

Testimony of Lisa M. Flores, MOCS Director
Before the New York City Council Committee on Contracts
MOCS Preliminary Budget Hearing
March 22, 2024

Good afternoon, Chair Won and members of the Contracts Committee. Thank you for the opportunity to discuss Mayor Adams' Fiscal Year 2025 Preliminary Budget for the Mayor's Office of Contract Services (MOCS). I'm joined by Chief Change Officer Yexenia Markland, Chief Financial Officer Helga Nyanffor, and Deputy Chief of Staff Matt Sullivan.

As an oversight and service agency, MOCS is dedicated to transforming processes to make it easier to do business with the City. Consistent with the priorities of the Adams' administration, we have remained steadfast in our commitment to excellence in government, positioning the agency to play a critical role in enabling the City's economic recovery and looking ahead to address future challenges. Thanks to four key strategic priorities within the Mayor's Office of Contract Services, which include **procurement reform, maximized M/WBE utilization, enhanced community engagement, and digitization through PASSPort**, we are making substantial progress on some of the administration's most pressing goals.

Procurement is a critical means by which agencies deliver on their missions. In FY23, Mayoral Agencies, including NYC Public Schools, awarded over \$41 billion in City contracts for goods, services, and construction. This represents a 9% increase over the previous year, in which the City awarded nearly \$38 billion in contracts. Of that \$41 billion, Human Services accounted for \$19 billion, remaining the largest contracting category and providing a pathway for critical services for childcare, homeless shelters and after school programs.

As we have shared previously, MOCS plays a leadership role in implementing the recommendations from the Joint Task Force to Get Nonprofits Paid on Time. Our progress in this area of contracting began with the "clear the backlog" initiative, which cleared over \$6 billion in payments owed to nonprofits. We subsequently built on this progress by supporting agencies to reach 81% on-time submissions to the Comptroller by July 1 in FY24, a 25% improvement from the prior year despite a 60% increase in

contract volume and other competing priorities, like the asylum seeker response. By September, we had processed virtually the entirety of this portfolio. We are working with agencies again on the FY25 Timeliness initiative to build on last year's success through regular reporting, performance management, and clear escalation paths.

In addition to the day to day work of getting contracts registered on time so that vendors can be paid, we have also been devoting significant attention to reforming the underlying policy and regulatory structure so that procurement is more timely in the long run. These major improvements include:

- The introduction of an allowance clause to human services contracts, which enables agencies to process anticipated budgetary increases without revisiting the entire procurement process for an amendment.
- The implementation of a multi-year Council discretionary contract allowing providers to enter into 3-year agreements for Council discretionary contracts and bringing a major reduction in processing times in the coming fiscal year.
- A new and improved Returnable Grant Fund (RGF) program, which delivers on a key recommendation from the Joint Task Force to expand access to RGF loans. By streamlining the application and expanding eligibility, these changes enable provider partners of all sizes the opportunity to benefit from these loans.
- We've rolled out a ContractStat dashboard to use as a performance management tool for holding ourselves accountable and understanding where delays may occur. In partnership with MONS, we have hosted two internal sessions with agency leadership to go through this data, continue to iterate on what is available, and look forward to rolling out to a broader audience in the future.
- The passing of Local Law 169, which requires MOCS to establish recommended timeframes for stages of the procurement process, setting the stage for further performance management.

Based on a review of the Joint Task Force report, we can see that we are appropriately on pace to meet the short, medium, and long-term targets for most of the recommendations.

We are also fully aware that our implementation of the Task Force initiatives is only successful so long as we have a technology system that is capable of maximizing our policy and process improvements. We are currently deep in the midst of the migration between systems from the legacy HHS Accelerator to PASSPort, a herculean endeavor of replacing a business practice that has been in place for over a decade, which affects billions of dollars in contracts and payments. While technology migrations of this scale are inherently difficult, fraught with unexpected issues, and by no means representative of "business as usual," we know there is light at the end of the tunnel and we will emerge better for it. One provider testified to this pain point last year, sharing that the City has "contract management systems that are inefficient, complex, and over-burdensome... [because] the PASSPort and Accelerator systems don't speak to each other." This is the exact problem we are addressing by shifting to a single centralized system from sourcing to payment, and we are fully confident that we will successfully complete this transition.

In the meantime, I know that some providers out there are experiencing delays as a result of the cutover between systems, and I want to be clear to those providers that your concerns are the number one priority in my office, and any high priority issues should be escalated to my team. Every single day we are focused on putting the technology tools in place so that you can spend less effort on administrative tasks, and more on delivering the high-quality services that this City relies on.

MOCS has taken an all-hands approach to being transparent about these technology changes to our agencies and vendors, and putting in place safeguards so that system changes do not disrupt continuity of service. In December, we issued a directive for human services agencies to issue an additional 15% advance on human services contracts where providers were expected to submit invoices during the migration. As of last week, agencies have issued over \$530 million in advance funding for the migration, providing necessary funding to mitigate the adverse impact of the transition. In the period leading up to the migration, we hosted 12 sessions with provider groups, attended by over 880 individuals, in addition to meetings with all the agencies. We have also delivered over a dozen communication blasts to thousands of providers, letting them know of key timings, closure of certain activities, and other important information. We have been fully transparent throughout the process and are now focused on the nitty gritty technical work

that will resolve outstanding discrepancies and complete this migration. So far in FY24, the City has disbursed over \$1.7 billion through PASSPort, confirming that we have made substantial progress on this major migration.

Looking ahead from the current critical period, we remain committed to the delivery of the Document Vault feature in PASSPort and planned expansion of functionality to include subcontract management. Data for City procurement rests in multiple systems: while PASSPort is the entry point to doing business with the City, financial transactions are logged in FMS, the Comptroller maintains Checkbook NYC, subcontractors must go through the Payee Information Portal, and several agencies use unique systems of their own. Centralizing all of this work into one system, as we are doing presently with HHS Accelerator, brings New York City procurement into a 21st century digital operating model.

In addition to contracting and technology reform, we are pleased to reaffirm the Mayor's recent announcement of a major Cost-Of-Living-Adjustment (COLA) for the human services sector. The City's budget will include an almost 9.27% increase to City-contracted human services workforce wages, totaling \$741 million. This comes on top of the Workforce Enhancement Initiative, which added \$170 million in funding to human service contracts in the baseline. With this latest COLA, the human services sector can expect to see a 3% cost-of-living adjustment for FY25, FY26, and FY27. The addition of this funding marks a promise kept by the administration to acknowledge the importance of our human services sector to everything we do as a City. We thank the Mayor, First Deputy Mayor Wright, Director Jiha, and the City Council for delivering on this priority, and MOCS looks forward to the implementation steps ahead.

Beyond the nonprofit sector, MOCS has also played a leading role in the New York City Capital Process Reform Task Force over the past two years. This initiative brought together a range of key stakeholders across the City, including leaders from the private sector and M/WBEs, to devise recommendations to improve the City's capital project delivery process with the goal of reducing timelines, saving taxpayer dollars, enhancing participation, and improving the City's ability to respond to emerging needs. We've continued to make progress on several of these recommendations including:

- Eliminating Financial Control Board reviews for contracts under \$50 million, which led to roughly an 80% reduction in contract volume going through this duplicative review process in 2023.
- Increasing the M/WBE Noncompetitive threshold to \$1.5 million for agencies purchasing eligible goods, services, and construction. This additional threshold increase has better positioned the City to provide a more equitable procurement process and provide additional opportunities to support small businesses.
- Championing legislation leading to the signing of e-bidding, allowing prospective partners to submit digital bids and offers.
- Revising the implementation of Executive Order 50, streamlining the verification of vendor compliance with the DLS process to eliminate burdensome paperwork for vendors.
- Repealing the pre-award review provisions of Executive Order 102 of 2007 to streamline duplicative reviews on prevailing wage compliance that added months to applicable procurements.
- Championing legislation that will allow the City to use Owner-Controlled Insurance Programs (OCIPs) and Contractor-Controlled Insurance Programs (CCIPs) to drive down the costs of insurance, in addition to legislation that will allow us to establish a Citywide Small Business Construction Mentorship program.

We are also optimistic that the state legislature will pass our proposed contract public hearing legislation and look forward to updating this Committee on our progress.

Our teams also support the M/WBE program in partnership with our colleagues at the Office of M/WBE and Department of Small Business Services. In FY23, the City achieved its highest award total to M/WBEs under Local Law 1 in history at nearly \$1.42 billion, and over \$6 billion awarded to M/WBEs under the OneNYC program. M/WBE utilization also experienced a significant increase with a rate of 27.9% in comparison to 22.9% in FY22, marking one of the highest utilization rates the City has achieved since the program started in 2015. Our preliminary data for the first two quarters of FY24 indicates that we remain on a strong path, with 28.9% utilization so far. Instrumental to this success has been the M/WBE Noncompetitive Small Purchase method, which has

been unlocked through legislative increases from \$500,000 to \$1 million in FY23 and then \$1 million up to \$1.5 million in FY24. The M/WBE noncompetitive method showed a 60% increase in contract value from over \$110 million in FY22 to over \$170 million in FY23, and again FY24 is looking strong, with \$110 million awarded using this method through just two quarters. With further signs of improvement in contracts awarded to “disparity within disparity” firms, the administration is full steam ahead on putting equity at the center of City procurement.

Finally, MOCS has continued to build on its new outreach and engagement approach to reach existing and prospective partners where they are and better facilitate the learning of systems, rules, and policies that guide NYC procurement. Our Learning and Development team has published dozens of resources which are available to vendors and City staff, and have made our learning services available at numerous public events. These include business mixers done in partnership with Hostos Community College, and putting together simplified resources that will help vendors who are just starting out. Furthermore, we have expanded our reach through MOCS in Your Neighborhood, a series of in-person workshops where we bring PASSPort know-how to locations throughout the five boroughs and assist vendors with any questions they may have. Through other training programs such as the Procurement Training Institute, we have delivered more than 30 trainings to over 6,200 agency users and a monthly webinar series for vendors on getting started contracting with the City that has had over 6,000 vendor attendees.

MOCS’ total budget for FY24 is \$44M, including \$20.4 million for personnel services and \$23.6 million for OTPS. The bulk of our budget is devoted to the Accenture and Ivalua contracts which maintain PASSPort, and are valued at \$90 million over 10 years for Ivalua, and nearly \$45 million over six years for Accenture. In order to maximize savings, we were faced with some challenging decisions, looking at a mixture of PS and OTPS reductions to meet our PEG target given the difficult budget environment facing the City. Despite these challenges, our headcount has remained stable at 187, up from 173 in FY23. Our current budgeted headcount is 215, with 28 vacancies currently open, and we are excited to move beyond the hiring freeze, as recently announced by OMB.

We continue to work with OMB to determine appropriate levels of funding for the initiatives carried out at MOCS.

MOCS has a significant mandate with much more work ahead to expand on the wins we have already secured: modernizing the process through PASSPort, leading procurement reform across key portfolios, bringing our engagement efforts to meet people where they are, and instilling equity throughout the procurement process. We thank the Committee for your partnership in supporting these key initiatives so far and are happy to take any questions you now have.



Breaking the Cycle of Homelessness
for Women and their Children

Testimony of Win (Formerly Women in Need, Inc.) for the New York City Council Committee on Contracts Preliminary Budget Hearing 3/22/2024

Thank you to Chair Won and to the esteemed members of the Committee on Contracts for the opportunity to submit testimony on behalf of Win. Win is the largest provider of shelter and services to families with children experiencing homelessness in New York City. We operate 16 shelters and nearly 500 supportive housing units across the five boroughs. Each night, more than 7,000 people call Win “home,” including 3,600 children.

The current contracts situation for shelter providers like Win is dire. Delays in contract registrations, amendments, and invoice reimbursements by the Department of Homeless Services (DHS) have become routine, making it extremely challenging for Win and other non-profits to operate effectively. These delays, averaging 104 days after the contract start date, undermine the financial stability of organizations like Win, affecting their ability to provide critical services.

As the City's shelter system grapples with a doubling in population within two years, Win and similar organizations are stretched thin. The failure to increase staffing levels despite a significant surge in demand underscores the urgency of this matter. Non-profit providers like Win are being forced to make tough decisions, weighing the risks of expanding services against the financial uncertainties posed by delayed payments and inadequate funding.

The impact of these delays extends beyond financial concerns. Win's ability to provide essential services to its clients is being undermined, which has a direct impact on the level of services we can provide. This situation not only undervalues the dedication of Win's staff but also undermines the trust placed in non-profit organizations by the City to fulfill their mission of providing support to vulnerable residents.

Urgent action is imperative. The City must deploy a Rapid Response Team to address the backlog of contracting and payments, ensuring that organizations like Win receive the compensation they are owed. Additionally, systemic reforms are needed to streamline the procurement and payment process, ensuring transparency and efficiency.

In conclusion, the current state of affairs is untenable and demands immediate attention. Win and other non-profit organizations cannot continue to bear the brunt of delayed payments without significant disruptions in the services they seek to provide. It is incumbent upon the City to prioritize this issue and take decisive action to rectify it.

Thank you for your consideration.



NYC Council Committee on Finance

To: Councilmember Julie Won, Chair - Committee on Contracts
From: Janelle Farris, Executive Director - Brooklyn Community Services
Date: March 22, 2024

Chair Won and other esteemed members of the City Council,

My name is Janelle Farris, President and CEO of Brooklyn Community Services. I want to express sincere gratitude for the recent decision to provide a three-year cost of living adjustment (COLA) for human services workers in New York City. This investment of \$741 million is a crucial step in recognizing the dedication and hard work of those who serve our communities tirelessly.

The decision to implement a COLA will undoubtedly have a positive impact on the lives of many, providing much-needed relief in the face of rising costs. It should be noted though, that The NYC True Cost of Living Report demonstrates that “50% of working age New Yorkers do not have incomes that cover their basic needs,”¹ and they further point out that people of color have a disproportionate likelihood of not earning enough to cover basic costs. Most of our employees are well within that 50%. Your commitment to supporting the essential work of human services workers ensures that they will be better compensated for their efforts. While this wage increase is an august step in the right direction, more work is needed to ensure that human services workers have salaries that keep up with the true cost of living in New York City. Parity with the salaries of their counterparts in government agencies who have the same credentials and job titles, is one way to accomplish that goal.

While we continue to celebrate this important COLA achievement, I would also urge the Council to consider further reforms with regard to the nonprofit sector. The current procurement process for nonprofits in NYC is fraught with challenges and inefficiencies. Delays in contract

¹ <https://unitedwaynyc.org/true-cost-of-living>

registration and payment have forced providers including BCS to rely on loans to meet payroll and rent, often accruing interest not covered by government contracts. While the Mayor's efforts have reduced the log-jam of unpaid receivables by billions of dollars, the bureaucracy that has been normalized over many years needs to change to ensure a healthy nonprofit sector. One example, BCS is still awaiting payment on a contract that began in December FY2021 and ended in June FY2023; it is stuck in a loop of City agency staff, and the delayed payments required BCS to pay million dollar costs without the revenue we worked hard to attain.

Another challenge – city agencies are still struggling to understand how to access funds set aside for the Indirect Cost Rate Initiative, a celebrated plan designed to ensure nonprofits are paid the full cost of implementing service contracts. Today, multiple agencies rather than access ICR funds and apply them to contracts, instead require nonprofits to reduce their operations budget by the amount of their city-approved indirect rate. This application requires either a reduction in services or the nonprofit must reduce their approved rate – which puts us right back where we started before the initiative began. If there are no longer funds to implement the program, we need to consider, is there another efficient way to raise the indirect rate from the de minimis rate of 10%?

By working together to reform these processes, we can create a more equitable and effective system that better serves our communities. I am pleased to be a member of the Advisory Council for the Mayor's Office for Nonprofit Services and hope to work with you and the Mayor's administration to address these critical issues.

Thank you, Committee members and the entire NYC Council for your commitment to supporting human services workers. With your help the City has made a significant step toward creating a strong human services sector. I urge you to continue to work toward reform of the nonprofit procurement process.

Janelle Farris
President and CEO
Brooklyn Community Services
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Testimony

**New York City Council Committee on Contracts
Budget and Oversight Hearings on the FY 2025 Preliminary Budget,
the Preliminary Capital Plan for Fiscal Years 2024-2028, and
the Fiscal 2024 Preliminary Mayor's Management Report
Friday, March 22, 2024**

**Submitted by
Penni Bunyaviroch, Director of Contracts Management
Catholic Charities Community Services, Archdiocese of New York**

Thank you for the opportunity to submit testimony on behalf of Catholic Charities Community Services on the challenges we face entering the FY2025 budget season.

I am Penni Bunyaviroch, Director of Contracts Management for Catholic Charities Community Services, Archdiocese of New York. As you consider the preliminary budget, I ask that you keep human services front of mind.

