renewal contracts across all City agencies, affirming for the third year in a row that non-profit organizations wait longer for their contracts to be submitted for registration than City vendors overall.

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 3,016 retroactive CT1 human service contracts that were registered in FY19. The data is presented next to the FY18 data to provide a year over year comparison.

Chart III: Length of Retroactivity Among Registered CT1 Human Service Contracts, FY19 v FY18

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

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

As this chart illustrates, of the 3,016 retroactive CT1 human service contracts that were registered in FY19, 42% were more than 180 days retroactive – an improvement from the 52% in FY18. Despite this welcome improvement, it must be noted that non-profits providing services across 1,265 individual contracts waited more than six months for payment on services they have already been delivered. For the over 14% of vendors who waited more than one year for their contracts to be registered, the average length of retroactivity was 564 days, 24 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 FY19, by individual agency. DOE submitted 94% of these contracts retroactively. DYCD followed closely behind with 92% of contracts submitted retroactively, while HRA and DHS respectively submitted 88% and 85% of contracts retroactively.

Chart IV: Retroactivity Among Registered CT1 Human Service Contracts by Agency, FY19

Agency	# of Contracts	# Retroactive	% Retroactive
DOE	671	628	93.6%
DYCD	1,464	1,346	91.9%
HRA	274	241	88.0%
DHS	111	94	84.7%
DFTA	269	207	77.0%
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 3,016 retroactive CT1 human service contracts that were submitted for registration to the Comptroller’s Office in FY19, broken down by individual human service agency. Several agencies submitted a large number of contracts more than one year retroactively: 22% of DFTA contracts, 16% of DYCD contracts, and 14% of DOE, HRA and DHS contracts were submitted for registration more than one year after their start date.

Chart V: Retroactivity of CT1 Human Service Contracts, Agency By Agency Breakdown, FY19

		Under 30 days	31 – 60 days	61- 90 days	91 – 180 days	181 – 365 days	Over 1 year	Total
DOE	Number of Contracts	101	165	94	74	105	89	628
	% of total	16.1%	26.3%	15.0%	11.8%	16.7%	14.2%	
DYCD	Number of Contracts	336	66	127	184	422	211	1,346
	% of total	25.0%	4.9%	9.4%	13.7%	31.4%	15.7%	
HRA	Number of Contracts	13	17	32	68	78	33	241
	% of total	5.4%	7.1%	13.3%	28.2%	32.4%	13.7%	
DHS	Number of Contracts	36	13	9	11	12	13	94
	% of total	38.3%	13.8%	9.6%	11.7%	12.8%	13.8%	
DFTA	Number of Contracts	29	2	13	60	57	46	207
	% of total	14.0%	1.0%	6.3%	29.0%	27.5%	22.2%	
DOHMH	Number of Contracts	107	9	21	124	136	39	436
	% of total	24.5%	2.1%	4.8%	28.4%	31.2%	8.9%	
ACS	Number of Contracts	22	3	3	12	21	3	64
	% of total	34.4%	4.7%	4.7%	18.8%	32.8%	4.7%	

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 95% of all human service contract submissions for these seven agencies were registered within the initial 30 day review window, with 19.6 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, FY19

	Under 30 days	31- 60 days	61 – 90 days	91 – 180 days	181 – 365 days	Over 1 year
Number of contracts	6,585	121	102	119	23	0
% of total	94.7%	1.7%	1.5%	1.7%	0.3%	--
Average number of days to register	19.6	47.5	75.1	120.4	224.3	--

The Impact of Discretionary Contracts

Discretionary contracts are awarded to 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 City Contracts in FY19 (Discretionary Contracts Excluded)

Of the 7,001 CT1 contracts registered in FY19, 5,675 – or 81% – were retroactive. However, 1,576 of these CT1 contracts were discretionary awards, and after removing them from the calculation, we were left with 5,425 non-discretionary CT1 contracts, of which 4,126 – or 76% – were retroactive. The following chart shows the length of time from contract start date until first submission to the Comptroller’s Office for the 4,126 retroactive non-discretionary CT1 contracts that were registered in FY19. The data is presented next to the comparable FY18 data.

