



CHARLETTE HAMAMGIAN  
DEPUTY COMPTROLLER FOR  
CONTRACTS AND PROCUREMENT

CITY OF NEW YORK  
**OFFICE OF THE COMPTROLLER**  
BRAD LANDER

BUREAU OF CONTRACT  
ADMINISTRATION

November 1, 2024

Lisa Flores  
Director of Mayor's Office of Contract Services  
255 Greenwich St, Floor 9  
New York, NY 10007

Re: Local Law 169 (2023) Report

Dear Director Flores:

As a member of the Procurement Policy Board ("PPB") and member of the Joint Task Force to Get Nonprofits Paid On Time, our Office and I remain committed to making substantial reforms and working collaboratively to prioritize and address necessary changes to the City's procurement process and ensure that nonprofits are paid on time, in full, and on a predictable schedule. In the enclosed September 26, 2024 letter to you, to which we have yet to receive a response, I raised concerns regarding direction given to Agency Heads to bypass critical public notice requirements in an attempt to timely register human service contracts. This letter stated that I looked forward to the findings of the required study pursuant to Local Law 169 (2023) ("Report"). The expectation was that the study would provide the PPB members, Mayor and Council a better understanding of procurement process timelines and identify areas for targeted improvements. Unfortunately, the Report issued by the Mayor's Office of Contract Services ("MOCS") falls far short of these goals by failing to identify the specific sources of common delays, gaps, and bottlenecks that continue to bog down the City's procurement process. The Report's apparent conclusion that the City's current processing timelines are acceptable runs counter to the experience of countless non-profit and human service providers that are struggling today because of contract payment delays.

As you recall, the *Joint Task Force to Get Nonprofits Paid on Time* issued many recommendations to accomplish these important goals, including the development of ContractStat, which would serve as a management tool to track the performance of agencies and hold all stakeholders involved in the procurement process accountable. To date, the Administration's efforts have not resulted in clear, accurate and transparent information that could be used to create accountability across various levels of City government. The ongoing failure to meaningfully launch ContractStat and share information with our Office is extremely concerning. This Report restates much of what we already know, and confirms that without

access to ContractStat, nonprofit organizations and City stakeholders remain in the dark about the plans and progress that MOCS and City agencies are undertaking to clear the backlog and prevent future ones.

The PPB is tasked with promulgating rules for the steps outlined in this Report by October 1, 2025. Our Office is raising the below deficiencies of this Report that will make this task challenging.

### **Milestone Steps are Overbroad and Do Not Offer Enough Detail**

Section 4 of the Report describes only five overarching steps in the procurement process. These categories are too broad for practical use and do not offer any helpful insights into the source of contracting delays. Particularly, “Step 4: Award & Contract” encompasses nine discrete actions with tasks managed by different teams across multiple agencies. It is a disservice to group each of these steps together into one metric, knowing that each of these discrete steps may contribute to undue delays in different ways. Furthermore, Step 4 involves several layers of approvals from oversight entities. It is critical to understand the current duration of all oversight steps, including those conducted by other City entities prior to registration, to understand if additional specified timeframes may be appropriate.

The only other resource available for the public to monitor procurement processes and timelines is PASSPort Public—unfortunately, PASSPort Public data is similarly limited when it comes to diagnosing the source of delays. My Office conducted a review of nearly seven thousand pending records in PASSPort Public from August 15, 2024, to September 19, 2024. We observed very few changes in the number of records with statuses of Pending ACCO, MOCS, OMB, or oversight approvals during this period. Instead, it appears that many contract records leapfrogged oversight steps, moving instantaneously from the “in Progress” status to the “Pending Comptroller Approval” status. The lack of transparency into these sub-milestones impedes our ability to understand the cause of delays and prevents us from recommending and implementing any meaningful improvements.

### **Lack of Clarity and Transparency Around Methodology**

In addition to the identified procurement steps being too broad, the simple analysis included in the Report is far too narrow in scope and lacks any source data or detailed methodology to support its findings.