Who we are. The Catholic Charities of the Archdiocese of New York seeks to uphold the dignity of each person as made in the image and likeness of God, by serving the basic needs of the poor, troubled, frail and oppressed of all religions. We collaborate with parishes, as well as non-Catholic and Catholic partners, to build a compassionate and just society. Through a network of administered, sponsored, and affiliated agencies, Catholic Charities delivers, coordinates, and advocates for quality human services and programs touching almost every human need.

Let me first thank the City Council, the Mayor and his Administration for reinvesting in our human services workforce by committing to a 3% cost-of-living adjustment over the next three fiscal years. Together with the 7% workforce enhancement, this investment will deliver pay equity and just compensation to thousands of women and people of color who work tirelessly to provide life-saving services in our city. We are thankful to the Council for its tremendous help in achieving this milestone and advancing gender and social justice for the human services community.

However, several ongoing challenges remain:

1. **True cost of services:** The City's human services contracts still do not cover the true cost of services. Under-funded government payment rates are the main driver of financial distress, and the human services sector has been experiencing this situation for decades. City human services contracts pay a fraction of each dollar of true program delivery costs, leaving budget holes that cannot always be filled by private grants. It is not sustainable for nonprofits to absorb yearly increases in rent and other costs on our human services contracts. These contracts are regularly funded at flat rates over multiple years and fail to keep up with the actual cost of services rendered.
2. **Payment delays and invoicing backlogs:** Catholic Charities continues to experience delays in payment for services long after services have already been provided. This is due in part to: 1) delays in contract registration, 2) the City's decision to migrate invoicing functions from HHS Accelerator to PASSPort, and 3) unexplained delays on the part of some City agencies to utilize PASSPort to process contract vouchers.

As of January 2024, Catholic Charities has appx. \$12.1 million in vouchers that are pending in PASSPort and cannot be submitted yet for these reasons. This amount represents slightly more than half of our total in earned unbilled funds (totaling \$23 million), which has severely impacted our cash flow.

3. **Lack of capacity building:** As noted in the Comptroller's 2022 report, *A Better Contract for New York*, many nonprofits are not provided sufficient training or resources to meet the complex requirements involved in the City's contracting process. This has become even more challenging in light of the City's transition from HHS Accelerator to PASSPort to process contract vouchers.

The City must urgently reform its procurement and payment processes to address these issues.

We applaud the City's efforts to reinvest in human service workers and believe the City is moving in the right direction.

We are especially encouraged by Int. 243, introduced by Council Member Crystal Hudson and sponsored by Council Members Julie Won, Lincoln Restler, and Deputy Speaker Diana Ayala. Among other things, this measure would require indirect costs to be covered in contracts between City agencies and human service providers at a de minimis rate of 20% of direct costs, which is a welcome change from the current de minimis rate of 10%. We thank Council Member Won for being one of the sponsors of this bill and urge the Council to pass this important measure.

Thank you for the opportunity to testify today and for your commitment to serving our city. If you have any questions about my testimony, please contact me at

penni.bunyaviroch@catholiccharitiesny.org. We look forward to working with you to advance the needs of New York City's most vulnerable.



**Chinese-American Planning Council
Testimony Before the Committee on Contracts
Chair, Council Member Julie Won
March 22nd, 2024**

Thank you Chair Won and members of the City Council for the opportunity to testify today. The mission of the Chinese-American Planning Council, Inc. (CPC) is to promote social and economic empowerment of Chinese American, immigrant, and low-income communities. CPC was founded in 1965 as a grassroots, community-based organization in response to the end of the Chinese Exclusion years and the passing of the Immigration Reform Act of 1965. Our services have expanded since our founding to include four key program areas: Childhood Development, Education & Career Services, Senior Services, and Community Services.

CPC is the largest Asian American social service organization in the U.S., providing vital resources to more than 80,000 people per year through more than 50 programs at over 30 sites across Manhattan, Brooklyn, and Queens. Our revenue is approximately half New York City funding.

CPC now employs a team of over 700 staff members, many of whom come from the same neighborhoods we serve. With the firm belief that social service can incite social change, CPC strives to empower our constituents as agents of social justice, with the overarching goal of advancing and transforming communities.

CPC offers holistic services that target both individual and family needs. Our programs are available for community members of all ages and backgrounds, and span five key service areas:

- **Early Childhood Education:** child care for children of ages 1-5 and workshops for parents.
- **School-Age Child Care Services:** after-school programming for children in grades K-5.
- **Education & Career Services:** ESOL classes, youth development, and workforce training.
- **Senior Services:** wellness, recreation, meals, and workshops for adults aged 60 and older.
- **Community Services:** family resources, public benefits, counseling, advocacy, and referrals

To that end, we are grateful to testify about issues that impact the individuals and families we serve, and we are grateful to the Council for their leadership on these issues.

We are grateful for the Council and the administration's commitment towards establishing prevailing wage requirements for city-contracted human services workers. The [administration announced](#) last week that there will be an investment of \$741 million as part of a COLA for an estimated 80,000 human service workers. This was part of years of tireless advocacy of the Just Pay campaign led by the Human Services Council (HSC) and we are grateful that we were able to secure this historic win. We look forward to working with the Administration and the City



Council to ensure that this funding is implemented to get swiftly to human services staff with ease to providers.

We are also grateful to see Intro 0511, human services providers continue to face late contracting issues, which have a detrimental effect on both the organizations themselves and the communities that we serve. These late contracts create a risky situation where we have to start the work without a registered contract and payment, or delay in starting the contract, which affects the communities dependent on the services of providers. Many of the late contracts are also renewals, so there isn't really an option to suspend services while we wait for a registered contract; the City's delays cost us real money and jeopardize the quality of services by diverting funds away from programs to pay interest on lines of credit. Although the City cleared the backlog of more than \$4 billion in unpaid contracts and amendments, setting procurement timeframes can help ameliorate the procurement delays facing the sector.

Late payments are an exacerbating issue for nonprofits that are already strapped for cash flow due to the severe underfunding of New York City Contracts. They mean that we have to delay other important payments, put off critical investments in things like infrastructure and technology. They often mean we have to take out a line of credit to float the difference. Last year, we paid nearly \$100,000 in interest on late payments. That money that we subsidize the city on, is money that could have been used to provide adult literacy classes to 111 more students, a full year of afterschool programming to 33 young people, or over 8,300 culturally appropriate home delivered meals for home-bound seniors. Exacerbating this issue is the fact that we don't even know when late payments will come in, with no reliable way of finding out. This makes planning impossible, so we can't even say how long we have to put off a needed repair, for example. It is worth noting that discretionary contracts are among the worst offenders for late payments.

Lastly, we are grateful to see legislation that increases the transparency of the procurement process. However, it is crucial that the development of this procurement database does not create administrative burdens for the providers. Providers already face high administrative burdens with insufficient staffing infrastructure to manage them. Because the City already utilizes PASSPort Public, human services organizations should not be responsible for inputting data into this new public procurement database, but rather mandate contracting agencies to support the database.

CPC appreciates the opportunity to testify on these issues that so greatly impact the communities we serve. We look forward to working with you on them.

Thank you so much for the opportunity to testify on issues that greatly impact our communities. If there are any questions or concerns, feel free to reach out to Ashley Chen, Policy Analyst at achen9@cpc-nyc.org.



Preliminary Budget Hearing Testimony Before the
New York City Council Committee on Contracts
March 22, 2024

Presented by:
Cal Hedigan, Chief Executive Officer
Community Access, Inc.
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Community Access expands opportunities for people living with mental health concerns to recover from trauma and discrimination through affordable housing, training, advocacy, and healing-focused services. We are built upon the simple truth that people are experts in their own lives.

www.communityaccess.org

Thank you Chair Won, and to the other members of this committee for convening this hearing. As the CEO of Community Access, I lead an organization that has long been at the forefront of efforts to transform our public mental health system into one where the voices of people living with mental health concerns are centered and play a vital role in the design, delivery, and evaluation of services.

Our organization was founded 50 years ago in 1974 to provide housing and support to people being discharged from psychiatric institutions. We are one of the leading providers of supportive housing in New York City and are the originators of an integrated housing model which has become a best practice nationally: affordable housing where families live alongside people living with mental health concerns.

We greatly appreciate the opportunity to provide testimony today to shine light on issues with city contracting that often negatively impact our operations and divert organizational resources that could be put to much better use. I have divided my testimony into the following categories: contracting issues, vouchering issues, payment issues, audit issues, and miscellaneous. I address each of these, in turn, below.

When it comes to contracting with city agencies, we face several obstacles. Complex line-item budgeting requirements result in lengthy pre-approval processes. Delays in the City Office of Management and Budget (OMB) approval and contract registration often mean that our agency is unreimbursed for six months (or more) of actual expenses at the start of a new contract or renewal. Furthermore, contract amendments are subject to the same approval process even for amounts that are small relative to the original contract (e.g., COVID supplements, Indirect Cost Rate [ICR]). ICR amendments have taken years to get approved (e.g. CA DSS amendments from 2021-22 that are still pending).

On the issue of vouchering, there are several concerns. Because line-item budgets are so detailed, actual expenditures frequently result in variances that require detailed justifications and/or budget modifications that delay voucher processing. The five percent threshold for variance justification means that documentation is required for small dollar amounts (e.g., recent \$300,000 payment held up by \$300 line-item variance). Additionally, the year-end budget modification process requires similar variance justification, resulting in the agency entering next fiscal year with substantial un-reimbursed costs for prior year.

The City Council is well aware of delayed payments for city-contracted nonprofits. In this sphere, I would like to raise several specific issues. We have experienced payments that show as approved in PASSPort that are delayed for weeks or months without explanation. The City's advance and recoupment structure means that our agency is still substantially unreimbursed at the end of the fiscal year. We encourage the Committee to consider recoupment as part of the year-end close-out process instead of the status quo.

Furthermore, we have experienced considerable issues related to City audits that I wish to bring to your attention. Audits completed years later by non-funder staff result in disallowance of expenditures undertaken by the agency in good faith, and with approval of funder staff (e.g. \$37k disallowance for front desk costs from 2018). In some cases, we have found that auditors' inaccurate findings based on hindsight and misapplication of accounting standards have resulted in significant challenges (e.g. finding of significant weakness because claimed fringe rate based on estimates differed from actual rate based on audit completed six months later).

Under the category of other miscellaneous issues we have faced as an agency, I'd like to draw your attention to a few more items. The City's Returnable Grant Fund (RGF) process provides potential relief

from payment delays but requires pre-approval by the same agency that has failed to pay. Confusion among funder staff as to RGF requirements (e.g. applications rejected because a contract is registered when delays in payment for registered contract now qualify under Category C). Crucially, high turnover of City contract administration staff results in lack of “institutional memory,” which means agencies are required to answer the same questions multiple times to secure promised reimbursement (e.g. CA DOHMH confusion over budget-of-record that has resulted in years-long payment delays).

I appreciate your attention to these issues that create an undue burden on our fiscal staff, and hinder our ability to provide much needed services and programs to New Yorkers who have been failed by previous systems of care. With thoughtful policy choices and changes to contracting processes, we can remove unnecessary barriers for agencies like ours to create a more just city that meets people's needs, protects them from harm, recognizes human dignity, and supports them to make informed decisions about their own health and wellness.

Thank you for the opportunity to submit testimony. I look forward to working with this committee, as well as our agency partners, to advance community-based service options and ensure providers citywide have the resources they need to offer the support our communities rely on. If you and your staff have any questions, or if Community Access can offer direct support to members in your district, please reach out to me at chedigan@communityaccess.org or 212-780-1400, ext. 7709.

Submitted to:
New York City Council
Contract Committee

Submitted by:
Emely Paez, Senior Director of Government and Community Partnerships

March 22, 2024

Thank you, Chair Won and all other members of the Contract Committee, for the opportunity to submit testimony. My name is Emely Paez, and I am the Senior Director of Government and Community Partnerships at Hispanic Federation (HF); a non-profit organization seeking to empower and advance Hispanic communities through programs and legislative advocacy. HF's testimony is also informed by our more than 100 New York City community-based organization member agencies.

I am writing to express Hispanic Federation (HF)'s support for the #WHY15 campaign, which addresses the dire need to continue critical City funding to our nonprofit sector. Now more than ever, our organizations are continuing to help navigate resources to long-standing and new members of our communities, providing key essential services impacting our community's daily quality of life. We are also taking this opportunity to reemphasize the need to improve the procurement process for nonprofits to ensure that our organizations are paid in a timely manner following their services.

HF, as an organization dedicated to serving the needs of vulnerable communities across New York City, is witnessing the profound consequences of underfunded and over-stretched organizations that are tirelessly working to meet overwhelming needs within their communities. Recent budget cuts and announcements of cuts have been an unwarranted roller coaster for nonprofits. We have faced unnecessary severe disruptions and distress while being asked to develop and implement financial and programmatic plans with limited information.

Within HF's network of umbrella organizations, we have direct testimonies of the negative impacts that these cuts have had on our communities. To put this into context, I'd like to take the time to share one of many stories from an HF member agency. *I Challenge Myself* provides opportunities for public school students to strengthen their bodies, minds, and spirits through their school-based fitness programs. I Challenge Myself receives roughly 8-10 percent of

funding from the Department of Youth and Community Development's COMPASS Explore program. On January 22, without any previous notification, they were informed that COMPASS Explore contracts would be terminated at the end of the current fiscal year, meaning they received a 100% cut in funding.

The COMPASS Explore program supports two of the organization's Cycling Smarts after-school programs at the High School for Media and Communications in Washington Heights and University Heights High School in the Bronx. Both communities have an overwhelmingly Hispanic-majority population. Bronx county has the highest Latino population proportion in New York and is the poorest county in New York. The need to restore and continue funding our nonprofit sector and local programs like those at I Challenge Myself could not be understated.

Nonprofit organizations touch every vital aspect of daily life - from public education, health and human services, cultural enrichment to language access. That's why Hispanic Federation joins over 300 organizations in the #WHY15 campaign to ask for transparency and inclusion in the City's budget. We call on the city to partner with the nonprofit sector and work toward creative solutions - not hinder us further - to promote the public safety, health, and cleanliness of New York City.

Hispanic Federation was pleased to receive notice of the cancelation of the first proposed cuts from the 15%, however, we understand the budget cycle is not over. We now call on City Council to join us in advocating for:

- Restoration of all cuts to the nonprofit sector
- Have meaningful partnership with the nonprofit sector
- Increased transparency in the budgeting process
- Fixing the years-long contract delays

Thank you for your time and attention to this matter, and we look forward to working together to support the community at large.

Thank you,

Hispanic Federation



Testimony

New York City Council Committee on Contracts
Fiscal Year 2025 Budget Hearing
March 22, 2024

Submitted by:
Michelle Jackson
Executive Director
Human Services Council of NY

Introduction

Good afternoon, Chair Won, and members of the New York City Council Committee on Contracts. My name is Michelle Jackson, and I am the Executive Director at the Human Services Council (HSC), a membership organization representing over 170 human services providers in New York City. HSC serves our membership as a coordinating body, advocate, and intermediary between the human services sector and government. We take on this work so that our members can focus on running their organizations and providing critical direct support to New Yorkers. These are the nonprofits that support our city's children, seniors, those experiencing homelessness, people with disabilities, individuals who are incarcerated or otherwise involved in the justice system, immigrants, and individuals coping with substance abuse and other mental health and behavioral challenges. We strive to help our members better serve their clients by addressing matters such as government procurement practices, disaster preparedness and recovery, government funding, and public policies that impact the sector.

The government has transferred most legally mandated human services for New Yorkers to the nonprofit sector to save on costs. Nonprofits are not just more cost-effective, but also deliver higher quality services than government can alone, by combining government and private resources and being more agile and able to adapt to community needs. But as the sector has stretched to meet community needs, providers are met with chronic delays in payment, underfunding, and a lack of sincere collaboration to create meaningful and lasting interventions, which strips away limited resources. Government reliance on the nonprofit human services sector for a broad range of vital public services has steadily grown over at least the past three decades. During that time, total New York City employment in the core social assistance sector doubled, increasing more than two-and-a-half times as fast as total private sector employment. However, human service workers make between 20-35 percent less in median annual wages and benefits than workers in comparable positions in the public and private sector.

Invest in a 5% COLA for Human Services Workers

We thank the City Council for the \$100M workforce investment for the last two years and the \$50M investment next year, which is a step in fairly compensating frontline workers. However, the workforce investment is not a true cost-of-living adjustment (COLA) with a guaranteed percentage increase for all contracted human services workers. Also, the Workforce

Enhancement Initiative is based on City tax levy funds and not the entire landscape of funding available to the City, including State and federal funds. This is not a fair investment as human services workers deserve full wage increases for the critical services they provide to New Yorkers. A COLA is a significant step to address the historic underfunding and lack of investment in the human services sector as these workers do some of the most important jobs in our communities yet are underpaid and undervalued. As government is the predominant funder of human services through government contracts, this has resulted in nearly 25% of all human services workers qualifying for food stamps in 2016-2018. Low wages also have a sweeping effect on workplace conditions and the outcome of programs, with high staff turnover and vacancy rates resulting in heavy and unsustainable workloads.

