

The background of the entire page is a grayscale photograph of the New York City skyline at night, viewed from across the water. The skyline features numerous illuminated skyscrapers, including the Empire State Building and the Chrysler Building. A large, semi-transparent blue rectangular overlay covers the middle portion of the image, containing the main title. The design is further accented by large, dark blue geometric shapes: a triangle in the top left and a large chevron shape in the bottom right.

NEW YORK CITY CONTRACT DELAYS: THE FACTS

AN ANALYSIS OF THE FINANCIAL IMPACT

RESEARCH NOTE | AUGUST 2018

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AN ANALYSIS OF THE FINANCIAL IMPACT

Many nonprofits receive the majority of their funding from government. So they need to understand the risks associated with the sufficiency, flexibility and timing of their local, state, and federal contracts. In our experience, most board members understand the insufficiency risk — namely that government contracts often pay significantly less than the fully-loaded cost of delivering the services — but far fewer appreciate the equally problematic timing risks.

Fortunately, data recently released by New York City Comptroller Scott Stringer finally sheds light on just how late, unpredictable, and costly funding under New York City contracts can be. The facts are staggering: in Fiscal 2017 only 9% of the city's social service contracts were registered on time; on average contracts were registered 210 days after their start date; and a full 19% of contracts were still unregistered after one year.¹ We estimate that these registration delays imposed a cash flow burden of approximately \$675 million on the 1,025 nonprofits receiving contracts before consideration of any delays in payment after those contracts were registered.

This research note builds upon the Comptroller's earlier [Contract Retroactivity Report](#) by further exploring the nature of the contracts and delays, and by estimating the extent of the associated financial burden imposed upon nonprofits. At a minimum, our analysis should help nonprofits better plan for the timing risks associated with their New York City contracts. We also hope it will encourage the city to consider taking bolder steps to mitigate the late-payment crisis at a time when it needs healthy nonprofit partners more than ever.

THE CONTRACTING PROCESS

While nonprofits are not legally entitled to payment under a city contract until it has been registered, they have little choice but to begin service from the start date: few organizations can easily lay off and later rehire program staff; most have fixed costs associated with the program (e.g. rent) that would not be reimbursed during a gap in service; and government agencies take a dim view of organizations that withhold services. While some tough-minded organizations may refuse to begin a new program prior to contract registration — particularly one requiring meaningful upfront investment — very few mission-driven organizations are willing to disrupt existing services which represent the largest portion of social service spending.

In the corporate sector, counterparties pay late to manage their working capital, out of financial necessity, or as part of a dispute or negotiation. These reasons seldom apply to New York City which usually pays late because of the complexities and inefficiencies of the

¹ The data in this report covers the 2,448 NYC contracts that were issued to nonprofits by the seven social services agencies and registered in Fiscal 2017. These agencies are: ACS, DOE, DOHMH, DYCD, HRA, DFTA and DHS (see the Glossary for full-names). The data exclude 330 contracts issued to nonprofits by HPD and DCA. See [Running Late: An Analysis of NYC Agency Contracts](#).

contracting process and the incentives, priorities, and staffing levels of the myriad parties involved.

The New York City contracting process can be thought of in seven phases:²

1. **Pre-solicitation:** An agency designs (or redesigns) a program, releases a “Concept Paper” and takes comments from nonprofits and other stakeholders.
2. **Solicitation:** The agency releases a Request for Proposal (“RFP”). Vendors have a period during which to ask questions. Interested nonprofits submit proposals.
3. **Evaluation:** The agency evaluates and scores the proposals.
4. **Award:** The agency holds meetings with potential vendors, negotiates rates, and awards contracts.
5. **Registration (Pre-Comptroller):** The VENDEX process is completed. A “Responsibility Determination” is made. This phase can involve MOCS, DOI, the Agency, OMB, and perhaps the nonprofit. During this phase, there is very little visibility, if any, into where the contract stands in the process.³
6. **Registration (Comptroller):** The contract is submitted to the Comptroller’s office and appears on checkbooknyc.com. The City Charter requires that the Comptroller register the contract within 30 days.⁴
7. **Payment:** Once registered, payments can be made against the contract providing any other conditions are met. Many contracts require the nonprofit to submit monthly reimbursement vouchers detailing the expenses that have been incurred against a detailed line-item budget. Each of these vouchers is subject to approval, resubmission and delays. The nonprofit may be able to borrow (i.e. get an advance) from the city once the contract is registered.⁵

Several things are worth highlighting about the process:

- A nonprofit is not legally entitled to payment under a contract until it is registered. As a result, nonprofits find it virtually impossible to borrow against unregistered contracts from commercial lenders even though the contracts are ultimately registered and the funds received in almost all cases.⁶
- The registration date is not the date on which nonprofits begin receiving funds. Under a typical submit-vouchers-and-wait-for-reimbursement contract a nonprofit might need to wait at additional 45-60 days after registration to begin receiving payments.

² In this note, “Agency” always refers to New York City Agency and never to a nonprofit.

³ There is a new system in development, currently entitled PASSport 2.0, that is expected to provide more of this information. No release date has been set.