The Report only includes one quantitative analysis for a small sliver of human services contracts. Our Office is puzzled that the Report solely assesses the Request for Proposal (“RFP”) procurement method. This does not satisfy the reporting requirements outlined in Local Law 169, which stipulates that the study and Report should include “identification of procurement methods utilized in the city’s procurement process for covered contracts... (and a) description of the steps of the procurement methods identified...”. The Report asserts that RFP is the “procurement method most commonly used for human services,” but our own analysis found that human services contracts registered via RFP comprised just 13% of all FY24 Mayoral Agency registrations (after excluding City Council Discretionary contracts). By contrast, the share of contracts that Mayoral agencies registered for human services via the Negotiated Acquisition (32%), Contract Renewal (19%), and Negotiated Acquisition Extension (“NAE”) (17%) methods

all exceeded that of RFP contracts in FY24. It is worth noting that agencies typically use the NAE method when they have exhausted all contractual renewal and extension options but have not been able to procure a replacement contract in a timely manner.

Finally, the Report's methodology outlined in "Section 3: Approach" is extremely vague and does not identify how contracts were selected to be included in this analysis. As such, our Office was unable to corroborate the count of mayoral human services RFP contracts cited in Section 3 of the Report. This section identified 164 such contracts in FY22, 197 contracts in 2023, and 115 contracts in 2024 to underpin its end-to-end analysis of cycle times. Our analysis of records from the City's Financial Management System ("FMS") identified 262 Mayoral human service industry contracts registered in FY22, 289 in FY23, and 171 in FY24. Without access to the source data supporting the Report's only quantitative analysis, it is difficult for our Office to draw broader conclusions from this finding.

### **Unclear Basis for Recommended Time Frames**

The Report offers a recommendation for future human services RFPs to take anywhere from 325 days to 510 days. It is unclear how these recommended timelines were established beyond reviewing "historical cycle time data" and "retroactivity rates by human services agency" (which are not included in the Report). The Report does not suggest that MOCS took any additional steps that may have offered other valuable layers of insight such as a review of best practices or a comparison with procurement timelines of other large municipalities outside of New York City.

Furthermore, the Report implies that the median human services contract already falls within the recommended time frame for four of the five procurement steps (and in some cases, the FY24 median is even shorter than the recommended timeframe). This starkly contradicts the reality of the procurement process as evidenced by significant rates of retroactivity, delayed payments, and the real-world challenges of nonprofit organizations managing City contracts. In fact, it is unclear how any of the specific time frames recommended in this Report tie back to the underlying need for the City to do a better job paying nonprofit organizations as soon as their contracted work begins. Instead, these recommendations seem to align with a status quo under which many nonprofit and human service organizations are currently struggling.

### **2024 Timeliness Initiative**

Section 3 of the Report also references agency performance data gleaned from the HHS Timely Registration Initiative, otherwise known as "pre-processing." Our Office has several outstanding concerns about the Administration's metrics and measurements related to pre-processing and timely registration. This year our Office coordinated with FISA-OPA and the Office of Management and Budget ("OMB") to do an early launch of the contract pre-processing period on May 6, 2024 in an effort to better position agencies to have FY25 contracts registered on time and avoid payment delays to providers.

MOCS ultimately shared a list of 641 preprocessing targets with our Office, which was approximately half the prior year's total. Agencies submitted only 63% (407 of 641) of identified FY25 targets by July 1, 2024 (noting that this date does not allow for the Charter set 30-day registration review period). By MOCS' own measurement, this is a considerable decline from FY24 pre-processing: according to a July 2023 Contracting Newsletter circulated by MOCS,

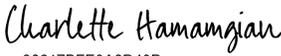
human service agencies submitted 81% of 1,301 FY24 pre-processing targets by July 1, 2023. Paradoxically, this year's 2024 Citywide Indicators Report revised the FY24 pre-processing statistics down to just 854 targets, 55% of which were submitted "on-time."

We continue to disagree with the Administration's assertion, repeated in the 2024 Indicators Report, that pre-processing contracts could be considered "on-time if it is submitted to the Comptroller before the contract start date." Even with our Office's prompt review, the fact that agencies made a third of their pre-processing submissions within two weeks of the July 1 start date all but assured there would be payment delays to providers. Without the insights intended by this Report, we remain in the dark as to why human services agencies are unable to submit these contracts to our Office for review sooner.