According to a fiscal brief by the IBO, if the City provided a COLA matching the DC 37 agreement, the human services sector would need a 16% COLA. However, this does not include the one-time bonus, \$18 minimum wage, or retroactive pay that DC 37 received or the pre-existing wage gaps between human services workers and City employees who do comparable work. Poverty-level wages for City-contracted human services workers not only harm workers but put communities at risk by contributing to staff turnover and program closures. Therefore, we ask that **the City includes a 5% COLA (\$150 million, with \$50 million already allocated from the Workforce Enhancement Initiative) in the FY25 budget and 3% COLAs for the next two years each year on the personal services line of all human services contracts** is needed to ensure this vital workforce does not slip further into poverty.

Transform the Procurement Process

Although the Joint Task Force to Get Nonprofits Paid on Time took on a great effort in creating substantial reforms to address the procurement challenges that nonprofits face, there are still compounding delays in the contracting process that force providers to undertake costly borrowing to make payroll and rents, often accruing interest not covered by government contracts. According to the Comptroller's Annual Summary Contracts Report for FY23, over 72% of human services contracts were registered late. For too long nonprofits have incurred substantial costs for service delivery before they have a legal right to be paid and are often forced to borrow to meet payroll. Interest payments on such borrowings are not reimbursable, except in rare cases, and must therefore be paid from reserves already stretched to the breaking point. Registration delays can be financially ruinous, as services are expected to begin on the first day of a contract, even if the contract has not yet been registered by the relevant agency. These delays not only impact the overall sustainability of human services nonprofits to continue to serve their communities, but also create fears that PEGs will result in cuts to unregistered contracts.

Conclusion

Years of underfunding of the sector have resulted in the human services workforce being some of the lowest compensated workers in New York City's economy. These are workers who do some of the most important jobs in our communities; they take care of our aging neighbors, assist families in staying in their homes, work with people to overcome substance abuse and addiction, and help people from all walks of life in the event of an emergency. Yet despite all of this, they are drastically underpaid. City agencies are not getting a deal by chronically underfunding human services contracts to balance the budget; it is further harming the low wage workers the City relies on to keep these programs running while pushing community-rooted nonprofits into

failure during a time of increased need. It is fundamental to invest in a **5% COLA in the FY25 budget and publicly commit to a 3% COLA in each of the next two years, bringing the full investment in human services workers to 16%.**

Thank you for giving me this opportunity to testify. We greatly value our partnership with you and the City Council and know you stand with us in our call to support the human services sector.

Michelle Jackson
Executive Director
Human Services Council of NY
Jacksonm@humanservicescouncil.org



HOMELESS SERVICES UNITED

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NEW YORK, NY 10018
T 212 967-1569
www.HSUnited.org

Good afternoon - my name is Kristin Miller and I'm proud to serve as the Executive Director of Homeless Services United. Thank you Chair Won and members of the Contracts Committee for allowing me to testify today.

I'm here to represent the thousands of workers - your fellow New Yorkers - who, every day, provide critical, lifesaving services to some of our most vulnerable residents.

I'm here today to represent workers like Carla, an outreach worker at one of our nonprofit member organizations. Carla worked for 7 months with a woman living on 3rd Avenue to try to get her to accept a bed at their Safe Haven program. Her co-worker Michael worked with her for another 6 months to help her move into an apartment in permanent supportive housing. These dedicated staffers work for an organization that is owed tens of millions of dollars by the City of New York for contractual work completed but not paid for. The nonprofit they work for has had to take out loans to make sure that people like Carla and Michael receive their paychecks so that they can support their families. And they have paid \$250,000 in interest for FY24 alone - money they will never recover - paying interest rates that have tripled since 2022.

I wish I could tell you that this is an isolated incident, but this nonpayment issue is widespread and has reached crisis levels. Far too many non-profit homeless support organizations across New York City are struggling because DHS has yet to approve their budgets and new needs, and process amendments for the FY23 and FY24 Workforce Enhancement Initiative (WEI) monies. There is an utter lack of transparency in the process. Many HSU member organizations have not been provided guidance on the amounts of WEI allocated to inform their staff of how much and when they will see this money in their paychecks. These non-profits, the dedicated and compassionate staff they employ and the vulnerable New Yorkers they serve, deserve so much better.

But that's not where it ends. The City's failure to pay these organizations means that they can't pay the vendors and contractors they depend on. Organizations like the small, local contracting business that has a long-standing relationship with our nonprofit to complete minor maintenance repairs on their shelter.

This contractor is owed tens of thousands of dollars for work completed because the nonprofit is owed \$14.4 million from DHS in pending Form 65A packages. This nonprofit has been operating for decades and has never been unable to pay their bills on time. Because of the reputation and mission of this non-profit, and the longstanding relationships they've maintained, the vendor has graciously agreed to continue to do limited work while awaiting payment. But this arrangement is not sustainable and it's patently unfair to the vendor and the non-profit.

While the administration maintains that lack of available housing is the limiting factor for CityFHEPS move-outs from shelter, far too often we hear about cases like Christina, a mother with two children languishing in shelter while her CityFHEPS application is being processed. Christina worked with her housing specialist Jerry to find a viable apartment. After passing preclearance and the walkthrough, Christina worked with Jerry to complete and submit her

packet to DHS. 4 weeks later, HRA returned the packet with requests for additional information/documentation. Over the next 5 weeks, Jerry and Christina go back-and-forth many times collecting new information, updating old information and re-submitting paperwork. Finally, over 3 months later, Christina is approved and able to move into her apartment.

While DHS and HRA staff are dedicated to helping households like Christina's, there's only so many hands to do the work. An analysis by the New York Housing Conference found that DHS' budgeted headcount dropped by 19% (-463 staff) from Nov 2019 to Jan 2024, and HRA by 17% (-2,451 staff) for the same time period. Yet, the DHS shelter system has doubled in size over the past two years. DSS City personnel have clearly not kept up with the demand resulting in payment lag times, delayed move-outs and frustration by all. More staff are needed to process complex paperwork to get the nonprofits and clients the resources they need.

These are just a couple of examples, but there are hundreds of similar situations in which dedicated nonprofits are performing critical services for the city and - plain and simple - are not being paid the money they are owed. Some of the outstanding invoices date back four years. And while we're talking about non-profits, vendors and city agencies, it is so important not to lose sight of the fact that there are workers, business owners and families that are being profoundly damaged because the City is unable to fulfill its obligation to people and organizations that have acted in good faith and performed services for which they were contracted. In fact, they continue to perform those services.

According to an analysis of contract data in Passport Public by SeaChange Capital Partners, from FY20 to FY24, **homeless services non-profits provided an estimated \$1 billion worth of services for the Department of Homeless Services through 346 new DHS contracts (excluding amendments and discretionary items) prior to contract registration, with 84% of contracts registered late - an average of 104 days after the contract start date.**

At the 3/11/24 General Welfare Budget Hearing, Commissioner Park testified that all but one FY24 DHS contracts were registered, **almost 9 months after the start of the fiscal year.** While this is an improvement from prior years, contract registration is only an initial step in the city reimbursement process. Nonprofits still must obtain an approved budget and then submit past invoices and Form 65As for approval to be able to start drawing down money. Providers are experiencing delays in all steps of this process.

Further complicating this issue is the recent migration from HHS Accelerator to PassPort, with providers reporting delays in budgets being migrated over and errors in the migrated contracts, preventing one provider from billing for \$4M worth of expenses. Now providers are seeing **"Invoices Approval in Progress"** for weeks with no explanation and holding up payments.

These contract delays impact services. A delayed FY24 street outreach contract meant the provider didn't have an approved budget to know how many staff they would be approved to hire, further complicated by being tasked to cut their personnel lines to achieve the September 2023 2.5% DHS PEG. As a result, the provider had to take a conservative tack to avoid a budget overage, resulting in higher caseloads, spreading staff thinner to meet the need.

Even after getting approved budgets, delays with DHS budget amendments and new need requests results in providers being owed significant amounts and left carrying those costs for years in some cases.

- One provider is owed \$8M in unregistered contract amendments for Indirect Cost Rate (ICR) increases
- Another provider is waiting for DHS to enter amendments totaling \$3.5M in *approved* new needs requests from FY21-FY24, and an additional \$3.5M in pending new needs, some as old as FY20.
- Another provider is waiting for budget amendments for FY21-23 ICR increases and approved Form 65As. Combined with pending FY24 Form 65As, the provider is owed approximately \$10M. Another provider is owed \$14.4 million in Form 65As alone.
- Another provider is still unable to close out an FY19 contract because of unregistered amendments.
- Another provider is paying \$40,000 *per month* in interest alone for their line of credit in order to have working capital because of lack of payments from the City.

Nonprofits are providing their contracted services while they wait for their contracts to be registered because these mission-driven organizations know people experiencing homelessness are in dire need of assistance. They know the people of NYC are depending on them to deliver the services.

The Administration must move with all due urgency to enable DHS, HRA and DSS to eliminate the backlog and promptly pay contracted providers, **including fully staffing up DSS and DHS Budget and Finance positions to establish sustainable caseloads, and establishing corrective action plans to address backlogs of contract and amendment registrations, Form 65A subcontractor approvals, and invoice reimbursements.** Solutions should include **assembling rapid response teams to assist providers with invoicing backlogs,** regulating the process for Form 65A subcontractor approvals to ensure timely throughput to approvals, and committing to a payment floor of at least 80% of the contract value.

Contracting and payment delays are effectively strangling cashflow for nonprofit providers. Lacking the ability to reliably predict when the City will register contracts and pay invoices, experienced non-profit providers are weighing whether to answer DHS' call to stand up new programs given the growing financial risk of doing business with the City.

These organizations play a critical role in the City's approach to addressing the challenges of its homeless residents. Yet, organizations can be owed up to \$31m from the City, money they must find through lines of credit in order to pay for day-to-day operations. And they must pay interest on these lines of credit. Nonprofits are reporting ranges of \$170,000 to \$1million in *annual interest alone.*

The commissioner of the Department of Social Services, which includes the Department of Homeless Services, says in two years, the city's shelter system doubled to about 88,000 people.

According to the mayor's preliminary management report, from July through October of 2023, the number of people in the city's shelter system increased by 53%, compared to the same period in 2022.

An increase in people served requires an increase in people power, yet the Mayor and OMB have NOT come near increasing staff across DSS to meet the new demand and we are suffering for it.

The Administration must resolve these delays which are diminishing services for New Yorkers experiencing the trauma of homelessness, undervaluing the work of our dedicated and heroic staff, and short-changing the hard work performed by these agencies.

Minimally, and immediately, the City must deploy a Rapid Response Team to immediately address the current backlog and the Administration must pay these non-profit organizations what they are owed. The idea of agencies performing critical services on behalf of the City of New York, and not getting paid for up to four years, is unfathomable. The fact that these agencies are still functioning and providing services, is a credit to their leadership and the dedication of their respective staffs. We know that many of them have reached the point where they are seriously considering not accepting City contracts in favor of state and federal contracts that pay on time and at levels that reflect the importance of their work and the value of their services.

The City must also drastically reform its procurement and payment process. Additional staff, updated technology, increased efficiency and transparency, and a streamlined process that eliminates burden and barriers is needed. Timing is of the essence. We are now 14 weeks from July 1st and providers do not have guidance on how to submit their FY25 budgets for approval. We fear we will be in the same situation, or worse, come this time next year.

City Contracts must pay the true cost of services being provided through the terms of the contracts. Experienced, reputable non-profits are choosing to move away from contracting with DHS in favor of State and Federal contracts because the service dollars are insufficient for the work being provided. The City must stop starving non-profits with flat-funded contracts which do not keep pace with the actual cost of services rendered.

We know these changes are possible. The Administration recently received permission from the Law Department and the Comptroller to fast-track contracts for DSS' new housing development initiative.

We applaud the effort to more quickly bring permanent housing online so that our members have more access to this precious resource for their clients. But, it shines a glaring light on the emergency need to pay DHS' contract providers so they can continue to provide quality services to the tens of thousands of New Yorkers experiencing homelessness today.

Despite these crisis-level challenges, our non-profit agencies and their dedicated staff continue to deliver quality services to the tens of thousands of homeless New Yorkers they serve every day. But it has come at a tremendous cost that isn't just measured financially. Agency leaders report exhaustion, mental anguish and increased turnover among their employees. Their dedication and commitment is amazing...but it doesn't pay their bills or support their families.

We need action now!

Thank you for the opportunity to testify. If you have any questions, please contact me at kmiller@hsunited.org

March 21, 2024

Hayden Brockett
Founding Member
New York Clean Air Collective

As the father of two children, proud owner of an adorable dog, and thus a daily user of New York City's amazing parks, I write to OPPOSE Mayor Adams's budget cuts that will hurt our City's parks and devastate the lives and livelihoods of city workers. I fully support the efforts of the New York League of Conservation Voters and Play Fair for Parks Coalition to ensure that the City spends AT LEAST one percent of its budget on park funding. Anything less is unacceptable.

I also write as a member of the New York Clean Air Collective ("NYCAC"), which is a non-profit organization dedicated to protecting New Yorkers' right to enjoy clean air, including through helping participants in the Citizens Air Complaint Program. We work to combat environmental racism and to mitigate the causes and effects of climate change, especially around schools and in and beside New York's parks.

Today, I want to highlight the importance of clean air in and around our parks. **New York's parks are the lungs of our city! But air pollution kills. It makes people sicker, and it reduces life expectancy.** Only in green spaces that are separate from deadly traffic and pollution can New York's children play safely. The City Council recently passed Local Law 58 (Intro. 606), which expanded the Air Code's one-minute ban on illegal idling to include parks. The NYCAC applauds the Council's commitment to protecting clean air, but it must follow up with action!

Unfortunately, right now, parks and green spaces are not equitably accessible to all. Low-income communities and communities of color face many barriers to accessing public green spaces. These barriers, created largely by systemic racism, have a long history in NYC and have exacerbated health disparities. Over time, they have manifested in many forms, yet when examined together they reveal a clear pattern of environmental injustice (source: [WE ACT for Environmental Justice](#) and [Trust for Public Land](#))

Historically, economically marginalized communities and communities of color are among the worst affected by vehicular pollution. An analysis from the Union of Concerned Scientists reports that minority communities in New York inequitably bear the burden of the highest exposure to these toxic transportation emissions. That analysis finds Asian Americans, people of Latin or Hispanic

descent, and African American New Yorkers are exposed to higher levels of PM2.5 pollution from cars, trucks, and buses than white New Yorkers. Incredibly, Asian American residents are exposed to twice as much PM2.5 pollution as white residents. New Yorkers of Latin or Hispanic descent are exposed to 81 percent more vehicle pollution than white residents, and African American residents to 72 percent more. *See* <https://www.ucsusa.org/sites/default/files/attach/2019/06/Inequitable-Exposure-to-Vehicle-Pollution-NY.pdf>.

In addition, New Yorkers in low-income communities of color have fewer park [conservancies or private funding](#) to help maintain open spaces, and have [33.5% less park space per person within a 10-minute walk](#) compared to white communities. Inadequate funding for the Department of Parks and Recreation disproportionately already disadvantaged communities.

We need additional funding to keep our parks safe, open, and well-maintained. The Council must reject Mayor Adams’s budget cuts and spend AT LEAST one percent of the budget on parks.

As the Council has recognized in passing Local Law 58 last session, the air around and in our parks must be clean. Otherwise, we will only be letting our children out to be poisoned while they play. That is why the NYCAC stands ready to support and expand the Citizens Air Complaint Program, which is the City’s primary enforcement mechanism for the Air Code, which protects our parks. This program is also the most successful citizen environmental program in the world! In 2023, citizens submitted 82,615 complaints for idling in New York. These complaints resulted in \$38 million in deterrent penalties imposed, up from approximately \$8 million in 2022.

Unfortunately, the proposed budget cuts could compromise the protections for parks—where New Yorkers seek to find a refuge from noise and pollution. In addition to restoring funding for parks, the Council should urgently pass Intro 291, which increases the penalties on companies that let their trucks or buses illegally idle their engines in New York. While we have a great set of idling laws, which are helping clean up our air, the penalties are too low. That means big companies like ConEd, Verizon, and Amazon just pay the fines as a cost of doing business—but don't shut off their engines. Intro 291 will fix this by making the penalties have real teeth to stop illegal idling in and around our parks.

The Council must protect our children, environment, and our parks by reversing the Mayor’s budget cuts, spending one percent of the budget on parks, and by strengthening and fully enforcing the laws against air pollution in our parks.