⁴ The Retroactivity Report indicates that 96% of contracts submitted to the Comptroller in Fiscal 2017 were registered within the 30-day window (avg: 18 days); the other 4% were registered an average of 83 days after submission.

⁵ Nonprofits can now request a 25% advance against registered contracts. See the [Nonprofit Resiliency Committee](#) for more information.

⁶ Opinions differ as to whether a nonprofit that has provided service under a contract that is never registered could make a successful legal claim for payment. There is no hard data on the number of contracts that are awarded but never registered. However, anecdotal evidence suggests that this is extremely rare.

- A meaningful portion of city’s due diligence process takes place after the contract is awarded. An executed contract is more analogous to a “term sheet subject to due diligence” than the term “contract award” might suggest. Nonprofits should be aware of any issues that might arise in the post-award due diligence phase and proactively work to address them.⁷

NEW YORK CITY CONTRACTS: A FINANCIAL PROFILE

Tables 1A-D show a summary of the 2,448 contracts issued by the city’s seven social service agencies and registered in Fiscal Year 2017; contracts representing \$5.7 billion of spending with 1,025 nonprofits:

- The contracts had a median value of \$338,000 and a median term of one year. The average contract value (\$2.3 million) and average term (1.9 years) were larger as a result of the small number of significantly larger (and somewhat longer) contracts. (**Table 1A**)
- ACS and DHS issued the largest contracts (median: \$3.4 million; average: \$8.7 million) representing 15% of the total number but 57% of the value; contracts issued by DFTA, DOE, and DYCD (median: \$391,000; average: \$589,000) represented 63% of the total number but only 14% of the value. (**Table 1A**)
- Most of the value (81%) was in the 43% of contracts with terms of 2-4 years. Contracts of one year or less were 53% of the total number but only 8% of the total value. (**Table 1B**)
- Contracts of less than \$100,000 were 45% of the total number but less than 2% of the total value. Contracts of over \$1,000,000 represented 30% of the total number but 92% of the total value. (**Tables 1C, 1D**)

The skew in contracts is not surprising given the skew in the size of nonprofits and the wide range of services contracted for by the city.⁸ However, the large number of small contracts probably exacerbates the late registration problem and has implications for how the city might address it.

RETROACTIVITY

Retroactivity is the delay between a contract’s start date and its registration date. (Note: the Comptroller’s report defined it as the delay between the contract’s start date and the date when it was submitted to the Comptroller’s office.) **Tables 2A-E** show the retroactivity of the contracts registered in Fiscal 2017 along a number of dimensions:

- Contracts were registered a median of 175 days (average: 210) after their start date. Individual agencies ranged from a median of 6 days (ACS) to 270 days (HRA). The “odds” that a given contract was registered on time were 9%, within

⁷ This is a detailed process diagram from several years ago. See [The Human Services Contracting Process - MOCs](#)

⁸ For data on the skew in New York’s nonprofits see [Risk Management for Nonprofits](#).

90 days (33%), within 6 months (50%), and within a year (81%).⁹ (Table 2A, 2B)

- Organizations could only be “pretty sure” (i.e. 80% sure) that a contract would be registered within 356 days, though this ranged from 95 days for ACS to 435 days for DOE. Organizations could only be “really sure” (i.e. 95% sure) that a contract would be registered within 511 days, though this ranged from 248 days for ACS to 647 days for DOE. (Table 2A)
- Larger contracts were registered more promptly by every agency. Contracts of more than \$500,000 had a median registration delay of 70 days versus 270 days for those less than \$500,000. Nevertheless, even nonprofits that had been awarded a large contract could still only be “pretty sure” (i.e. 80%) it would have been registered within six months. (Table 2D)
- Nonprofits beginning service on the start date would have completed 29% of the work under contracts before they were registered: 78% for one-year contracts; 5-11% for contracts of two years or more. (Table 2C)
- Nonprofits with contracts that were already late could still not assume that they would face commensurately shorter additional delays. For example, the median delay for contracts unregistered at their start date was 206 days; the median additional delay for those contracts unregistered after three months was still an additional 182 days. Only for contracts already delayed six months or more did incremental delays begin to fall in a significant way.¹⁰ (Table 2E)

COPING WITH DELAYS

The award of a government contract is viewed as “great news” by most nonprofits. However, trustees and executives must think carefully about whether their organization has the liquidity necessary to handle the potential delays in registration and payment.¹¹ A nonprofit delivering services under an unregistered contract faces a growing cash flow burden associated with the unreimbursed expenses. It must also pay interest and fees on the debt it uses to finance this cash flow need – if it can be financed at all.¹² The liquidity needs are greatest if the contract(s) are new and/or the organization’s total amount of government funding is growing.¹³

A nonprofit’s ability to weather the delay of a given contract depends upon its pre-existing financial resources, the relative size of the contract, and the length of the delay. However, the data confirm that the individual burdens can be significant. In 2017, 223 contracts

⁹ The on-time statistics for DCA (9%) and HPD (3%) appear in-line with the social services agencies. The large city agencies dealing with for-profit vendors have substantially higher “on-time” statistics: DSNY (60%), DDC (40%), DOT (56%) and DEP (37%).