Chart VII: Length of Retroactivity Among Registered CT1 Contracts – Excluding Discretionary Contracts, FY19 v FY18

Fiscal Year 2019							
Number of Days	Under 30	31 - 60	61 - 90	91 - 180	181 - 365	Over 365	Total
Number of Contracts	1,580	536	466	540	654	350	4,126
% of Total	38.3%	13.0%	11.3%	13.1%	15.9%	8.5%	100%
Average number of days retro	1.8	44.6	76.3	129.9	249.9	764.9	136.6

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

As Chart VII illustrates, over 24% of the 4,126 retroactive non-discretionary CT1 contracts that were registered in FY19 were more than 180 days retroactive. For the vendors that were awarded the 8.5% of contracts that arrived at the Comptroller’s Office over one year late, the average length of retroactivity was 765 days, or roughly 25 months. This is compared to an average of 673 days among contracts that were over one year retroactive in FY18, meaning contracts that were submitted more than one year late in FY19 were on average three months later than in the prior fiscal year. Overall, retroactive contracts were on average submitted two weeks later in FY19 than in FY18.

Retroactivity Trends Among Human Service Contracts in FY19 (Discretionary Contracts Excluded)

Of the 3,503 CT1 human services contracts registered in FY19, 3,016 – or 86% – were retroactive by the time they reached the Comptroller’s Office. However, 1,215 of the CT1 contracts were discretionary awards, and after removing them from the calculation, we were left with 2,288 non-discretionary CT1 contracts, of which 1,801 – or 79% – were retroactive.

Chart VIII: Length of Retroactivity Among Registered CT1 Human Service Contracts – Excluding Discretionary Contracts, FY19 v FY18

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

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

As Chart VIII illustrates, 22% of the 1,801 retroactive CT1 non-discretionary human service contracts that were registered in FY19 were more than 180 days retroactive. For the vendors that were awarded the 7.2% of human service contracts that arrived at the Comptroller’s Office over one year late, the average length of retroactivity was 618 days, or more than 20 months. Among human service contracts that were over a year retroactive, the average length of retroactivity was 561 days in FY18 and 499 days in FY17, meaning that the latest contracts continued to get later in FY19. However, overall, retroactive non-discretionary human service contracts were submitted an average of 14 days earlier in FY19 compared to FY18.

Recommendations

The slow pace of New York City procurement system is our City's worst kept secret. Vendors – from major construction firms to mom and pop daycares – all feel the pain. But while the problems are entrenched, they can be corrected. The City should consider the following recommendations to create a more efficient procurement process.

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

For the third year in a row, this report strongly recommends instituting timeframes within the City's procurement process. The Comptroller's Office is the only agency with a role in the City's procurement process that is required by the New York City Charter to perform its duties within a specified timeframe. All other oversight agencies perform their tasks without mandated timeframes, or with timeframes that can be easily waived. This is a major contributor to delays in the process and creates a lack of accountability among agencies. Instituting timeframes for all City agencies with an oversight role in the procurement process to complete their tasks would standardize the length of the process and ensure agencies complete their tasks promptly.

Pay interest to vendors when contracts are registered more than 30 days after the contract start date.

When contracts are registered after their start dates, there can be significant financial consequences, particularly for non-profit organizations that often take out loans or make tough budget decisions in order to continue operating until the City can issue payment for contracted work. The financial burden of late contract registration should not fall on our non-profit partners. Instead, the City should consider an interest-payment model when contracts are registered late – with the contracting agency paying the vendor a percentage of the contract value for each day it is late starting 30 days after the contract start date. If the City had to pay interest to the vendor for each day that a contract is late, there would be a strong financial incentive for agencies to adhere to their timelines.

It is worth noting that New York City Procurement Policy Board rules already require the City Chief Procurement Officer to review each agency's compliance with timely registration requirements at least twice a year to determine whether or not an agency is submitting contracts for registration in a timely manner. If an agency is found to be substantially out of compliance, the agency can be required to pay interest on subsequent contract submissions. However, MOCS has not published the results of these reviews in several years and the Comptroller's Office is unaware of agencies actually being required to make interest payments.

Conclusion

There have been several meaningful changes to New York City's procurement process over the last year; however, more fundamental change is still needed to ensure our procurement system is efficient and effective. The launch of the City's new "end to end" procurement system, the practice of providing a 25 percent advance on human service contracts, and the apparent improvement in delivering human service contracts on time for registration in FY20 all give reason for hope.

To build on and institutionalize these initiatives – and ensure we exit the crisis of late contracts once and for all – the City should enact deeper structural changes to the procurement system. These changes should include instituting timeframes for all City agencies with a role in the procurement process to complete their required tasks, and requiring City agencies to pay interest to vendors if contracts are submitted late for registration.

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