Testimony for New York City Council Committee on Contracts

Julie Won, Chair
Friday, March 22, 2024
by

Paula Magnus, Deputy Director of Northside Center for Child Development,
Inc.

Good afternoon, Chair Won & Committee

My Name is Paula Magnus, Deputy Director of
Northside Center for Child Development, Inc.

Congratulations on the addition to your family!!

Thank you for your diligence in moving the contracting system forward in a positive direction...as there is so much to do!!!

Northside's behavioral health and education programs serve 700 children a day in three boroughs. As a non-profit organization with over 78 years of service with history based in the Harlem Community, In FY 18 to FY 23, Northside's operating financial position on an average carries a deficit added with the obstacles of underfunding, delays in payments and budget modification being rejected for immaterial reasons.... puts our Agency in harm's way of not being able to survive. We cannot have the City's mental health providers risking insolvency while a JAMA Health Forum is reporting that 38% more people are in mental health care since the onset of the pandemic than before.¹

With mental health and education professionals in short supply, the City must increase reimbursement rates to Social Service providers, and thus, keep us solvent.... with contracts going through the system without added administrative burden. Then, we will have at least the agreed upon funding to attract and retain top talent to serve the City's at-risk children and families. If the City does not move these contracts forward quicker as well as increase this funding going forward, the mental health crisis will likely yield even more tragic consequences than we've seen. We need a mentally healthy workforce to keep the City running.

¹ <https://www.pewtrusts.org/en/trend/archive/fall-2023/americas-mental-health-crisis>

The City's insolvency inducing low rates are made worse by the City often taking six months or more to register contracts (pay too low and too late). So, at the start of each fiscal year, for several months, cash crunched Social Service providers like Northside who are taking care of the City's most at-risk children and families – with not enough funds from the City to pay for these services.

My written testimony details six bugs in Passport that slow down contract registration and suggests solutions to these bugs. Likewise, getting budget modifications approved has repeated patterns that delay funding. After budget modifications are submitted, City Agencies ask too many presumably foreseeable follow-up questions. The city should organize the information requested at that point and request it up front.

Also, after Step 1, MOCS publishes indirect rates that were approved by our auditors and, Step 2, we prepare budgets, Step 3, Different City agencies advise us of different indirect rates that they would allow us....which is always lower than the approved MOCS rate...and even when we provide the different city agencies the approved indirect rate...they will **only allow us** to use the lower amount they accept, not fair based on the indirect cost rate initiative, and we must revise the budget modifications...(and as stated before in the other testimonies, if there is something held up on one budget line ...it holds up the Agency's movement of all other paperwork)....which goes on for weeks...we answer a question....they ask another question....slowing the process.

MOCs must get us the correct number up front, and the various City Departments should work together and agree with those dollars, especially the Indirect cost rates (ICR).

It has taken Northside up to 4 years for a capital contract to be registered and another one is in the process of heading to 5 years, as it appears some funding had to be found about a month ago ...as it wasn't 'encumbered' ...money set aside...and we are now being told they have 90 days from February 16, 2024 to process the check, so we hope to receive that by May 16, 2024, we shall see.

Maybe if you have one of our Agencies assist you...working with the internal City staff and the agency can report to you the steps that were

taken to correct the issues step by step so you can really see what is happening, Northside is willing to assist!

We thank Chairperson Won, Council Members on the Committee on Contracts, and your staff members for conducting this hearing and for considering this testimony.

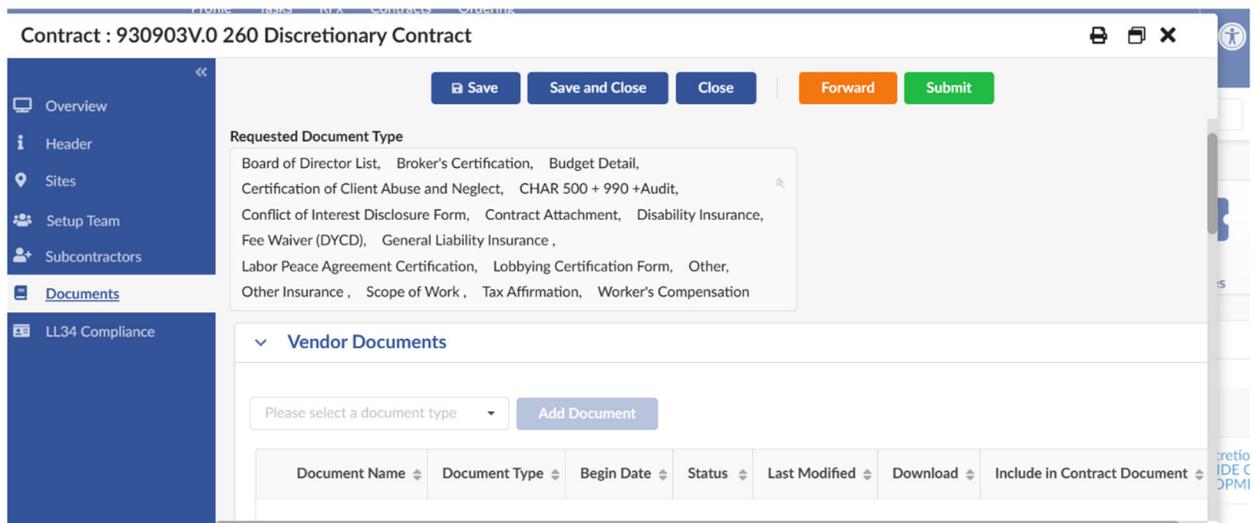
PLEASE SEE THE DISCUSSION ON THE NEXT PAGE, WHICH DETAILS SIX TIME CONSUMING BUGS IN PASSPORT AND SUGGESTS SOLUTIONS.

Regarding the City's Passport database, the text below details six-time consuming bugs in Passport and suggests ways to either eliminate these time-consuming bugs and/or improve Passport's usefulness.

1. **Re the "Add Document" icon:** As shown in Screenshot 1 below, the "Submit" icon is bright green because the contract is not yet registered. But the "Add Document" icon is greyed out, so documents still due cannot be uploaded.

We see no reason why vendors should not be able to upload documents before a contract is registered. We suggest that the "Add Document" icon should stay green and available until a contract is registered.

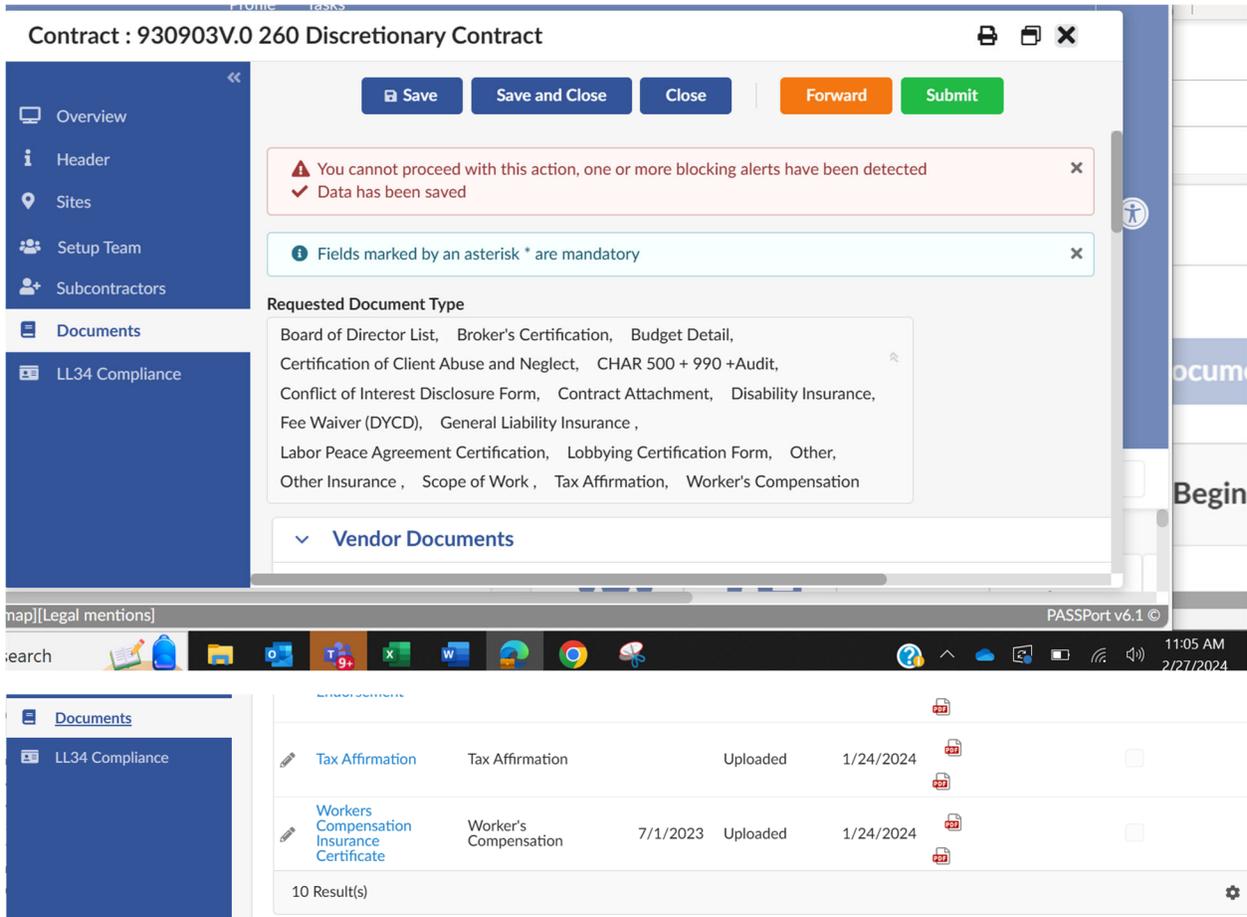
SCREEN SHOT 1: THE PREMATURELY GREYED OUT ADD DOCUMENT ICON:



2. **Re the "submit" icon in Screen Shot 2:** Although a review of the 17 required documents versus the ten documents already uploaded shows that a handful of the requested documents **are not yet uploaded**, the **"Submit"** icon is green and good to go, but, regardless of the Submit button

being available, the contract cannot be submitted and isn't good to go. Now, we believe that when a *uniformed* vendor (more on that later) clicks the submit icon, they then see blocking alerts but can no longer upload documents. We suggest that the "Submit" icon should not go live, or be lit up green, until all documents due are submitted. And, when Documents are outstanding, clicking the "Submit" icon should not trigger foreclosing the vendors ability to upload documents.

SCREENSHOT 2: THE PREMATURE GREEN SUBMIT ICON:



3. Re uninformative "Blocking Alerts"

We note that *on the City's expense applications, there's an icon that says "Review My Application," and when you click it, it helpfully shows data fields left blank that need to be completed before submission.* We suggest that the City add that feature to Passport, because, as shown in screen shot 2, after a vendor submits, **uninformative "Blocking Alerts" in Screen Shot 3** tell the vendor nothing about what triggered the blocking alerts, who to contact to resolve them, or what to do. We suggest that there shouldn't be blocking alerts at all, but instead, hitting a "Review My Application" Icon should trigger on screen instructions that will show any missing documents and/or who needs to take what action next, a City Government official or Vendor Staff. That data field should say the who must act next and what the action is.

SCREEN SHOT 3: BLOCKING ALERTS THAT TELL NOTHING ABOUT WHAT THE BLOCK IS

The screenshot shows a web application interface for a contract record. The title bar reads "Contract : 930903V.0 260 Discretionary Contract". Below the title bar, there are navigation icons (back, refresh, star) and a search bar. A sidebar on the left contains menu items: Overview, Header, Sites, and Setup Team. The main content area has buttons for "Save", "Save and Close", "Forward", and "Submit". Two alert boxes are visible: a red one with a warning icon stating "You cannot proceed with this action, one or more blocking alerts have been detected" and a green one with a checkmark stating "Data has been saved". A blue information box at the bottom states "Fields marked by an asterisk * are mandatory".

4. Re the presence of “Contract Name” on Passport Contract Documents, but no Contract Name” field in Passport’s Overview or Header screens.

As shown in Screen Shot 4, the City’s “Labor Peace Attestation” asks for a the “Contract Name.” But as shown in Screen Shots 5 and 6, neither Passport’s Overview screen nor its Header screen provide a “Contract Name” for the Contact the City generated. We suggest that the City add a “Contract Name” data field to both Passport’s Overview and the Header fields, or better, that the two fields should be consolidated with the one Overview data field showing the contract name.

SCREEN SHOT 4: THE CONTACT’S NAME DATA FIELD ON A DOCUMENTS PASSPPORT ITSELF REQUIRES

The screenshot shows the header of a document titled "Labor Peace Agreement Attestation" with the subtitle "Pursuant to NYC Admin. Code § 6-145(b)". The NYC logo is on the left. Below the title, there are two fields: "Contract Name: CT1-816-20248805107 - 816 Discretionary Contract" and "E-PIN#: 81624L0266001".

5. Re the absence of a “Contract Deliverables” Data Field. In Screen Shots 5 and 6 (as above, the Overview and Header fields), there is no data field that states what is being delivered by the Vendor. The contract captured in those two Screen Shots is for an After School and Summer Program. We suggest that the database would be more transparent and useful to City Employees and vendors if both the Overview and Header fields had a “Deliverables” data field.

SCREEN SHOT 5: THE OVERVIEW DATA FIELD HAS NO CONTACT NAME DATA FIELD

Contract : 930903V.0 260 Discretionary Contract

Save Save and Close Close Forward Submit

Overview

Header

Sites

Setup Team

Subcontractors

Documents

LL34 Compliance

Vendor

NORTHSIDE CENTER FOR CHILD DEVELOPMENT INC
131656679

393,750.00

Contracting Agency

DEPARTMENT OF YOUTH AND COMMUNITY DEVELOPMENT

FMS Contract Type

General Contract (CT1)

Source

Bulk

Contract Status

In Progress

Contract EPIN

26024L0924001

Start Date

7/1/2023

End Date

6/30/2026

SCREENSHOT 6: THE HEADER DATA FIELD HAS NO CONTRACT NAME DATA FIELD

Contract : 930903V.0 260 Discretionary Contract

Save Save and Close Close Forward Submit

Overview

Header

Sites

Setup Team

Subcontractors

Documents

LL34 Compliance

Contract Header

Contract Status

In Progress

Source

Bulk

Procurement Method

Line Item Appropriation

Contract ID

Contract EPIN

26024L0924001

Vendor

NORTHSIDE CENTER FOR CHILD DEVELOPMENT INC
131656679

Contract Description

Contract Purpose:

Contract Description:

FY24-26 Discretionary Award Multiyear Contract - City Council funding for three fiscal years is not guaranteed. Contract amount reflects maximum reimbursable amount under the contract term and is based on FY23 funding (status as previous awardee). All funding is at the discretion of the City Council and contingent on award clearance.

- The contract EPIN is a helpful, but underutilized designation. We suggest that the City encourage (require?) all City Agencies to include contact Epins in the subject line in all internal and external emails regarding specific contracts and atop all contract documents.

We believe the issues addressed above cost the City and the City’s vendors valuable time that ultimately costs the City - - and that the solutions suggested above might fully solve these issues.

I hope these suggestions are helpful to the City and its vendors.

- i Header**
- Sites
- Setup Team
- Subcontractors
- Documents
- LL34 Compliance

Filed

Contracting Agency
DEPARTMENT OF YOUTH AND COMMUNITY DEVELOPMENT

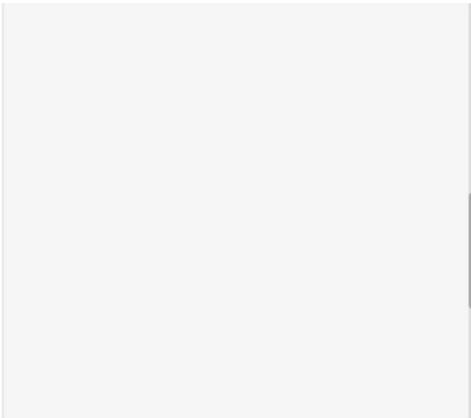
Division
City Council Discretionary

Industry
Human/Client Service

Commodities
175 - General Human Services

Start Date
7/1/2023

End Date
6/30/2026





**New York City Council
Committee on Contracts
Fiscal 2025 Preliminary Budget Hearing
Joint Testimony of NYC Legal Service Providers**

Presented on March 22, 2024 by:

Lauren Siciliano, Chief Operating Officer, Legal Aid Society
David Ruan, Chief Financial Officer, Brooklyn Legal Services Corporation A
Lisa Rivera, Chief Executive Officer, New York Legal Assistance Group
Greg Klemm, Chief Financial Officer, Legal Services NYC
Wesley Caines, Interim Executive Director, Bronx Defenders

I. Introduction

We are New York City’s legal service providers. Collectively, we provide constitutionally and statutorily mandated legal representation to hundreds of thousands of New Yorkers each year. We employ thousands of dedicated lawyers, social workers, investigators, paralegals, advocates, organizers, and administrative professionals who provide essential services to support our communities. We defend people against incarceration, deportation, eviction, and family separation. We connect people to lifesaving benefits, housing, food, job training, substance and mental health support, and educational opportunities. We are a lifeline for low-income New Yorkers in need.