¹⁰ This pattern makes planning difficult, particularly since there is little to no information on the status of unregistered contracts until they are submitted to the Comptroller. It also suggests that not much work is being done on the backlog of contracts until after six months.

¹¹ There is no evidence that 2017 was an unusually bad year for registration, so nonprofits with NYC funding should use the “odds” from Table 2 for planning purposes.

¹² Even a nonprofit that does not actually borrow from a bank (or its vendors) to finance late payments incurs opportunity costs if the funds would otherwise have been invested in income-producing assets. For a discussion of the dysfunctional ways that nonprofits finance their working capital see [Nonprofits, Sin, and Shadow Loans](#).

¹³ An organization that is not growing may be able to use the late payments from last year’s contracts to bridge until they receive the late payments under this year’s contracts. A growing organization can’t do this. What is best from a mission standpoint – getting a new contract – can be the worst in terms of cash flow burden.

imposed individual cash flow burdens over \$500,000, 119 over \$1.0 million, 57 over \$2.0 million and 17 over \$5.0 million. **(Table 3A)** Very few nonprofits have the liquidity to easily handle individual burdens of this scale. In many cases, organizations have been forced to delay payments to vendors or even furlough staff while waiting to get paid by the city.

Worse yet, a nonprofit can be exposed to multiple delayed contracts at once. Out of the 1,025 nonprofits with contracts registered in 2017, 84% experienced registration delays on all their city contracts, 10% experienced some delays, and only 6% had no delayed contracts. One nonprofit had 26 delayed contracts! Eleven organizations faced total burdens of \$10 million or more. Burdens of this scale pose an existential threat to even the best run nonprofits.

In total, we estimate that the burden imposed on nonprofits due to registration delays in 2017 was \$675 million: \$662 million in negative cash flow associated with the expenditures from the start day to the registration date and a further \$13 million in associated financing costs.¹⁴ In theory, the cash flow burden only reflects the timing, not the amount, of the money received by the nonprofit (assuming it survives to collect it!). But the financing cost is an absolute loss and comes directly out of the nonprofit's precious unrestricted net assets as it is seldom a reimbursable expense under city contracts. The total cash flow burden represented 30% the annual contract value: 52% for contracts of one year (or less) and 23% for contracts of greater than one year. In other words, nonprofits receiving \$1.00 in funding under one-year city contracts registered in Fiscal 2017 needed \$0.52 in financing to bridge gap from when they started doing the work to when the contracts were registered **(Table 3B)**.

ADDRESSING THE BROADER PROBLEM

Fortunately, the late-payment crisis appears to be getting more attention from the city. [The Nonprofit Resiliency Committee](#), launched in late 2016, has made some important procurement-related policy changes. Steven Banks, Commissioner of the Department of Social Services, has publicly acknowledged the problem and taken concrete steps to begin addressing it.¹⁵ Comptroller Stringer has recommended that each agency with an oversight role in procurement be given a specific timeframe within which to complete its task and that a tracking system be created to allow nonprofits to view the status of their contracts throughout the registration process. Most recently, a bill is being introduced which would require that city agencies disclose to nonprofit contractors the reasons for delays in the registration and payment process.¹⁶

Despite these positive developments, tackling the root causes of registration delays will take time. And realistically, the nonprofit sector – fragmented, mission driven – will not be able to demand better treatment by refusing to do business with the city given its status as a near-monopoly buyer of many social services. So, in parallel with working to solve

¹⁴ We are assuming 1% fee plus annual interest of 5%. In the current environment, this is probably a low estimate. Of course, some nonprofits self-finance the cash need or borrow in other ways (e.g. by paying vendors late) but the costs remain real even if hidden.

¹⁵ [Testimony of Steven Banks, Commissioner Department of Social Services Before the New York City Council General Welfare and Contracts Committees Oversight: Model Budget, June 21, 2018](#) ; ["De Blasio Administration Clears Massive Contract Backlog with Homeless Services Vendors"](#), New York Post, June 21, 2018.

¹⁶ ["New Legislation Plans to Tackle City's Broken Contracting System"](#), New York Post, August 7, 2018.

the problem, the city should consider steps to mitigate its negative impact on nonprofits through four strategies:

- **Lend them the money:** For the 1,600 contracts of \$500,000 or less, the city might ensure that the Fund for the City of New York – or some other efficient, volume-driven financing vehicle closely connected to the city – has the resources available to bridge any unregistered contract, from any agency, at any time. While representing 75% of all contracts, these 1,600 contracts represent only 20% of the financial burden on nonprofits and their small size (average value: \$79,000) prevents them from being financed by traditional third-party lenders given the associated transaction costs. Although the Fund for the City of New York does excellent work, it is simply not the case – despite suggestions by city officials to the contrary – that it is always available. Our analysis suggests that \$150 million could fully finance these smaller contracts.¹⁷
- **Make it easier to borrow from others:** For contracts of \$500,000 or more, the city might consider making it easier for the private market to provide financing. The scale of the financing need – roughly \$400 million – is a pittance in the commercial financing market and the individual contracts are large enough that asset-based lenders might get more involved if the city reduced their risk by allowing contractual payments to be assigned to third-party lenders. While the city’s financial management system (“FMS”) allows direct payments to third parties, agencies have been unwilling to allow it in practice.
- **Establish a SWAT Team:** For contracts of \$1.0 million or more that remain unregistered after 90 days, the city might create a special “fast track” registration process with dedicated staff. These 180 contracts represent 8% of the total (by number) but 65% of the financial burden for nonprofits. If the \$1.0 million+ contracts currently registered after the second quarter (i.e. after 180 days) had been registered during the second quarter (i.e. at 180 days), the burden associated with them would be halved.
- **Collect Late Fees:** The city might consider collecting “late fees” from each agency. For example, a fee of 0.25% of the contract value for every quarter that a contract registration is late would have totaled \$23 million for the \$5.7 billion in contracts covered in this analysis. This fee would be simple to calculate, fair to nonprofits, and might create an incentive for faster registration.¹⁸ The fee could be paid to the affected nonprofits or used to provide the “first loss” capital to support a third-party fund lending against unregistered contracts.