## Conclusion

The analysis in this Report is narrow and opaque and does not offer any tangible solutions to address rampant procurement-related payment delays. The City cannot expect to make any meaningful reforms to its procurement system without accountability, transparency, or performance management tools. Unfortunately, the Administration continues to fall short of the promises committed to by the Joint Task Force. Our Office expects that MOCS, as administrator of the PPB, will timely share additional resources or amendments to this Report with members of the PPB to offer more informative metrics as intended by Local Law 169.

Sincerely,

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Charlette Hamamgian

Enclosure

cc: Kim Yu, First Deputy Director, MOCS  
Guillermo Chacón, Chair, PPB  
Wayne Lambert, Member, PPB  
Alicia Berenyi, Member, PPB  
Victor O. Olds, Member, PPB



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September 26, 2024

Lisa Flores, Chief City Procurement Officer and Director  
Mayor's Office of Contract Services (MOCS)  
255 Greenwich Street, 9th Floor  
New York, NY 10007

Re: FY 2025 Health & Human Services Negotiated Acquisition Extension Delegation

Dear Director Flores:

Almost a month into Fiscal Year 25 (FY25), our Office came to learn that on March 7, 2024 you issued a memo to select Health and Human Services (HHS) agency commissioners that they should bypass the public notice requirement set forth in Procurement Policy Board (PPB) Section 3-04(d)(1), which is permitted only in the instances when vendors will be solicited solely from a prequalified list or "... where time constraints beyond the agency's control make such advance notice impracticable." Per your memo, you indicate that flexibility may be necessary due to the transition of HHS contracts from HHS Accelerator into the Procurement and Sourcing Solutions Portal (PASSPort), as well as budgetary considerations, which "could create additional challenges for timely registration..." and as such, agencies are not required to publish the Public Notice of Intent to Enter into Negotiations for targeted FY25 HHS Negotiated Acquisition Extensions (NAEs). The memo goes on to provide technical PASSPort instructions to agencies to bypass the public notice requirement.

While our Office certainly supports agencies timely registering all contracts, it is concerning that an essential transparency measure such as public notice was sacrificed in the name of "flexibility." Both the transition of HHS contracts from one city system to another and the budgeting process are matters that the City controls. To the extent that either the transfer to PASSPort or the budget process are the primary causes for delays that impede agencies from timely registering contracts, those processes should be the focus of the Administration's efforts to streamline. Setting aside requirements to provide public notice of the non-competitive award of NAE agreements due to circumstances created by the Administration is not the answer.

Even with the "flexibility" afforded by the removal of this requirement, agencies still fell short of submitting FY25 HHS NAEs on a timely basis. City Agencies submitted just 10% (22 of 210) of the Administration's own targets by June 1, 2024, which would have ensured a registration decision by my Office prior to July 1. Even when using July 1, 2024 as the measure for productivity (though this later date does not account for the NYC Charter set 30-day review period), agencies only submitted 52% (111 of 210) of the Administration's targets. Agencies have gone on to submit 56 target NAEs since the start of FY25 and 43 have yet to arrive at our Office.

As a member of the City's PPB, I look forward to reviewing the study required pursuant to Local Law 169 of 2023 that is due to be sent to the Mayor, Council and PPB members by October 1, 2024, and to working collaboratively with your office and my fellow PPB members to promulgate rules that streamline procurement in a manner that maintains in the highest regard the ethics and responsibility that public procurement deserves. Until then, kindly reply back to this letter within 10 business days to advise on whether the guidance that you shared with agency commissioners continues to be the direction from MOCS. Now, more than ever, the public needs confidence that transparency and oversight remain in place to safeguard public spending and minimize the risks for corruption, fraud, and abuse.

Sincerely,

DocuSigned by:  
  
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Charlette Hamamgian

Enclosure

cc: Allison Stoddart, Chief of Staff to the Mayor of NYC and City Hall  
Kim Yu, First Deputy Director, MOCS

**Lisa M. Flores**  
Director and  
City Chief Procurement Officer



**Eric Adams**  
Mayor

**To:** Agency Commissioners for ACS, DHS, DOHMH, DOP, DYCD, HPD, HRA, MOCJ, NYC Aging, SBS

**From:** Lisa M. Flores, Director, Mayor's Office of Contract Services

A handwritten signature in blue ink, appearing to be "LMF", is written over the "From:" line.