The services we provide are supported by City initiatives and funding. The City funds we receive, including through baseline and discretionary contracts, the Indirect Cost Rate initiative, and the recent Workforce Enhancement Initiative, are essential for us to continue to deliver these vital services. Without these funds, we will not be able to hire and retain the attorneys, paralegals, investigators, social workers, and other staff critical to meeting that commitment.

We are grateful to the City and the Council for their ongoing commitment to our work, including the recently announced COLA increases. We are proud providers of many of the City’s hallmark innovative programming like Right to Counsel in Housing Court, the New York Immigrant Family Unity Project, and interdisciplinary Criminal and Parental Representation. For decades, the City has led the way in improving access to services for vulnerable New Yorkers on a range of issues. Despite these investments, legal services providers have reached a tipping point and our programs, and our operations are in jeopardy. Chronic underfunding and contract and payment delays threaten our ability to provide high-quality advocacy for our clients, retain staff, and respond to the ever-increasing need in the community.

Simply put, the City’s system of funding and contracting with nonprofit legal service providers is broken. But it can be fixed. To ensure New Yorkers have access to the services they deserve, systemic changes in contracting and payment processes are needed. This includes setting new protocols to confirm funding amounts and ensure timely registration of contracts and prompt payments. It includes expeditiously issuing RFPs when previous contract terms approach expiration and/or initiating contract extensions to bridge an expiring contract term when necessary to avoid a lapse in services and funding, wreaking havoc on providers and the communities we serve.

Why is this important? Because without a registered contract or extension, the City is not able to pay providers for the work they complete, revenue that we rely on to meet payroll and pay for healthcare, rent, and other essential needs. For example, as of today, the Legal Aid Society alone has more than \$70M in baseline City contracts that are not yet registered for FY25, and most have not even begun the extension process. When contracts and extensions are not registered on time, we continue to pay our staff to provide services to New Yorkers in need, even though we cannot access advances on those contracts or receive payment for services delivered.

Providers like us start at an extraordinary disadvantage. While City agencies, including the City Law Department and district attorneys, receive additional funding for collective bargaining, healthcare cost increases, and utility and space cost increases, providers like us do not. This means that when baseline contracts remain flat, our funding is effectively cut. And then, when payments are delayed and we therefore can’t spend all the funds in a single year because we don’t know how much we’ll be receiving or we can’t front the funds, the City keeps whatever we don’t spend, effectively cutting our funding even further.

II. RFPs to Registration

The starting point for the contracting crisis is the City’s Request for Proposals process. Despite having ample notice of when a contract term is set to expire and years to prepare for the RFP process, the City routinely fails to issue RFPs in a timely manner. Without knowing whether our contracts will be renewed, for how long, and how much funding will be allocated to our organizations and for what services, it is nearly impossible to function. While the City can and does extend existing contracts through the Negotiated Acquisition Extension (NAE) process, these extensions only last for a maximum of one year and do little to mitigate the problem. Furthermore, the City often delays the issuance of even the NAE adding to the uncertainty of the coming year and compounding the instability felt by providers soon approaching a potential loss of funding and staffing as a result.

Even once an award has been made, it can take months to get the new contract or amendment issued and registered, creating further disruption, confusion, and uncertainty. This creates a gap in funding that we are forced to try to fill using other limited dollars or high-interest loans so we can make payroll. When the City forces us to front costs before a contract is registered, the provider makes what is, in effect, an interest-free loan to the City. If we can't fill that gap, these delays amount to a covert cut in funding because providers must leave money on the table because they cannot front funding in anticipation of City disbursements.

For example, the Right to Counsel (RTC) and Anti-Harassment Tenant Protection (AHTP) programs represent \$179M per year in programs with contracts that expire on June 30, 2024. While responses to the Requests for Proposals (called "RFXs" in these instances) for continued funding for these programs were due by December 1, 2023, new contracts for these programs have not been negotiated.

The terms of these contracts have historically involved complicated and extended negotiations. So, even if the City started talking to providers about the particulars of the contracts now, that negotiation process takes time. For example, when these contracts were renewed last year under the NAE process, that alone took over 3 months to complete. The only way to ensure all this can happen at this late stage is for the City to work now with the provider community to enter into contract extensions for FY 25. That extension process needs to begin immediately to be completed before the end of June. These extensions include the \$20M in additional baselined Right to Counsel funding that the Council fought hard to add in FY24.

The Criminal Appeals contracts through MOCJ, an approximately \$50M program, are in a similar situation. Those contracts also expire June 30, 2024, but no extensions have yet been initiated.

We ask for your support for the immediate implementation and registration of extensions for any expiring contracts that do not have executed FY25 contracts. Without these registered extensions, the City will not be able to pay providers for the work they complete beginning July 1.

III. Amendments

The allowance clause amendments, which allow amendments to be processed up to 25% of the base value of the contract without requiring registration, are absolutely a step in the right direction. This was a much-needed change that has improved the amendments process, but fundamental issues remain.

For example, many providers received late last year or still have not received confirmation from City agencies of their Indirect Cost Rate (ICR) amendment funding for Fiscal Year 2023, which ended June 30, 2023. This is a major City initiative that provides critical funding to cover essential administrative costs that providers need to keep operations running. It required an extensive application process in the summer of 2022 to receive an indirect cost rate approval, but actual funding amounts are in many cases confirmed months after the fiscal year has already ended.

Similar challenges occur when additional funding is announced late in the year. We are very excited about the City's Workforce Enhancement Initiative (WEI), which has provided additional funding for staff salaries. We were pleased to hear that the City is expanding this program in FY24. However, we did not receive notice of the expansion until February, eight months into the fiscal year. And while some providers have received confirmation of the amount of WEI funding they will receive on their contracts, others have not. Also, not every city contract benefitted from WEI and there was lack of clarity as to which contracts would be provided this enhancement in funding. Without notice of the amounts or any timeline on when payment will be received, many providers find it difficult or impossible to use this funding, and the City keeps the underspends.

Additionally, WEI remains too restrictive as the increases do not flow down to subcontracting legal services providers performing on the exact same contract terms as the lead contracting organizations. Thus, the subcontracting providers are barred from receiving any funds meant to increase payment for staff salaries. This WEI restriction needs to be lifted to ensure all the provider community sees the benefit of this initiative.

Once funding amounts are confirmed, there are still significant hurdles to get to contract registration. Detailed budgets and budget narratives are required for each contract and amendment. The narrative requires a line-by-line explanation of every budget item. Contracts are regularly returned for revision for insufficient explanation of line items in the budget narrative. In one instance, MOCJ returned a budget for revision because the description of "office supplies" was not sufficiently detailed to explain how these supplies supported the work

In addition, because of the lack of flexibility in our contracts, each amendment can generally be used for very specific purposes. These restrictions, combined with the delays, make it even less likely that providers will be able to take advantage of the funding in their contracts.

IV. Invoicing, Payment, and PASSPort

Final registration of our contracts – often months and years after the work has been completed – does not end the difficulties with receipt of payment. Indeed, it merely sets the stage for the next layer of challenges. It involves detailed line-item reviews that require pages of information and record keeping to meet extremely detailed and often shifting requirements, often dating back multiple years due to the delay in contract registration. Once registered, budget modifications often can then take weeks or months to receive approval as costs and needs understandably shift throughout the year. Also, the requirement on some of us that we may only submit invoices for budgeted staff and are required to do budget modifications for staffing changes throughout the year creates additional burdens and delays.

This year, providers have had even greater challenges receiving payment due to the City's system change from HHS Accelerator to PASSPort. For weeks to months, many providers could not submit invoices or receive payment for services delivered. This has created enormous cash flow issues, putting in jeopardy our ability to pay our staff, healthcare, rent, subcontractors, and vendors. This has required extended borrowing on lines of credit, payment of related interest costs, and at some organizations, Legal Services NYC in particular, obtaining advances from

other funders so that we can meet the obligations on City contracts and address cash-flow challenges. All of this happened on top of late contract registrations and payments from prior fiscal years that have still not taken place and were further delayed by this system change. The system change was done without input or testing from non-profit providers and at the absolute worst moment, as we are about to enter the 4th quarter of the fiscal year and are the furthest away from the advances received at the start of the fiscal in July. Moreover, there was little to no communication as to when the invoicing issues were going to be addressed, creating further confusion and financial strain.

There have now been changes to address many of these challenges including additional advances and fixes to be able to submit invoices, and we are grateful for those changes. But there are still contracts that are not yet open for invoice submission. We need clear timelines on when the remaining system issues will be fixed.

V. Recommendations

This administration has committed to making substantial reforms to support non-profits like us that provide essential services to millions of New Yorkers each year. These contracting issues directly undermine that effort by preventing timely payment to non-profits for services delivered and threaten the ability of non-profits to continue providing these critical services. We therefore submit the following recommendations:

Delays

- Immediately implement and register extensions for any expiring contracts that do not have executed FY25 contracts so providers can receive payment for the services they deliver at the beginning of the fiscal year and avoid the enormous delays in registering non-profit contracts.
- Increase the standard advance at the beginning of the fiscal year from 25% to 50% to help address delays in the invoicing process.
- Provide advances of up to 50% of the ICR initiative amount based on prior year's indirect cost rate.
- Create timeframes for each step of the contracting and procurement process prior to the Comptroller. Create a dashboard with detailed information so organizations can see exactly where their contract is in the registration process. Registrations sit in limbo with the designation "in progress" for far too long with little to no explanation.
- Implement longer contract terms for baseline contracts.
- Increase funding for the Renewable Grant Fund so that it can cover the operating costs of an organization's program not just for a pay cycle but for the entire length of time it takes to get a contract registered.
- Provide Bridge Loans from the renewable grant fund at multiple stages in the process so organizations can meet their cash shortfall when the City is behind on their procurement processes.
- Require the City to cover the interest incurred on a loan or a line of credit, or at a minimum allow organizations to invoice the City for those expenses as part of their contracts.

Invoicing, Payment, and PASSPort

- Provide clear timelines on when remaining system issues will be fixed.
- Streamline invoice review and budget modification approval processes and follow the 7/7/7 payment process whereby invoices are approved for payment within 7 days.
- Not require budget modifications for staffing changes.
- Create different levels of oversight and review, including greater flexibility for organizations with an established history of fiscal responsibility.

List of organizations:

Brooklyn Defender Services

Brooklyn Legal Services Corp. A

Bronx Defenders

Catholic Migration Services

Goddard Riverside Law Project

Legal Aid Society

Legal Services NYC

Mobilization for Justice (MFJ)

NMIC

NYLAG

New York Lawyers for the Public Interest

Take Root Justice

Urban Justice Center



Committee on Contracts
Preliminary Budget Hearing - Contracts
Support for Contracting Reform

TO: Committee on Contracts (Julie Won, Chair, and Members: Erik D. Bottcher, Sandy Nurse, Althea V. Stevens and Inna Vernikov)

FROM: Ariane Cruz, Philanthropy New York

DATE: March 22, 2024

SUBJECT: Philanthropy New York Supports Streamlining Contract Process for Nonprofits

Good afternoon, Chair Won, and esteemed members of the Committee on Contracts.

My name is Ariane Cruz, Manager of Public Policy and Collaboration at Philanthropy New York (PNY). We are submitting a testimony to express our strong support for recommendations aimed at streamlining and improving New York City's contracting process for nonprofits. We applaud the City Council's leadership in negotiating and, ultimately, reversing the decades-long divestments in human services workers by securing COLA increases over the next three years. We believe this is a huge win for the stability of the sector. However, we are confident that streamlining or removing various unnecessary administrative hurdles imposed by city agencies on nonprofits will enhance New York City's nonprofit ecosystem even further, thus effectively bolstering our support for communities.

Philanthropy New York is a membership organization of nearly 300 grantmaking institutions within the New York City metropolitan area and over 5,000 engaged community funders in a range of roles within those institutions. Collectively, our members contribute over \$7 billion in grants annually. We unite funders from diverse sectors to tackle sector-specific challenges, exchange insights, and cultivate essential skills to enhance the impact of every grantmaker and the philanthropic community at large. PNY's values, encompassing learning, leadership, community, and equity, shape our decisions, driving our commitment to assist our membership in striving towards a society that is more equitable and democratic.

We firmly believe that supporting our members' philanthropic efforts must include fostering an ecosystem where the nonprofit partners they support can flourish. Beyond the vital funding our members offer to New York nonprofits, we recognize that government funding and contracts are integral to the resource pool necessary for nonprofits to carry out their crucial missions. Through our policy work, we actively endorse initiatives such as those highlighted in the report, "Strengthening NYC Nonprofits by Reducing Administrative Burden," authored by the Center for the Urban Future and published last year. Implementing the strategies outlined in this report would significantly enhance an inefficient contracting process, ensuring that crucial government and philanthropic funds are optimally utilized to benefit everyday New Yorkers and the nonprofits delivering essential services.



We have received firsthand accounts from our nonprofit and philanthropic partners detailing the detrimental effects of delayed payments and stalled contracts, which have left a devastating impact on nonprofits and their staff. These organizations have been compelled to make agonizing decisions: either implement layoffs, slash employee wages, or forego crucial services to remain operational. Most distressingly, some longstanding nonprofits, which have been indispensable to their communities for generations, are being forced to close their doors. This exacerbates an already pressing situation as New York faces widespread mental health crises, an influx of new New Yorkers, and an increasing demand for food and shelter. This creates a substantial void in the social safety net for New Yorkers who depend on these essential services.

Throughout 2023, PNY championed a stronger nonprofit sector through various initiatives. We partnered with Human Services Council and Nonprofit New York, advocated for federal support for a stronger national nonprofit sector, and facilitated cross-sector collaboration. These combined efforts demonstrate PNY's unwavering commitment to a robust nonprofit sector that effectively serves New Yorkers and maximizes philanthropic investments.

PNY believes timely contract registration and payments are critical to an organization's success and a fundamental obligation of a government that outsources crucial services. Late payments often force philanthropic dollars to act as a backstop, hindering investments in strengthening interventions and building capacity. Prioritizing on-time and in-full payments benefits not only nonprofits but also the communities they serve. Reforming the contracting and payment process provides the stability needed to ensure quality social services and empowers BIPOC-led nonprofits to sustainably serve their communities.

PNY urges the Committee to prioritize recommendations that improve the contracting process for nonprofits and ensure they get paid in-full and on-time. This reform will create a more equitable and efficient system, allowing these crucial organizations to focus on what matters most: serving all New Yorkers.

Thank you for your time and consideration.



Testimony before the New York City Council
Committee on Contracts
March 22, 2024

Eric Rosenbaum, President & CEO
Project Renewal

Project Renewal's mission is to end the cycle of homelessness by empowering individuals and families to renew their lives with health, homes, and jobs.

www.projectrenewal.org

My name is Eric Rosenbaum and I am the President and CEO of Project Renewal, a New York City homeless services nonprofit agency.

For more than 55 years, Project Renewal has provided shelter, housing, health care, and employment services to hundreds of thousands of New Yorkers experiencing homelessness. Thank you to Chair Won and the Committee on Contracts for convening this hearing, and to the entire City Council for its support of our programs.

It is no secret that the City's complex procurement system has led to delayed payments to nonprofits for decades, across many administrations. We are grateful for the City's recent efforts to clear the backlog of late payments, register contracts in a timely manner, and continue to improve the process.

Nevertheless, delayed cash flow is a significant impediment for nonprofits, placing undue burden on providers like us and interfering with the delivery of critical services. The City owes Project Renewal approximately \$40 million. We were provided as much as \$32 million in advances early in the fiscal year, but they are now being recouped, so we now have a \$20 million gap. The cycle of advances and repayment is constantly changing—our gap was only \$9 million a month ago—which poses tremendous challenges for nonprofits, especially when you consider current interest rates.

\$3.8 million in outstanding receivables are over a year old due to unfunded indirect costs and prevailing wage funding that has not been added to contracts, as well as outstanding capital funding for a kitchen renovation project that was allocated over a decade ago but for which we have still not been able to fully access funding.

While there has been progress on prompt contract registration—all 2024 contracts have been registered—that doesn't mean we have access to all the money that is owed. Even with registered contracts, there are still unregistered contract amendments that need to be addressed. There were allowance amendments passed that were supposed to alleviate the need for these time-consuming contract amendments, but our access to the allowance amendment money is restricted for reasons that are not always clearly communicated.