Finally, the city might consider reporting annually on registration delays. Not only would this encourage agencies to make process improvements but it would give nonprofits information they need to understand and manage their timing risks. The city would also be able to more easily compare results and share best practices across agencies and even

¹⁷ [The New York City Acquisition Fund](#), a partnership between the City of New York, major foundations and commercial lending institutions, demonstrates that the city can effectively create funds of this size when sufficiently motivated.

¹⁸ Apparently, there is a rule that requires penalties for late registration but our interviews suggest that agencies never pay it and there is no mechanism to ensure that it is collected or paid.

with other cities and states.¹⁹ A recent report from the Office of the New York State Comptroller²⁰ suggests that New York State contracts are more often registered on time (46% versus 9%), but it would be helpful to get a better understanding of how and why states and cities differ.

NOW IS THE TIME FOR TIMELINESS

The risks associated with late registration and delayed payments are only poised to grow. Interest rates are rising and with them the cost of bridging government funding with borrowed money. Traditional lenders (i.e. banks) continue to have a limited appetite to lend to nonprofits given concerns about credit risk in the aftermath of FEGs and other nonprofit failures. Many nonprofits – including most of the larger “battleship” organizations that are individually vital for New York City – face increased demands on their resources from the movement toward managed care. In this environment, nonprofit boards and executives must be laser-focused on liquidity even if this sometimes means rejecting otherwise attractive, on-mission city contracts with potentially fatal timing delays.

At the same time, New York City needs healthy nonprofit partners more than ever; partners that cannot be healthy without timely and predictable payments. While how much to pay nonprofits is a thorny political issue – there is only so much money to go around – a commitment to paying on time should be much more straightforward provided the necessary political will. So we hope the city will consider our suggestions for how to mitigate the financial burden of the current contracting process on its nonprofit partners while working in parallel to improve it.

¹⁹ ACS appears to be doing far better at prompt registration than the other agencies. For example, 15 nonprofits had contracts with ACS and at least two other agencies; the average delay for ACS was 71 days; for the other agencies, it was 237; ACS was the fastest in 12 of the 15 cases. Part of this is likely to do with contract mix – ACS has a smaller percentage of small contracts than most other agencies – though ACS also has below average delays for its larger contracts.

²⁰ See [2017 Calendar Year: Not-For-Profit Prompt Contracting Annual Report](#).

APPENDIX

TABLE 1A shows a summary of \$5.7 billion across 2,448 contracts registered in Fiscal 2017 issued by New York City's seven social service agencies. For example, ACS issued 259 contracts totaling \$2.3 billion with a median size of \$3.3 million (average \$8.9 million), a median term of 2.0 years (average 2.2 years) and annual spending of \$901 million. The table also shows the range of size and term for each agency. For example, 25% of DHS contracts are \$990,000 or less; 75% are \$10.8 million or less. All dollar figures in \$'000's.

Agency	Total Value				Contract Size		Term (Years)		Annual Value
	Total	%	\$'000's	%	Median	Avg	Median	Avg	\$'000s
ACS	259	11%	\$2,326,567	41%	\$3,322	\$8,983	2.0	2.2	\$901,150
DHS	104	4%	\$882,370	16%	\$3,533	\$8,484	3.0	3.1	\$356,134
HRA	231	9%	\$796,784	14%	\$1,535	\$3,449	3.0	2.5	\$249,028
DOHMH	314	13%	\$851,851	15%	\$141	\$2,713	1.0	1.7	\$305,340
DFTA	275	11%	\$212,395	4%	\$684	\$772	2.4	1.8	\$95,803
DOE	406	17%	\$229,102	4%	\$346	\$564	2.0	1.7	\$149,288
DYCD	859	35%	\$370,659	7%	\$144	\$432	1.0	1.6	\$229,338
Total	2,448	100%	\$5,669,728	100%	\$338	\$2,316	1.0	1.9	\$2,286,081