**Date:** March 7, 2024

**Re:** Health and Human Services (HHS) FY25 Timely Registration

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The City is committed to reducing the time it takes to award and register contracts, especially health and human services. The annual Timely Registration Initiative is a key strategy in achieving timely registrations and preventing new backlogs of contracts so that nonprofits can get paid on time.

The Fiscal Year 2025 (FY25) Timely Registration Initiative comes at a pivotal moment for both agencies and the human services sector, as MOCS works with its agency partners to migrate contracts from HHS Accelerator into PASSPort. MOCS recognizes that this transition, as well as budgetary considerations, could create additional challenges for timely registration so we are offering agencies more resources and flexibility earlier in the procurement cycle this year.

HHS agencies should utilize the following tools to help with completing all the necessary tasks to reach a high percentage of on-time registrations for the contract actions that begin on July 1, 2024, for FY25:

**1. Public Notices for Negotiated Acquisition Extensions**

For Negotiated Acquisition Extensions (NAEs) that are part of FY25 HHS Timely Registration, agencies are not required to publish the Public Notice of Intent to Enter into Negotiations. In the PASSPort PSR module, under Public Notice please check the radio button for "The ACCO has determined that suppliers will be solicited solely from PQL and/or that time constraints beyond the agency's control make advance notice of intent to enter into negotiations impractical." You should indicate that this is an NAE for an existing contract as part of FY25 HHS Timely Registration.

**2. Notice of Public Hearings**

Pursuant to PPB Rule 2-11(c)(1), the CCPO hereby approves a shorter notice period for public hearings for human service contracts identified as part of FY25 HHS Timely Registration. Notice of public hearings hosted by the Agency shall be published once in the

City Record not less than five days prior to the hearing date. Agencies wishing to hold their own public hearings should notify their Procurement Operations team.

### **3. Recommendation for Awards**

For contracts identified as part of FY25 HHS Timely Registration, human service agencies have the authority to approve Recommendation for Awards (RFA), at any dollar amount, for the following methods: Negotiated Acquisition and Negotiated Acquisition Extension (§ 3-04), Required Authorized Source (§ 1-02(d)(2)), Required Method and Required Method-Preferred Source (§ 1-02(d)(1)). Should a vendor have substantial integrity or performance related adverse information, MOCS should be contacted before awarding to the vendor.

### **4. Recommendation for Renewals**

For contracts identified as part of FY25 HHS Timely Registration, human service agencies have the authority to approve Recommendation for Renewals (RFR) for any procurement method at any dollar amount (§ 4-04). Should a vendor have substantial integrity or performance related adverse information, MOCS should be contacted before submitting the renewal for registration.

### **5. OMB Delegation**

As a reminder, agencies can request delegation from OMB for specific contract awards. MOCS will circulate an example request that was approved for last year's HHS Timely Registration Initiative and can help advocate for your approval. If you plan to pursue OMB Approval on any contracts, please send the memo to your OMB Task Force and copy your MOCS Nonprofit (NPO) and Procurement Operations (PO) team leads so we can reflect the delegations in PASSPort, once approved.

### **6. Allowance Clause Language**

Effective FY23, all eligible new HHS contract actions should incorporate the allowance clause and 25% contingency. Please reach out to your MOCS Procurement Operations team if you have questions on how to use allowance funding in your budgets or incorporating the allowance clause into eligible FY25 contract actions. For anticipated budgetary changes like City Accepted Indirect Cost Rate (ICR) increases, agencies should use allowance funding when processing budget modifications.

Additionally, MOCS will work with the Law Department and Comptroller's Office to get their approval for additional efficiency tools and will be exploring further policy and technical solutions to streamline the procurement process, beyond our ongoing reform and digital transformation efforts.

As always, please contact your Procurement Operations team at MOCS for assistance and support for your agency needs in processing your contracts.