Across the sector, organizations like ours are struggling under the existing system. Nonprofits confront the same operational challenges of any enterprise—managing the balance sheet, navigating credit relationships, meeting payroll, and balancing cash flow. Overdue accounts receivable make these core fiscal responsibilities much more complicated, and the advances from the City do not fix everything. For example, our monthly City-funded payroll of \$3.7 million is paid out even before we can invoice it, which makes the gap even larger.

This means we are often providing essential services for New Yorkers experiencing homelessness—including operating shelters and providing food, medical care, and employment training—with no guarantee of timely payment for this work by the City. As the homelessness

crisis continues to grow, demand for our services is also rising, and timely payment for these essential services becomes all the more important.

Unpredictable cash flow can force providers to rely on revolving credit with high variable rates. Unreliable financial projections can strain relationships with banks, creditors, and philanthropic funders. That dynamic of precarity can present significant operational challenges and harm an organization's credibility and stability.

As a large and sophisticated organization with decades of experience working within the City contracting process, we are able to navigate many of these challenges, but the same is not true for many younger and smaller nonprofits that are doing vital work across our city.

Thank you to the City Council for championing the nonprofit sector – including with the Speaker and Mayor's recent commitment to a three-year COLA for our human services workers. Your partnership to address ongoing contracting issues for nonprofits will go a long way towards ensuring our organizations can continue to deliver our essential services. Thank you for the opportunity to testify today.



**New York City Council
Preliminary Budget Hearing
Committee on Contracts
March 22, 2024
Testimony of The Bronx Defenders
By Wesley Caines, Interim Executive Director**

The Bronx Defenders (BxD) provides innovative, holistic, and client-centered services to low-income people in the Bronx. These services include criminal defense, family defense, immigration representation, civil legal services, and social work support and advocacy. Our staff of over 400 represents nearly 20,000 individuals each year and reaches hundreds more through community intake and engagement.

We represent Bronx residents from predominantly low-income communities of color who are already subject to high levels of system involvement. They need the support and services of our organization more than ever. The Bronx is the most systematically under-resourced borough in New York City and home to the poorest urban congressional district in the United States. As recent figures illustrate, the people we serve are fighting just to survive.

- **Eviction:** The Bronx has the most eviction filings in New York City and accounts for the largest percentage of pending evictions city-wide.
- **Unemployment:** The Bronx has the highest unemployment rate in New York City at 6.0%.
- **Food Insecurity:** In the Bronx, 39.0% of adults face food insecurity, 1.6 times the state average.
- **Under Education:** The Bronx has the lowest high school graduation rate of the five boroughs.
- **Incarceration:** BxD represents 249 people currently held in NYC jails, where eight people died last year.
- **Family Separation:** The Bronx has the highest family regulation caseload in the City and the most children in the foster system.

This is the community that BxD serves. It is a community that has been negatively impacted by decades of divestment from meaningful support, while being subjected to over-policing and surveillance. These forces have driven low-income Bronx residents into punitive legal systems. Our mission is to address the underlying issues that can cause system involvement and to help mitigate the devastating consequences that can arise out of system involvement, including

deportation, family separation, eviction, and loss of employment. BxD plays a critical role in providing high-quality, holistic services, but our work requires adequate funding.

As detailed below, BxD seeks an increase in funding for fiscal year 2025 to address historical underfunding, meet new needs, and ensure that the people we serve receive high-quality, zealous, and holistic representation.

FY25 Requests for Increased Agency Funding

- **Civil Eviction Defense**
 - Together, NYC Right to Counsel providers request an increase for FY25 to \$457 million to ensure full staffing and funding to serve tenants facing eviction in New York City of which BxD requests a proportional increase. Right to Counsel cases must be funded at the true cost of \$7,500 per case.
- **Criminal Defense**
 - Together, NYC criminal defense providers request an increase of \$133.5 million. This increase is broken down into the following categories:
 - An increase of 25% for personnel/salary costs
 - An increase of 10% for health care/fringe costs
 - An increase of 10% for OTPS costs
 - An increase of \$50 million citywide to fund the costs of discovery implementation for defender offices, including at least \$5.25 million for discovery implementation at the Bronx Defenders
 - An increase of \$15 million citywide to fund homicide representation for defender offices, including at least \$3.8 million for homicide representation at the Bronx Defenders
- **Family Defense**
 - Together, NYC family defense providers urge this Council to ensure that adequate resources are provided to offices representing parents in **Article 10** proceedings by providing increased funding during the current procurement process.
 - We call upon the Governor and the Legislature to appropriate \$50 million for parent representation as was requested by the Office of Indigent Legal Services and supported by Chief Judge Rowan Wilson.

FY25 Requests for New and Continued Council Funding

- **Family Defense - Early Advocacy and SCR Representation** Increased funding for Family Advocacy and Guardianship Support Project from \$2.6 million to \$3.3 million (\$825,000 for each organization) to increase capacity and address increased costs.
- **Immigration - Deportation Defense:** Flat funding of \$5,533,333 for BxD's New York Immigrant Family Unity Project to meet New York City's commitment to defending New York residents against deportation.

- **Prisoner’s Rights Project:** New funding of \$100,000 for our Prisoner’s Rights Project, which advocates on behalf of people represented by BxD incarcerated in NYC/NYS jails and prisons
- **Education Project:** New funding of \$150,000 for our interdisciplinary Education Project to provide education advocacy and support for young people represented by BxD
- **Mentoring Program:** New funding of \$50,000 for our Mentoring Program which connects young people in the Bronx with mentors from BxD and gives them the opportunity to create change in their communities
- **Bronx Cannabis Hub:** New funding of \$100,000 for the Bronx Cannabis Hub to provide support to system-impacted people applying for the new retail licenses under the Marijuana Regulation and Taxation Act (MRTA)
- **Community Engagement Project:** New funding of \$50,000 for our Community Engagement Work including Know Your Rights Trainings and BxD’s annual Block Party and Resource Fair
- **Criminal – Early Defense Representation:** New funding of \$50,000 for our Criminal Early Defense Project to address unmet community need for legal representation and advice in police investigations

Underfunding: A Threat to NYC’s Progressive Ideals and Quality Legal Representation

New York City is the home of innovative universal representation programs, such as the Right to Counsel (RTC) initiative in housing court. The program is critical to ensuring that tenants facing eviction are not left to represent themselves in court. It helps to ensure due process and the vindication of rights for tenants who might otherwise be steamrolled by landlords’ attorneys. While the idea of RTC stands as a model for the rest of the country, the promise of this program has been undermined by inadequate funding.

Similar threats imperil representation for people charged with homicides. The contracts funding legal defense in homicide cases have failed to keep pace with the actual numbers of new homicides each year. The guidelines for effective homicide representation indicate that one attorney should take on no more than eight murder cases at one time. At BxD, each homicide attorney represents an average of 15 people charged with murder, almost double the standard. These are some of the most complex cases, with people facing the most serious consequences in criminal court and needing the representation of seasoned advocates. Unfortunately, despite pleas from defense organizations to right-size homicide budgets, the city has held baselined homicide funding flat.

The result of this lack of investment is that our staff are overworked and underpaid. It has become more and more challenging to hire and retain qualified, experienced, and engaged staff and run our programs effectively. It is difficult when salaries other public sector jobs, including the NYC District Attorneys’ Offices and NYS Attorney General’s Office, outpace what we can pay our staff. It is even more difficult when public defender offices around the country, in cities with

significantly lower costs of living, pay entry-level staff \$10,000 - \$20,000 more than New York City public defenders.

The Trap of Cost Reimbursement Contracts

Our testimony at last year’s hearing highlighted the negative impact of delayed registration of city contracts. While we observed some improvement in the contract registration timeline in FY24, the structure of our contracts -- cost reimbursement -- continues to impose a significant burden on our operations. Cost reimbursement contracts require organizations to spend money up front and then request repayment for expenses incurred. Unlike some non-profits, BxD does not have an endowment, reserves, or a line of credit to lean on. This means that making payroll and keeping our lights on require significant maneuvering each month, including applying for bridge loans and other short-term stopgap funding. Unfortunately, the interest incurred is not chargeable to our contracts, which means we must use our limited unrestricted funding to close the gap.

IOLA and ILS Funding “Sweeps”

Beyond the threats of underfunding and cost reimbursement contracts, lurk other funding challenges for defender organizations. Earlier this year, Governor Hochul rescinded her threat to take away \$100 million earmarked for legal services via the Interest on Lawyers Account (IOLA) fund. While this was a welcome resolution for the IOLA fund, the Governor has also indicated her desire to take away existing funding dedicated to legal services, the Indigent Legal Services (ILS) Fund. We strongly oppose this plan. These funds support critical legal representation in family and criminal courts across New York State, and this move jeopardizes the abilities of counties to provide Constitutionally mandated effective assistance of counsel. It is imperative that we move forward, not backward, and expand our investment in quality legal representation for New Yorkers.

Civil Action Practice

A sweeping array of civil punishments are triggered the moment someone faces arrest, deportation, or prosecution by ACS. Our clients risk losing their jobs, homes, income, property, and basic civil rights — hardships that can be devastating and long-lasting. This civil fallout, sometimes referred to as “collateral consequences” or “enmeshed penalties,” effectively traps individuals in a cycle of poverty and system involvement. We know it does not have to be this way. At BxD, we have the unique opportunity to intervene early and break this cycle by integrating transformative civil action within our criminal, family, and immigration defense work. Through our civil action practice, our civil consequences experts work collaboratively to represent our clients in civil courts and tribunals throughout the City and to help clients meet basic civil needs and protect their civil rights.

In addition to our holistic civil advocates, we are one of six organizations in the Bronx providing the Right to Counsel in Housing Court. We also have a team of benefits specialists dedicated to

helping community members access emergency and sustainable public benefits, as well as an integrated civil social work team.

Intake:

Civil Holistic Defense Team

Our Civil Action Practice supports clients through referrals received from our Criminal Defense, Family Defense, and Immigration Practices and addresses the civil issues that arise because of court system involvement. Currently, we support clients facing evictions and housing issues, including eviction proceedings, illegal lockouts, repairs as well as access to shelters for clients experiencing homelessness; property seizure including retrieving money, vehicles, and other vital property; job and employment license preservation, and benefits applications, for those who need food assistance, cash, emergency rental arrears and other aid. Our attorneys, social workers, and advocates work together, across practices, to meet these needs.

Right To Counsel Housing Team

In addition to addressing the civil needs of people entangled in the criminal, family and immigration court systems, we provide counsel in housing court in the Bronx and connect with tenants via a hybrid virtual and in person Housing Court intake. Every month, we perform intake with tenants at risk of eviction; we interface with more than 1,000 tenants a year. New York City and the Bronx, in particular, are continuing to face an eviction crisis.

Because of the high-volume calendars in the Bronx, only a fraction of individuals who qualify for and request representation receive counsel. Thousands and thousands of tenants who should qualify for counsel are not receiving representation and hundreds, if not thousands, of tenants are falling through the cracks and are facing eviction.

Benefits Access Team

BxD's Benefits Team provides Bronx community members with wrap-around benefits services and advocacy to access emergency and ongoing benefits. Our Benefits Team serves approximately 2,000 community members each year, helping them submit applications, recertify, and obtain crucial public benefits. We offer walk-in intake to community members as well as a benefits hotline.

Decades of successful outcomes have earned BxD a well-deserved reputation for providing high-quality benefits advocacy. The Bronx community turns to us to receive compassionate and personalized assistance navigating the confusing and opaque public benefits bureaucracies. The Benefits Team also works directly with BxD's housing attorneys and advocates to help tenants secure emergency rental arrears, housing subsidies, housing benefits, and relocation resources. In addition, the team provides support for benefits-related referrals from other BxD legal practices and provides expertise to enable access to benefits for people who face barriers due to criminal, family, and immigration system contact.

Social Work Team

Our Social Work currently consists of two social workers in our civil practice who, in 2023, assisted 110 people with their mental health resource needs, including access to treatment programs and other social services.

Serving the Bronx Community's Civil Legal Needs

We have an ever-rising number of community members who need civil legal assistance. However, we have not received the funding necessary to support this rising need. In order to assist community members, we have established two telephone helplines: we have a bimonthly Housing Helpline for community members to call our team with housing questions and a Benefits Hotline for community members to call with their public benefits access questions and needs.

Though we do our best to connect with people who reach out for help, we have a long waitlist and backlog of callers who are seeking representation, advice, and other resources.

Pending Cases:

In 2023, we fielded over 2,800 internal referrals, which led to our advice, advocacy, or representation for enmeshed civil problems in over 2,100 matters. Our staff have full, active caseloads and are engaged in all levels of advocacy, including full representation. They collaborate across practices and within the practice, across roles, to meet the civil needs of the people we represent. Our work is hybrid; while court appearances are increasingly in person, some court and administrative appearances remain virtual.

Challenges: We are grateful for the support we receive from the City to provide critical, high-quality, comprehensive, embedded civil legal services. However, we recurrently have faced challenges with our City contracts to adequately engage our services for our clients and community. We submitted testimony submitted to the March 2024 hearings held by the Committee on Housing and Buildings and the Committee on General Welfare regarding the anti-eviction and anti-harassment tenant protection contract issues, which are summarized below. Additionally, we have faced challenges with our new BenefitsNYC contract.

Anti-Eviction

- New York City needs to dedicate increased and sufficient funding for every tenant eligible for Right to Counsel (RTC).
- We need the true cost of RTC to be funded at least at \$7,500 per case vs the \$3063 available per case during the 2023 Request for Proposals for this grant; based on the average cost per case, the increased cost of the program needed is approximately \$457 million – \$7,500 per case for 79,033 cases less the current funding of \$136 million. The City needs to allocate a sizable additional amount of funding for FY 25 and more over time so that legal

service providers have a chance to hire staff and budget for other logistical and administrative costs associated with expansion.

- Our contracts need to account for increasing costs each year to allow for planning, rather than being paid at a flat rate.
- **Funding Fairness and Pay Parity:** one glaring reason for the shortage of civil legal services attorneys is the wage gap. For example, the Office of Attorney General starts their attorneys at \$90,000 while, on average, we are only able pay our attorneys and social workers \$72,000 and other critical staff including advocates and administrators are paid much less. In order to recruit and retain talented, committed advocates and develop meaningful recruitment pipelines, which is what our clients deserve, we need to be able to compensate at competitive levels, in the same way our government agencies do.

Benefits NYC

We are grateful for the City’s support to provide increased benefits to the Bronx community via the new Benefits NYC program during a time of dire financial need. While this funding has allowed us to increase our benefits infrastructure and services, we have run into some challenges with our contract for this new program, including:

- **Timely Registration:** This program began in the 2023 calendar year; contract delays led to late registration.
- **Timely Payment for services:** We have not received payment for work done in 2023
- **Contracts should account for increasing needs:** We ask for this City Contract to account for increased costs, year to year.
- **Program at Risk:** This new program meets the dire financial needs of vulnerable New Yorkers. However, it is already at risk for not continuing through 2025. We ask for continued support for funding this program for 2024 and 2025.

Looking Ahead:

Our embedded civil legal services have never been more critical, and the community we serve has significant and increasing civil legal and social service needs. The pandemic magnified existing needs and created new needs for access to jobs, benefits, and housing. We are now defending and assisting clients with an increasing range of civil legal matters. We need the Council's support to meet these needs.

Criminal Defense Practice

Criminal defense attorneys at BxD work side-by-side with the other advocates on holistic teams to identify the causes of our clients’ criminal system involvement and to protect them from the enmeshed penalties associated with their cases. We spend time getting to know our clients and gaining a deeper understanding of their lives and needs. Armed with this understanding, we pursue justice for our clients by thoroughly investigating their cases, presenting context for their

lives and actions, raising novel legal arguments, and using creative tools of persuasion to succeed at trial.

Because each client is unique, we advocate for individualized and comprehensive alternatives to incarceration rather than relying on a “one size fits all” solution to complex problems. Moreover, our support and advocacy are not confined to the courtroom and do not begin or end with the criminal case. Our social workers are integral members of the legal team who help to address our clients’ legal and non-legal needs. Providing seamless services that address all our clients’ needs is at the core of holistic defense and illustrates what it means to be an effective public defender.

Intake:

Our attorneys and social workers meet most of our clients prior to the arraignment court appearances and, when appropriate, immediately connect clients to services in the community and make meaningful arguments to avoid incarceration. While arrest numbers in Bronx County, and thus court intake numbers, have fluctuated over the past year, recent arrest patterns reflect an increase in the numbers of arrests, including increased arrests for low-level offenses, e.g., theft of services, simple drug possession, and petit larceny.

Increase in Felony Cases

The City’s continued intense focus on gun-related arrests and prosecutions accounts for some of the increases we see currently. In a change from prior years, now, nearly 40% of our pending cases are felonies, and, of those, the vast majority involve violent felony charges. More experienced staff, as well as additional resources – both personnel and technology – are needed to address the challenges of more complex litigation and client needs.