Agency	Distribution of Contract Size (\$'000's)				Distribution of Term (Years)			
	25%	50%	75%	95%	25%	50%	75%	95%
ACS	\$1,252	\$3,322	\$9,896	\$41,210	2.0	2.0	2.7	4.0
DHS	\$990	\$3,533	\$10,808	\$37,319	1.0	3.0	5.0	6.0
HRA	\$126	\$1,535	\$4,700	\$13,285	1.0	3.0	3.0	5.0
DOHMH	\$78	\$141	\$971	\$4,160	1.0	1.0	3.0	3.0
DFTA	\$106	\$684	\$1,067	\$2,311	1.0	2.4	2.4	3.0
DOE	\$52	\$346	\$893	\$1,708	1.0	2.0	2.0	3.0
DYCD	\$55	\$144	\$361	\$1,765	1.0	1.0	3.0	3.8
Total	\$82	\$338	\$1,251	\$9,908	1.0	1.0	3.0	4.0

TABLE 1B Shows a summary of the \$5.7 billion across 2,448 contracts registered in Fiscal 2017 issued by New York City's seven social service agencies by term. For example, DYCD issued 859 contracts of which 590 were for 1 year and 180 were for 3 years. The second table shows the percentage of contacts by term. The third table shows the total value and the fourth shows the percentage of total value. All dollar figures in \$000's.

# of Contracts by Length (Years)						
Agency	1	2	3	4	5	Total
ACS	40	151	41	27	-	259
DFTA	125	128	21	1	-	275
DHS	41	6	6	21	30	104
DOE	190	135	80	-	1	406
DOHMH	199	8	105	-	2	314
DYCD	590	33	180	56		859
HRA	109	4	65	3	50	231
Total	1,294	465	498	108	83	2,448

% of Contracts by Length (Years)						
Agency	1	2	3	4	5	Total
ACS	15%	58%	16%	10%	0%	100%
DFTA	45%	47%	8%	0%	0%	100%
DHS	39%	6%	6%	20%	29%	100%
DOE	47%	33%	20%	0%	0%	100%
DOHMH	63%	3%	33%	0%	1%	100%
DYCD	69%	4%	21%	7%	0%	100%
HRA	47%	2%	28%	1%	22%	100%
Total	53%	19%	20%	4%	3%	100%

Value of Contracts by Length (Years)						
Agency	1	2	3	4	5	Total
ACS	\$17,009	\$1,038,923	\$395,611	\$875,024		\$2,326,567
DFTA	\$19,242	\$141,336	\$50,301	\$1,516		\$212,395
DHS	\$169,118	\$35,945	\$59,598	\$359,766	\$257,942	\$882,370
DOE	\$34,833	\$121,036	\$72,130		\$1,104	\$229,102
DOHMH	\$29,649	\$10,971	\$809,005		\$2,227	\$851,851
DYCD	\$131,455	\$8,680	\$162,299	\$68,225		\$370,659
HRA	\$40,921	\$83,859	\$275,216	\$25,461	\$371,327	\$796,784
Total	\$442,226	\$1,440,750	\$1,824,160	\$1,329,992	\$632,600	\$5,669,728

Value of Contracts by Length (Years)						
Agency	1	2	3	4	5	Total
ACS	1%	45%	17%	38%	0%	100%
DFTA	9%	67%	24%	1%	0%	100%
DHS	19%	4%	7%	41%	29%	100%
DOE	15%	53%	31%	0%	0%	100%
DOHMH	3%	1%	95%	0%	0%	100%
DYCD	35%	2%	44%	18%	0%	100%
HRA	5%	11%	35%	3%	47%	100%
Total	8%	25%	32%	23%	11%	100%

TABLE 1C shows a summary of the \$5.7 billion across 2,448 contracts registered in Fiscal 2017 issued by New York City's seven social service agencies by size. For example, DYCD issued 859 contracts, of which 187 were for under \$50,000 and 8 were above \$5.0 million. The second table shows the percent of the contracts by size. The third shows the total value by size and the fourth shows the percent of total value. All dollar figures in \$000's.

# of Contracts by Contract Value (\$000's)								
Agency	0-\$50	\$50-\$100	\$100-\$250	\$250-\$500	\$500-\$1000	\$1000-\$5000	\$5000+	Total
ACS	10	9	2	14	24	93	107	259
DFTA	43	17	40	22	73	78	2	275
DHS		1	3	5	17	31	47	104
DOE	97	35	54	39	95	85	1	406
DOHMH	32	98	57	24	26	66	11	314
DYCD	187	156	185	155	79	89	8	859
HRA	24	15	35	24	12	66	55	231
Total	393	331	376	283	326	508	231	2,448

% of Contracts by Contract Value (\$000's)								
Agency	0-\$50	\$50-\$100	\$100-\$250	\$250-\$500	\$500-\$1000	\$1000-\$5000	\$5000+	Total
ACS	4%	3%	1%	5%	9%	36%	41%	100%
DFTA	16%	6%	15%	8%	27%	28%	1%	100%
DHS	0%	1%	3%	5%	16%	30%	45%	100%
DOE	24%	9%	13%	10%	23%	21%	0%	100%
DOHMH	10%	31%	18%	8%	8%	21%	4%	100%
DYCD	22%	18%	22%	18%	9%	10%	1%	100%
HRA	10%	6%	15%	10%	5%	29%	24%	100%
Total	16%	14%	15%	12%	13%	21%	9%	100%

Contract Value by Contract Size (\$000's)								
Agency	0-\$50	\$50-\$100	\$100-\$250	\$250-\$500	\$500-\$1000	\$1000-\$5000	\$5000+	Total
ACS	\$86	\$729	\$398	\$5,415	\$19,408	\$239,662	\$2,060,870	\$2,326,567
DFTA	\$1,089	\$1,213	\$5,882	\$7,200	\$57,693	\$128,404	\$10,914	\$212,395
DHS		\$100	\$531	\$1,903	\$12,448	\$74,001	\$793,387	\$882,370
DOE	\$3,317	\$2,416	\$9,337	\$13,904	\$71,951	\$121,860	\$6,317	\$229,102
DOHMH	\$1,178	\$7,248	\$8,485	\$8,152	\$18,959	\$134,290	\$673,539	\$851,851
DYCD	\$5,960	\$11,548	\$29,521	\$52,941	\$57,921	\$156,486	\$56,283	\$370,659
HRA	\$735	\$995	\$4,948	\$8,587	\$8,669	\$189,088	\$583,762	\$796,784
Total	\$12,365	\$24,249	\$59,100	\$98,102	\$247,048	\$1,043,792	\$4,185,073	\$5,669,728

% of Total Value by Contract Size (\$000's)								
Agency	0-\$50	\$50-\$100	\$100-\$250	\$250-\$500	\$500-\$1000	\$1000-\$5000	\$5000+	Total
ACS	0.0%	0.0%	0.0%	0.2%	0.8%	10.3%	88.6%	100.0%
DFTA	0.5%	0.6%	2.8%	3.4%	27.2%	60.5%	5.1%	100.0%
DHS	0.0%	0.0%	0.1%	0.2%	1.4%	8.4%	89.9%	100.0%
DOE	1.4%	1.1%	4.1%	6.1%	31.4%	53.2%	2.8%	100.0%
DOHMH	0.1%	0.9%	1.0%	1.0%	2.2%	15.8%	79.1%	100.0%
DYCD	1.6%	3.1%	8.0%	14.3%	15.6%	42.2%	15.2%	100.0%
HRA	0.1%	0.1%	0.6%	1.1%	1.1%	23.7%	73.3%	100.0%
Total	0.2%	0.4%	1.0%	1.7%	4.4%	18.4%	73.8%	100.0%

TABLE 2A show a summary of delay between the start date and the registration date for the 2,448 contracts registered in Fiscal 2017 issued by New York City's seven social service agencies. In total 91% of the contracts were late, the average lateness was 210 days, 50% of contracts were registered within 175 days, 80% within 356 days and 95% within 511 days.

Key Retroactivity Statistics by Agency (#, % Late, Avg Delay, Distribution of Retroactivity in Days)						
Agency	#	% Late	Avg	50%	80%	95%
ACS	259	59%	51	6	95	258
DHS	104	100%	209	179	273	572
HRA	231	100%	250	270	378	477
DOHMH	314	84%	241	237	405	597
DFTA	275	99%	143	48	299	426
DOE	406	100%	278	245	435	647
DYCD	859	93%	225	193	343	523
Total	2,448	91%	210	175	356	511

TABLE 2B show a summary of delay between the start date and the registration date for the 2,448 contracts registered in Fiscal 2017 issued by New York City's seven social service agencies. The first table shows the number of contracts, the second table shows the percentages in each "bucket" and the third shows the cumulative percentage. In aggregate, 9% of the contracts were registered on time, 18% within 30 days, 28% within 60 days. etc. For example, 58% of the DOE contracts had been registered within one year.

# of Contracts by Retroactivity Bucket (Days)								
Agency	0	1-30	30-60	61-90	91-180	181-365	366+	Total
ACS	107	64	20	14	26	23	5	259
DFTA	3	92	53	6	24	78	19	275
DHS		1	6	7	39	39	12	104
DOE	1	4	71	23	77	59	171	406
DOHMH	49	26	10	10	25	117	77	314
DYCD	64	16	57	60	209	323	130	859
HRA		25	6	11	30	108	51	231
Total	224	228	223	131	430	747	465	2448

% of Contracts by Retroactivity Bucket (Days)								
Agency	0	1-30	30-60	61-90	91-180	181-365	366+	Total
ACS	41%	25%	8%	5%	10%	9%	2%	100%
DFTA	1%	33%	19%	2%	9%	28%	7%	100%
DHS	0%	1%	6%	7%	38%	38%	12%	100%
DOE	0%	1%	17%	6%	19%	15%	42%	100%
DOHMH	16%	8%	3%	3%	8%	37%	25%	100%
DYCD	7%	2%	7%	7%	24%	38%	15%	100%
HRA	0%	11%	3%	5%	13%	47%	22%	100%
Total	9%	9%	9%	5%	18%	31%	19%	100%

Cumulative % of Contracts Registered by Days of Retroactivity						
Agency	0	30	60	90	180	365
ACS	41%	66%	74%	79%	89%	98%
DFTA	1%	35%	54%	56%	65%	93%
DHS	0%	1%	7%	13%	51%	88%
DOE	0%	1%	19%	24%	43%	58%
DOHMH	16%	24%	27%	30%	38%	75%
DYCD	7%	9%	16%	23%	47%	85%
HRA	0%	11%	13%	18%	31%	78%
Total	9%	18%	28%	33%	50%	81%

TABLE 2C shows a summary of delay between the start date and the registration date for the 2,448 contracts registered in Fiscal 2017 issued by New York City's seven social service agencies. The table expresses this delay as a percentage of the contract term. For example, nonprofits were 71% through the one year contracts when they were registered. For one-year contracts issued by HRA, nonprofits were 98% of the way through the term when they were registered.