Early Defense

In addition to our traditional intake through arraignments, we also meet and counsel clients through our Early Defense work. BxD provides a 24-hour hotline staffed by members of our Early Defense Team, including criminal defense attorneys. Clients also come to us through community intake by visiting our office in person and calling the office. Some clients have legal questions that can be easily addressed in a single phone call or meeting; other clients need immediate and ongoing representation. By working with clients before an arrest even occurs, we can provide legal advice and guidance, as well as early investigation and also begin establishing meaningful relationships with clients, their families, and support systems, all of which can provide a foundation for better advocacy and outcomes.

Pending Cases:

Attorneys, social workers, investigators, and other advocates regularly meet with clients and other members of clients’ teams. We continue to hold video conferences with our clients in DOC custody and meet with clients at in person DOC facilities. The ongoing humanitarian crisis

at DOC, however, has impaired our clients' meaningful access to counsel, as DOC often fails to bring our clients to video conferences and even to court appearances.

Criminal hearings and jury trials are taking place in the Bronx, but the number of cases awaiting trial – including cases for clients who have been incarcerated for lengthy periods of time – is significant. And the number of misdemeanor cases pending in Bronx County for over two years has risen jeopardizing the tremendous success of our concerted efforts to curb court delay in the Bronx over the past several years. BxD has demonstrated its ability not only to pinpoint systemic issues ripe for reform but also to effect widespread change, such as the efforts to reduce court delay through sustained, collaborative work. We will continue to work to reduce the negative effects that delays – including those brought by the pandemic – have on the people we represent and the system as a whole.

Attorneys in our Forensic Practice Group (FPG), which includes attorneys with expertise in ballistics, identification, false statements and confessions, digital forensics, and DNA, also work to ensure that we are bringing to bear the latest knowledge and legal approaches when navigating forensic evidence in cases. Such evidence – including the ever-increasing use of DNA and digital data, such as evidence retrieved from cell phones, cell site data, facial recognition technology, is especially prevalent violent felony cases, which represent an increasing proportion of our caseload.

Adolescent Defense Project

The Adolescent Defense Project (ADP) is a specialized team of attorneys and social workers that provides comprehensive legal and social advocacy to our youngest clients facing serious charges in Bronx Supreme and Bronx Family Courts. Our team investigates cases, negotiates, and files motions, in addition to arguing for legal options and social services that the young people we represent can access at the post-disposition stage of the case. We have spent the last five years navigating New York's new RTA (Raise the Age) legislation to address the School to Prison Pipeline and to limit the long-term adverse effects of the legal system on the youths we represent. ADP social workers are assigned to every young person's case. Our ADP social workers specialize in understanding young people's mental health needs, substance use needs, the impact of trauma, community violence, and educational factors that can increase the likelihood of involvement in the legal system.

Homicide Practice Group

Our homicide caseload continues to grow exponentially. We are contracted to represent 28% of the homicides in Bronx County, originally estimated to be approximately 30-35 cases per year. We have over 70 pending homicides as of March 2024, took on representation of nearly 45 new homicide cases in FY23, resolved close to 35. In FY24, we have arraigned 13 new homicide cases so far. The lower pace of new cases arraigned in FY24 represents a brief limitation on intake between July and October 2023, done to conserve limited resources and ensure continued

effective representation of clients. In short, despite resolving working tirelessly – and to great effect – to resolve a significant number of homicide cases, our pending homicide caseload remains incredibly high, especially given the insufficient funding currently allocated to support it. The fact remains that while many homicide cases will proceed to trial, they are but only a fraction of the hundreds of cases currently awaiting trial in the Bronx.

We have expanded our homicide practice group this year, adding mitigation specialists and investigators to meet the growing numbers of cases. But the need for additional resources – both personnel as well as funding to work with experts and access technology – is significant, and the stakes for our clients charged with the most serious crimes cannot be overstated.

With pending caseloads increasing and anticipated new cases for FY25 exceeding contract expectations, additional funding is needed to ensure adequate staffing of attorneys, social workers, legal assistants, and investigators on each homicide case and to guarantee quality expert consultation when needed to zealously and effectively represent our clients. For example, while the ideal pending caseload for a homicide attorney is 8, our homicide attorneys currently carry an average of 15 cases each. Mitigation specialists currently have caseloads of approximately 25, as opposed to an ideal 15. While our understanding at the start of the homicide contract had been that MOCJ would review funding needs at the end of the first two-year period, our funding has remained flat despite the dire need for additional resources.

Prisoner's Rights Project (PRP)

We provide advice and counsel to clients incarcerated in the New York City Department of Corrections (DOC) through our social work practice and PRP. PRP advocates to improve conditions of confinement for people in jail and prison, preserving the rights of incarcerated people, medical and mental health advocacy, advising clients facing disciplinary proceedings, filing article 78s, engaging in city and state coalitions, supporting grassroots efforts, lobbying, and engaging in policy reform. This work includes advocating for clients facing issues related to their incarceration, such as access to medical care, grievances, disciplinary processes. With DOC facilities in a state of utter crisis – with even DOC recognizing its inability to adequately provide and meet medical and mental health needs of those in its custody – our incarcerated clients are in dire need of additional support and advocacy, beyond the work being done in their court cases. Our social work and PRP teams advocate with DOC, the Board of Corrections, and the Mayor's Office of Criminal Justice.

Education Project

BxD launched our Education Project in 2016 to bring a holistic defense approach to the educational needs of young people involved in the criminal, family, and immigration legal systems. Our Education Project advocates for young people who need support accessing education. The stakes around education are incredibly high for our clients: engaging in the right educational program can help keep young people out of jail, in their communities, and with their

families. Our interdisciplinary expertise addresses the complex relationship between the education system and the criminal, family, and immigration legal systems and helps secure better outcomes for the young people we serve.

The Project is currently staffed by one attorney, one legal fellow, and one social worker who represent clients referred to the program from other BxD legal practices. When our education team connects with a new client, they conduct an in-depth assessment to understand their strengths, needs, and the connection between their educational goals and legal case. In keeping with our client-centered approach, they listen to each student to understand their experiences in the school system and work with them to develop an educational plan. They collaborate with clients to implement those plans, including by connecting them with appropriate educational resources, navigating complicated systems such as transfers, advocating at suspension and expulsion hearings, and obtaining special education services. They support students and families by helping them obtain Individualized Education Plans and troubleshooting educational barriers that could be as complex as an unsafe school environment or as simple as a lack of technological resources to engage in education. The team has developed deep expertise in the range of educational options available to students in the Bronx, particularly those best suited to students involved in the legal system.

This work is crucial to clients' education and the outcomes of their legal cases. In a borough that is under-resourced and over-policed, stark educational disparities can compound issues of legal system involvement. With an in-depth understanding of each student's strengths, needs, and academic engagement, our team advocates for students in their legal cases and uses their educational progress to push for better outcomes.

As with all of the work of BxD, this project is specifically geared to help those in the Bronx. While our education advocacy team focuses primarily on our direct service clients needing support navigating and defending their rights in the education system, our work extends to the community through our Know Your Rights work and our policy work. They are also involved in the larger education reform and policy work to reduce the school-to-prison pipeline and make educational settings and the processes around discipline more equitable. They support organizations that work to educate youth about their rights within legal systems, including their right to a secondary education with the Department of Education. Our education work directly engages the Bronx community by advocating for more equitable access to education such as our campaign to fight for the rights of incarcerated young people at Rikers who have been systemically denied access to educational opportunities.

Looking Ahead:

Discovery reform has brought critical and long overdue change to New York's discovery practice. The volume of discovery material including digital discovery, such as body worn camera videos and other video surveillance, is tremendous. Attorneys, advocates, and investigators must thoroughly review and digest this material to prepare motions, challenge

certificates of compliance, respond to motions for protective orders, develop case theories and defenses, counsel clients, and prepare mitigation and negotiation strategies. The resources needed to support this work – from the technology necessary to share and store data, to software programs necessary to download and convert digital files, to personnel necessary to assist with discovery processing and compilation, to the time necessary to review and digest materials -- surpasses what was originally anticipated. We need more staff, including additional IT and administrative personnel and at least one forensic analyst/investigator to fully and effectively implement discovery reform. We currently have two Legal Advocates who assist in organizing and digesting discovery. But that is far from what is required to support the work. With an ever-growing appreciation now for the depth and breadth of the work involved, we see the incredible benefits of discovery reform but also the need for sufficient resources to ensure that we are fully using this material to zealously represent and defend our clients.

Beyond discovery, without additional funding for technology, we are unable to make investments in systems and that are essential to the safe and effective delivery of services to our clients. While our clients and staff have become more reliant on technology for the delivery of services, our City contracts have not sufficiently increased to meet the costs of replacement and enhancement of outdated IT equipment and systems, including meeting current cybersecurity standards, and new systems to meet emerging needs.

Family Defense Practice

The dedicated attorneys, social workers, parent advocates, and administrative support staff in BxD's Family Defense Practice has provided almost two decades of high quality, interdisciplinary and client-centered defense to Bronx parents facing painful and unnecessary separation from their children and dissolution of their families. Despite the overwhelming number of studies showing that children are better off with their own parents and that they suffer short- and long-term consequences when separated from their parents, low-income Black and Brown parents are often targeted in child neglect and abuse investigations and lose custody of their children because they have limited resources, are unemployed, have unstable or inadequate housing, suffer from mental illness or addiction, or are victims of abuse themselves. Each year, these issues drive thousands of children into the family regulation system, of whom the vast majority are Black and Brown. The Bronx has the highest family regulation caseload in the City and the most children in the foster system of any borough.

Once in the system, children often languish in foster homes as their parents and caretakers attempt to meet the court's lengthy and onerous requirements to secure their return. The roll back of Covid-19 cash benefits and supports for rent, food, and child-care has caused reports of child maltreatment to the State Central Registry to rise to pre-Covid 19 levels increasing the number of parents in need of representation and making it even more difficult for parents to regain custody of their children. Without a strong legal defense and the resources and support to address and resolve the underlying problems that brought them there, many families will continue to cycle in

and out of the foster system for years on end, sometimes generation after generation, destabilizing lives, families and communities and threatening children with poor life outcomes.

Our interdisciplinary approach to representation for parents charged with neglect or abuse and at risk of family separation is nationally recognized as the most effective model of parent representation. Our teams of attorneys, social workers, and parent advocates prevent unnecessary family separations, court filings, and reduce the time children spend in the foster system. We also connect families to the material resources and support that are necessary to resolve the issues that drove them into the system and that will prevent subsequent involvement. Together, with the other New York City family defense organizations, we have represented tens of thousands of parents and reduced the foster system population by over 50% and reduced the time children spend in the system by nearly four months, translating to up to nearly \$40 million in annual savings in foster system expenditures for New York City, and the preservation of family bonds that are priceless to the parents we represent and the foundation of a strong and healthy society.

Right to Family Advocacy Initiative

Since fiscal year 2020, our Family Defense practice offers two critical services to low-income parents, made possible only with City Council funding for the Right to Family Advocacy Project through the Family Advocacy and Guardianship Support Initiative. First, we provide desperately needed legal representation and advocacy to parents during pre-court investigations by ACS. ACS investigations are traumatic and intrusive and disproportionately experienced by low-income, Black and Brown parents who do not have access to legal representation. Through legal representation, early advocacy in conferences and meetings with ACS, and identification of available services and resources for families, our teams avoid unnecessary and traumatic family separations, often prevent family court cases from ever being filed against families, resulting in increased court efficiency and tremendous fiscal savings for the City.

Second, we provide legal representation to parents in administrative proceedings and hearings to clear and modify the State Central Registry (SCR) records that result from an “indicated” ACS investigation, thereby expanding their employment opportunities. Funding this initiative is a matter of racial justice. In New York City, Black and Latinx children represent 88% of all SCR reports. Unsurprisingly, given their gross overrepresentation in calls to the SCR, 48% of all indicated reports in New York City involve either Black or Latinx children. When you include Asian/Pacific Islander and children of Multiple Races, a shocking 91% of indicated cases in New York City involve children of color. New York parents who are listed on the SCR are routinely denied employment as daycare workers, nannies, teaching assistants, substance abuse counselors, home health aides, medical supply delivery people, drivers for the disabled, an array of positions in hospitals, and more, based on unproven allegations of child abuse and neglect. Our representation in SCR hearings has enabled parents to access employment and support their families.

In FY23, 84% of the cases in which we represented parents during a pre-court ACS investigation were never filed in court. In 84% of those cases that were ultimately filed, the children stayed home with their families or were placed with other family members, rather than with strangers in the foster system. Additionally, we were successful in amending and sealing the SCR records of parents in the administration hearing process 82% of the time. The Right to Family Advocacy Project saves families and money.

Historical Underfunding of Parent Representation

Despite years of interdisciplinary representation that has saved New York City millions of dollars in foster system costs as well as the vast improvements our model has made to parent representation, the City has never adequately funded and supported parent defense. Years of underfunding have resulted in unmanageable caseloads and attrition in our offices. Over the past two years, our offices have worked with the Mayor's Office of Criminal Justice (MOCJ) to advocate for the Office of Management and Budget (OMB) to add revenue to our budgets. This resulted in additional funds for FY24, but nowhere near the amount needed to correct years of underfunding. We are currently in a procurement process that we hope will address historic underfunding of our offices and result in the necessary increases to costs including salaries, health care, occupancy, and OTPS that will allow us to meet statewide caseload standards. We ask that the Council remain aware of this process and partner with us, as providers, if the funding continues to be inadequate.

Caseload Standards for Parent Representation

The underfunding of our contract is clear from the caseload standards announced by the Office of Indigent Legal Services (ILS) over three years ago. Following the recommendations of the Commission on Parental Legal Representation in June 2021, ILS developed Caseload Standards for Parents' Attorneys in New York State Family Court Mandated Representation (ILS Caseload Standards). ILS is a state agency with a legislative mandate to analyze and set standards for indigent representation. ILS developed the standards in collaboration with the Office of Court Administration and Welfare Research Inc. The standards are based on a multi-prong statewide study articulated the minimum attorney hours required to provide effective representation. Based on our average intake over the last four years, our current budget covers roughly only half the staff required to meet the ILS standards. The ILS standards have confirmed what we have said in prior years' testimony: the current contract budget for mandated family defense is woefully insufficient.

Intake:

The Family Defense Practice has continued to represent new clients charged with abuse or neglect under Article 10 of the Family Court Act. Before the pandemic, our initial contact with a new client was in family court, face-to-face, when that client came to court after ACS notified them that a case would be filed. Our attorneys, social workers, and parent advocates would meet with clients and walk them through the arraignment process, advocating with ACS every step of the way and accomplishing many meaningful tasks together. We were able to make personal contact with our clients and reassure them that they could trust us to fight as hard as we could to keep their families intact. While Article 10 intake is supposed to be in person now, many parents do not appear at the first appearance. We hear from our clients that ACS caseworkers rarely tell them to appear in person and provide them with a link to appear on video, causing parents to miss a crucial opportunity to meet their legal team in person. Responsibility for reaching out and arranging for clients to appear for in-person court appearances falls largely to our staff. We often receive contact information for the parent just a few hours at most before the case is scheduled to be called. If we reach the parent in time before the appearance, we are tasked with counseling the parent regarding the intake process, explaining their rights and choices, discussing the complicated issues raised by their case and arranging for their appearance in court. It takes much longer to build trust and rapport, which makes it that much more difficult to get the information from clients that we need to effectively advocate for them. Throughout the intake court day, we litigate hearings so that children are not needlessly separated from their parents and placed in the foster system. Our social work staff reach out to ACS staff, identify relatives to care for children, and resolve issues regarding services and visitation.

Since the start of the pandemic, ACS has increased its practice of filing pre-petitions, including 1034 petitions, which are designed to provide judicial oversight of ACS investigations and determinations of whether to separate a family. We have seen a dramatic increase in these petitions with ACS seeking orders for parents to produce children, or secure an order to enter a family's home, or to issue an order of protection on behalf of one parent while it investigates the other. While we are often able to resolve these cases without a family separation, the cases remain part of our workload and require intensive advocacy from both attorneys and social workers. Increasingly, ACS is achieving family separation by advocating through the District Attorney's Office for a full criminal court order of protection separating a parent from their child without filing a companion Article 10 case in family court. Where there is no companion Article 10 case, a parent must address the family separation issue in criminal court. In June of 2021, the appellate division held that parents are entitled to a due process hearing when they are separated from their children by virtue of a criminal court order of protection. This has resulted in our attorneys and advocates lending their expertise to their colleagues in criminal court, litigating hearings, and negotiating with ACS and the district attorney in criminal court arraignments.