Median Contract Term Completed at Registration by Contract Length (Years)						
Agency	1	2	3	4	5	Total
ACS	60%	0%	1%	0%	0%	1%
DFTA	80%	3%	4%	34%	0%	7%
DHS	42%	44%	19%	10%	9%	20%
DOE	100%	7%	14%	0%	26%	44%
DOHMH	84%	4%	1%	0%	13%	62%
DYCD	68%	27%	10%	9%	0%	39%
HRA	98%	29%	6%	10%	11%	31%
Total	78%	5%	9%	6%	11%	29%

TABLE 2D shows the date by which 80% of contracts had been registered for small contracts (less than \$500,000) and large contracts (greater than \$500,000). For example, nonprofits could be 80% certain that a large contract issued by DOHMH would have been registered within 111 days versus 459 days for a small contract.

Date by which 80% of Contracts were Registered by Value			
Agency	Under \$500	Over \$500	Total
ACS	260	40	95
DFTA	352	49	299
DHS	313	272	273
DOE	463	341	435
DOHMH	459	111	405
DYCD	350	223	343
HRA	415	313	378
Total	398	196	356

TABLE 2E shows the median number of days remaining until registration for contracts that are already a certain number of days late. For example, contracts that were already 60 days late required a further 198 days (median) until being registered. In aggregate, contracts delayed 60 days only see 8 days of reduced waiting time!

Remaining Time to Registration (median) for Contracts by Days Already Late						
Agency	0	30	60	90	180	365
ACS	39	87	90	95	64	21
DFTA	53	197	230	201	133	91
DHS	179	149	129	106	62	62
DOE	245	234	324	296	213	64
DOHMH	266	246	220	200	151	106
DYCD	208	183	164	155	117	100
HRA	270	261	232	204	146	47
Total	206	199	198	182	147	75

TABLE 3A shows the number of contracts imposing burdens of \$500k+, \$1.0 million+, \$2.0 million+, and \$5.0 million+. For example, under 12 contracts issued by DHS, a nonprofit beginning work on the start date would have incurred more than \$5.0 million in unreimbursed expenses before the contract had been registered. DYCD issued 7 contracts imposing burdens of more than \$1.0 million.

# of Contracts Imposing Large Burdens (\$000's)				
Agency	\$500	\$1,000	\$2,000	\$5,000
ACS	26	12	7	1
DFTA	2	-	-	-
DHS	65	47	35	12
DOE	28	8	1	1
DOHMH	9	5	4	1
DYCD	29	7	2	-
HRA	64	40	8	2
Total	223	119	57	17

TABLE 3B shows a summary of the retroactivity statistics for each agency and the associated cash burden for nonprofits. For example, DFTA issued 143 contracts, 99% of which were late. The total contract value was \$212 million, the annual value was \$95.8 million and the associated burden on nonprofits was \$17.9 million, representing 19% of the annual contract value. The second table shows the data only for one-year contracts. The third table shows the data for contracts of greater than one year. All dollar figures are in \$000's.

Key Retroactivity Statistics by Agency with Associated Cash Burden on Nonprofits						
Agency	% Late	Avg	Total	Annual	Burden	% of Annual
ACS	59%	51	\$2,326,567	\$901,150	\$66,405	7%
DHS	100%	209	\$882,370	\$356,134	\$207,137	58%
HRA	100%	250	\$796,784	\$249,028	\$128,151	51%
DOHMH	84%	241	\$851,851	\$305,340	\$92,883	30%
DFTA	99%	143	\$212,395	\$95,803	\$17,894	19%
DOE	100%	278	\$229,102	\$149,288	\$70,547	47%
DYCD	93%	225	\$370,659	\$229,338	\$92,912	41%
Total	91%	210	\$5,669,728	\$2,286,081	\$675,930	30%

Cash Burden: One-Year Contracts		
Agency	Annual Value	Burden
ACS	\$20,103	\$9,999
DFTA	\$19,678	\$9,434
DHS	\$176,188	\$96,222
DOE	\$64,269	\$30,307
DOHMH	\$29,704	\$18,335
DYCD	\$153,641	\$64,907
HRA	\$43,203	\$32,795
Total	\$506,785	\$261,998

Cash Burden: Multi-Year Contracts		
Agency	Annual Value	Burden
ACS	\$881,047	\$56,406
DFTA	\$76,125	\$8,460
DHS	\$179,947	\$110,915
DOE	\$85,019	\$40,241
DOHMH	\$275,637	\$74,548
DYCD	\$75,697	\$28,005
HRA	\$205,825	\$95,356
Total	\$1,779,297	\$413,932

GLOSSARY

1. Mayoral Agencies

- 1.1. Social Services: Administration for Children's Services (ACS); Department of Education (DOE); Department of Health and Mental Hygiene (DOHMH); Department of Youth and Community Development (DYCD); Human Resource Administration (HRA); Department for the Aging (DFTA); Department of Homeless Services (DHS).
- 1.2. Other agencies important to nonprofits: Department of Housing Preservation and Development (HPD); Department of Cultural Affairs (DCA)
- 1.3. Agencies that typically do not contract with nonprofits: Sanitation, Transportation, Environmental Protection, etc.

Each agency also has an Agency Chief Contracting Officer (ACCO) as well as its own finance and legal departments.

2. Mayoral Offices

- 2.1. **Office of Contract Services (MOCS):** Oversight and service agency that is dedicated to optimizing existing operations and transforming processes to make it easier to do business with the City.
- 2.2. **Office of Intergovernmental Affairs (MOIGA):** Coordinates the City's interaction with the City, State and Federal Legislative Affairs Offices, as well as the offices of the City Comptroller, Public Advocate and Borough Presidents. The Office keeps the Mayor and the First Deputy Mayor informed about intergovernmental issues and is the liaison between the City and other governments, seeking to foster constructive links between the Administration and these entities.
- 2.3. **Office of Management and Budget (OMB):** The City's chief financial agency. OMB's staff of more than 350 analysts and experts assembles and oversees both the expense budget and the capital budget.
- 2.4. **Department of Investigation (DOI):** The City's independent inspector general. Pursuant to the City Charter, DOI reports to the Mayor and the City Council, but operates independently of both. As a law enforcement agency, DOI arrests individuals who corrupt the process and issues reports on systemic government failure. DOI has a unique ability to carry out these functions based upon (i) its complete access to all government documents, workers and information, (ii) its ability, as part of the government, to insist upon systemic changes to the governing process, and (iii) its ability to see across all government agencies.

3. Offices and Entities Independent of the Mayor

- 3.1. **Office of the Comptroller (COMP):** An independently elected official, the Comptroller is New York City's Chief Financial Officer.

- 3.2. Procurement Policy Board (PPB):** Authorized to promote and put into effect rules governing the procurement of goods, services, and construction by the City of New York. The board has five members: three from the Mayor; two from the Comptroller. Its rules are here: [NYC PPB Rules](#)
- 3.3. City Council:** An elected body of 51 members who each get \$400,00 in one-year discretionary funding to distribute to nonprofits. See [FY 2019 Discretionary Funding Policies and Procedures](#)

4. Contract-related Infrastructure

- 4.1. VENDEX (Vendor Exchange System):** The New York City Administrative Code requires that the City maintain a data system containing information for every city contract and very specific information about every prospective vendor for awards over \$100,000, and for vendors (including subcontractors) doing more than \$100,000 in cumulative annual business with the City. The majority of the vendor information placed on the VENDEX system comes from the VENDEX questionnaires.
- 4.2. Responsibility Determination:** The determination that the contractor has the capability in all respects to perform fully the contract requirements and the business integrity to justify the award of public tax dollars. Factors affecting a contractor's responsibility may include: (i) financial resources; (ii) technical qualifications; (iii) experience; (iv) organization, material, equipment, facilities, and personnel resources and expertise necessary to carry out the work and to comply with required delivery or performance schedules, taking into consideration other business commitments; (v) a satisfactory record of performance; (vi) a satisfactory record of business integrity; (vii) where the contract includes provisions for reimbursement of contractor costs, the existence of accounting and auditing procedures adequate to control property, funds, or other assets, accurately delineate costs, and attribute them to their causes; and (viii) compliance with requirements for the utilization of small, minority-owned, and women-owned businesses as subcontractors.
- 4.3. Certificate of No Change:** Self-certification that prior VENDEX information remains true. See the [Certificate of No Change Form](#)
- 4.4. HHS Accelerator:** An online-system designed to improve the City's contracting process. The System provides centralized access to the City's Human Service funding opportunities and the ability to complete financial transactions. The newest version is called PASSPORT.
- 4.5. FMS (Fiscal Management System):** A payments and accounting system which manages the city's expenses, revenue, contracts, payroll, and budget, and allows authorized access only. New York City's FMS just exports its non-sensitive data fields on a regular basis to Checkbook NYC.
- 4.6. CheckBookNYC (www.checkbooknyc.com):** An online transparency tool that places the City's day-to-day spending in the public domain. Checkbook NYC provides up-to-date information about the City's financial condition.

ABOUT THIS RESEARCH NOTE

This research note draws upon our first-hand experience regarding the difficulty nonprofits have in managing the risks associated with late government payments and the frustration that incredulous board members feel that these late payments are accepted as “par for the course”. We’d like to thank the Office of the New York City Comptroller Scott Stringer for making available the data allowing us to quantify the extent of late payments and for its thoughtful recommendations on how to improve the situation.

SeaChange wishes to thank everyone who provided helpful feedback on an earlier draft of this research note. The views and opinions expressed in this report are those of SeaChange and do not necessarily reflect the views of these reviewers.

We welcome feedback from readers about their experiences in New York City or with other state, local or federal funding. We would be pleased to consider doing similar analyses for other local/state/federal funding streams where granular contract-level data are available.

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