Pending Cases:

Even though Article 10 filings have decreased compared to before the pandemic, we carry a large pending caseload of complex cases and our overall workload has not decreased. The nature and complexity of cases filed since the pandemic differs from those filed before: we now see more clients who are experiencing mental health issues, including an increase in psychiatric hospitalizations, families impacted by the adolescent mental health crisis, domestic violence, and homelessness. There is also a reduction in available supportive services generally for all our clients and a rise in non-citizen clients, related to the influx of asylum-seekers to the city. In addition, for the past four years, the practice has dealt with the impact of Covid-19 not just on the lives of those we represent, but also led to a lengthy backlog and delay in resolving court cases. Article 10 cases pend for an average of two years and often much longer. The complexity of the cases compounded with the lack of judges and resources in the family court has resulted in a backlog of cases, nearly all of which involve children who are still in foster placements. By way of example, at the end of FY18, 17% of BxD cases had been pending for over two years, with 9% pending for over three years. At present, 25% of pending cases have been pending for two or more years and 14% of our cases have been pending for three or more years. That cases in family court are lasting longer is especially significant because the longer a child remains in the foster system and the longer a resolution is delayed, the more likely it is that additional matters—petitions to permanently terminate a parent’s rights (TPR), custody petitions, and new allegations of neglect—will be filed. These additional proceedings require more legal work and intensive social work advocacy casework outside of court to achieve positive outcomes and preserve families.

Looking Ahead:

Adequate funding for family defense is more critical than ever before. This funding will enable us to recruit and train attorneys, social workers, and advocates to meet the increasingly complex needs of our clients and ensure that no children experience the trauma of entering the foster system unnecessarily.

Immigration Practice

Twenty years ago, BxD embraced the model of holistic representation by embedding immigration legal services within a public defender office. Our robust immigration practice today consists of over fifty attorneys, social workers, advocates, and administrative professionals. We provide deportation defense in both detained and non-detained courts. We also provide integrated, holistic representation to avoid or mitigate negative immigration consequences for our clients targeted by the criminal and family regulation systems.

Intake:

Advocates from the New York Immigrant Family Unity Project (NYIFUP) monitor the Varick Street Immigration Court calendars and observe the court’s detained docket every day. Through this process, NYIFUP identifies detained non-citizens in need of immigration representation and

offer our services. Most detained clients are incarcerated at the Orange County Jail (OCJ) in Goshen, New York, where there are significant challenges in access to counsel.

Our *Padilla* practice receives case referrals from our Criminal Defense and Family Defense colleagues seeking advice about the immigration consequences of pending cases. We provide advice and conduct a full intake so that we can identify potential defenses against deportation as well as opportunities to affirmatively seek immigration status to reduce the risk of future contacts with the deportation system.

Finally, our Community Intake practice serves community members who contact our office seeking advice or assistance on immigration matters or through referrals from community or partner organizations.

Pending Cases

BxD's NYIFUP Program

This Council was essential to the launching NYIFUP ten years ago, and its continued, unwavering support for this first-in-the-nation universal representation program for detained immigrants has saved lives and brought hope to thousands of immigrant families in despair. Together with Brooklyn Defender Services and The Legal Aid Society, we are respectfully requesting level funding for NYIFUP in the amount of \$5,533,333 million per organization, or \$16.5 million total, to continue providing critical services to New Yorkers in deportation proceedings.

As outlined below, NYIFUP work continues to serve a critical role in protecting immigrant communities from ICE's surveillance, policing, and arrests. BxD's holistic defense model provides excellent, client centered representation.

ICE has Exponentially Increased its Surveillance and Arrests of Immigrants

Any given night, 39,000 immigrants go to bed in an ICE jail cell, separated from their families as they try to navigate a cruel and complex immigration system without a recognized right to legal representation. This number represents a 45% increase from last year and does not include the thousands of people who are jailed by Customs and Border Protection (CBP) at the southern border.

Some additional figures illustrate ICE's aggressive and escalating targeting of immigrants:

- During the federal fiscal year 2023 (October 2022 - September 2023), ICE arrested 170,590 immigrants, representing a 19.5% increase in overall arrests from FY22 and 130% increase from FY21.
- During FY23, ICE arrested 20,056 people based on pending criminal charges, representing a 99% increase from the previous year.
- The number of people arrested by ICE based on criminal convictions jumped 48%, from 32,322 in FY22 to 53,766 in FY23.

- ICE lodged 125,358 detainees for immigrants with contact with the criminal legal system, a 59% increase over FY 2022 and a 90.1% increase over FY 2021.

While ICE operations are opaque and the agency does not disclose contemporaneous regional data, our experience on the ground in New York City matches the story told by the national figures.

This year, our holistic teams made up of social workers, attorneys, legal advocates, and administrative professionals have worked tirelessly to address the needs of a rapidly increasing detained population. ICE is aggressively moving to detain New Yorkers based on minor, even dismissed, criminal charges; as well as targeting of longtime permanent residents withhold convictions without considering their rehabilitation and their role in their families and communities. We have also seen an increase in home raids in the city and of arrests, with no warning, at ICE offices when immigrants appear for routine check-ins to meet reporting requirements.

We expect this trend to escalate as anti-immigrant sentiment continues to take hold. Given the upcoming federal elections, we are also preparing for a potential new administration that will double down on this trend. We need the Council to continue its support of NYIFUP so that we can continue providing high quality, client-centered representation to detained immigrant New Yorkers who are increasingly targeted for detention and exile.

Strengths of BxD and NYIFUP's Interdisciplinary Model of Complex Full Representation

BxD's holistic defense model allows us to identify trends across legal systems affecting our clients and to develop responsive defense strategies for our clients. Because our immigration team collaborates with our criminal defense practice to support every non-citizen with a pending criminal case, we were able to identify ICE's pattern of conducting home raids targeting immigrants who have been in the United States fewer than three years and who have pending criminal cases. In response, our immigration team provides tailored Know Your Rights information to non-citizen clients, including advising them about communication should they be detained by ICE, as well as their eligibility for NYIFUP representation. Because of our collaborative work, our criminal defense team colleagues also know that if an immigrant client fails to attend a court date, there is a possibility the person has been detained by ICE and that it might not be appropriate for the court to issue a warrant. They also understand the urgency of resolving pending charges when someone is in ICE detention to give them the best opportunity to secure release on bond and a positive outcome in their immigration cases.

Mr. A's case illustrates the benefits of our model. Mr. A recently arrived in the United States and reunited with friends and family in the Bronx. About a year later, he was arrested and charged with a misdemeanor in Bronx Criminal Court, where BxD was assigned to represent him. His criminal defense attorney referred his case to the immigration attorney in his team, who immediately began working with Mr. A to inform him of his rights and the potential impact of the criminal case on his immigration status. Shortly thereafter, ICE appeared at Mr. A's house and detained him.

Because of the early advice provided by his legal team, his family knew to call BxD right away. A NYIFUP advocate and an attorney immediately joined Mr. A's legal team and took on his detained removal case. His BxD criminal defense attorney moved swiftly to secure a dismissal in the criminal case and to obtain proof of the case resolution. This coordinated response was crucial in Mr. A's ability to secure his release on bond and he is now fighting his removal case at liberty with the support of his family and BxD legal team. He and his family have also been assisted by our public benefits team and will continue receiving comprehensive support throughout the pendency of his removal case.

Mr. A is one of many New Yorkers who have benefitted from our integrated, holistic model. Given the increasing number of home raids in the city, we anticipate we will be called upon to support many other people in a similar fashion in the months and years to come. Mr. A's case also highlights the critical need for continued support and adequate funding of embedded civil legal services, which are not currently funded under NYIFUP, so our clients can continue receiving wrap-around services such as benefits and housing advocacy as they fight against deportation.

Systemic Litigation and Victories

NYIFUP advocacy continues to lead to positive outcomes not only for individuals and their families but also for New York's larger immigrant community. Two examples of recent BxD cases that have or could have far-reaching effects are:

Ortiz et al. v. Orange County, NY et al.: In BxD's federal lawsuit against Orange County Jail and ICE for retaliation against six NYIFUP clients for a 2022 hunger strike, the judge issued a ruling in January denying ICE's motion to dismiss the lawsuit. The decision decisively rejected ICE's attempts to evade accountability. ICE had argued that jail transfers, even when done against ICE policy or for retaliatory reasons, were entirely within ICE's discretion and not subject to federal court scrutiny. This decision rejecting ICE's arguments is important case law and hopefully will pave the way for judicial oversight of illegal transfers in the future. As NYIFUP providers, we are in the unique position to identify patterns of abuse that affect immigrant New Yorkers beyond their individual legal case. We are well suited to advance accountability and systemic transformation. The Center for Constitutional Rights and the New York Civil Liberties Union are co-counsel in this ongoing litigation.

Mañon-Berroa v. Garland, (20-705): In July 2023, the Second Circuit granted Mr. Mañon's appeal of his deportation order and remanded the case to the immigration court. The court found that the Immigration Judge and the Board of Immigration Appeals failed to properly consider Mr. Mañon's risk of torture given his status as a deportee and his mental health conditions. The Immigration Court regularly fails to apply the correct analysis to applications for protection under the Convention Against Torture and appellate litigation, like the one in this case, is often needed to protect our clients' rights and provides important guidance to the immigration system about application of case law.

Looking Ahead:

Adequate funding for high-quality, holistic deportation defense for New Yorkers detained by ICE is as critical as ever. Rapidly escalating ICE detention and enforcement numbers, fueled by anti-immigrant rhetoric at the local, state and, federal levels, means that a growing number of New Yorkers will depend on NYIFUP representation to have a chance at avoiding exile from their communities and separation from their families. We also depend on the adequate funding of embedded civil legal services and of family and criminal defense to ensure our continued holistic representation of immigrant clients. Robust funding will ensure that we can hire and retain staff to continue to fight back against the deportation machine and keep immigrant New Yorkers here their families and communities where they belong.

Community Engagement

Our deep experience working with Bronx residents means that we are ready to provide the legal services they need. But we also understand and believe that we must do more for the larger Bronx community and that our work must extend to others that do not have cases requiring immediate legal attention. Because of this, BxD has a committed Community Engagement team that works to develop local leadership, engage the Bronx community, and build collective power.

Community Events

Our community engagement team provides legal resources to the community and holds events throughout the year.

Know Your Rights Trainings

Once community members have access to information and resources, they can work collectively for social change. Engagement looks different for different communities, and it is the reason we offer tailored Know Your Rights Trainings and engagement opportunities.

Annual Block Party and Resource Fair

For nearly two decades, BxD has hosted an annual block party hosting up to 500 community members and local organizations and providing information to local residents about resources, services, and opportunities in the Bronx. Local artists and businesses come together with advocates and residents of the South Bronx to celebrate the vitality of our community.

Bronx Cannabis Hub

The Bronx Cannabis Hub (the “Hub”) is a groundbreaking, first-of-its-kind initiative aimed at ensuring inclusion of New Yorkers who have been directly impacted by New York’s marijuana laws.

The Hub has the potential to help transform people’s lives, create generational wealth, reinvest in underserved and neglected communities, and create a model for the country.

There is currently no organized support for system-impacted individuals besides the Hub. The Hub fills this critical gap by providing legal support for those seeking licensing applications and serves as a clearinghouse for the resources related to the cannabis industry. To support impacted individuals and low-income communities, the Hub serves as a clearinghouse for information and provides resources and information to community members interested in becoming part of the new cannabis economy by offering public education and training, legal assistance, and other resources to help people apply for social equity cannabis licenses and creating spaces for community conversations and organizing. This type of intervention is crucial given the current state of affairs: across the United States, less than 2% of all cannabis enterprises are Black-owned.

Robert P. Patterson Jr. Mentoring Program

BxD's Robert P. Patterson Jr. Mentoring Program has committed to supporting Bronx youth as they learn about holistic defense values and the ways their social justice advocacy can improve quality of life for their neighbors, their families, and themselves. BxD's Mentoring Program disrupts the school-to-prison pipeline and places in their hands the opportunity and the power to form their own futures. Our holistic, team-based mentoring model allows young people to broaden their positive social and professional networks and work directly with BxD advocates to learn more about law, community organizing, and related educational and career paths.

Each year, BxD selects 20 participants ages 15-18 who have been recommended by the community to participate. Mentees shadow two BxD law professionals during the program year to gain first-hand knowledge of the practice of holistic public defense. Participants then use their knowledge for their communities, partnering with schools to conduct Know Your Rights trainings for other young people to advance their understanding of their civil rights and offer as de-escalation skills in police interactions. Unique to a program of this kind, we also engage families and supportive adults to participate in programs, activities, and organizational services.



The Doe Fund

345 E 102nd St #305
New York, NY 10029
212.628.5207
www.doe.org



**Written Testimony for the New York City Council
Contracts Committee
March 22, 2024**

Dear Members of the New York City Council,

On behalf of The Doe Fund, thank you for the opportunity to submit testimony. We've advanced proven solutions to homelessness for over 35 years in New York City. With a track record of empowering 30,000 individuals and reducing their chance of recidivism by half, we hope to partner with the City to address our spiraling homelessness crisis.

We are grateful for the tremendous support we've received from the City Council this fiscal year, including scaling back PEGs targeted to housing and human services providers alongside historic investment in wage increases for supportive services personnel, all of which is critical to the long term health of New York City's social safety net.

However, these will not matter if City agencies continue their sluggish, insufficient reimbursements of contracts with nonprofits serving our most vulnerable residents. From FY20 to FY24, 84% of DHS contracts registered late, with an average delay of 104 days. As of February 12th, more than 54% of FY24 DHS contracts were registered late and nearly half — valued at \$100 million — are still awaiting registration. This forces nonprofits to access costly lines of credit which accrue interest, taking up resources better spent on New Yorkers at risk of housing insecurity.

We join nonprofit providers across NYC in urging the City to more quickly **work through backlogs in invoicing and subcontractor approvals**, as well as to **ensure timely reimbursement by city agencies** moving forward.

Unfortunately, these challenges have been **exacerbated by the City's migration from Accelerator to the new PASSPort** (Procurement and Sourcing Solutions) system in February. Some program budget line items have not transferred over to PASSPort. Critical program budget line items and invoice billed amounts are not transferring over for current and prior years.

These technical issues have led to a **cascade of negative effects for providers like us**. In the case of The Doe Fund, we have not been able to bill for indirect cost rate, prevailing wages mandated by the City, and workforce enhancement for FY21-FY23 because these have not been added to PASSPort for reimbursement. This is despite the fact that we have been funding these costs internally. Worse still, we are unable to submit large closeout budget modifications until these issues are resolved.



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In addition, in many instances the budget amounts in PASSPort do not match what is listed in Accelerator. These difficulties are on top of an unwieldy, time consuming user interface difficult to navigate, as well as a delayed helpdesk system that takes an average of five days to address a ticket.

All of this adds up to **significant delays in reimbursement that we shoulder**. Continued lack of timely reimbursement may force us, and countless other organizations, to scale back the services we provide on behalf of the city.

But it's not the nonprofit human services providers who lose the most from this. It's the thousands of individuals who rely on us for addiction recovery support, workforce development programming, transitional work , and numerous other services.

Individuals like Robert Pulliam, who after significant challenges — ranging from homelessness, childhood abuse, substance abuse, and severe mental health struggles including PTSD from military service — found stability, lasting sobriety, and the right social services to address his complex needs at our Crystal Tower supportive housing residence. Since moving into his unit, Robert has rebuilt his social support network, his mental health and self-care has demonstrably increased, and he has become an active participant in the Crystal Tower community.

Robert even began to express interest in advocacy work on behalf of supportive housing. In response, we recently scheduled him to meet with government representatives, only for them to not attend. It was heartbreaking to hear Robert's assessment of the situation: "I knew it... they just don't care about people like us. It's always been that way and it always will be."

We believe that Robert is wrong — that the City Council does indeed have his best interests at heart. The City can show that by making it a priority to fix PASSPort, quickly work through the backlog of outstanding reimbursements, and ensure these delays never occur again.

Regards,

Felipe Vargas
Senior Vice President of Programs
The Doe Fund



**UNITED
NEIGHBORHOOD
HOUSES**

45 Broadway, 22nd Floor, New York, NY 10006

212-967-0322 | www.unhny.org

**Testimony of United Neighborhood Houses
Before the New York City Council Committee on Contracts
Council Member Julie Won, Chair**

**Submitted by J.T. Falcone, Deputy Director, Policy & Communications
March 22nd, 2024**

Thank you, Chair Won and members of the New York City Council, for the opportunity to testify. My name is J.T. Falcone, and I am the Deputy Director at United Neighborhood Houses (UNH). UNH is a policy and social change organization representing neighborhood settlement houses that reach 765,000 New Yorkers from all walks of life.

A progressive leader for more than 100 years, UNH is stewarding a new era for New York's settlement house movement. We mobilize our members and their communities to advocate for good public policies and promote strong organizations and practices that keep neighborhoods resilient and thriving for all New Yorkers. UNH leads advocacy and partners with our members on a broad range of issues including civic and community engagement, neighborhood affordability, healthy aging, early childhood education, adult literacy, and youth development. We also provide customized professional development and peer learning to build the skills and leadership capabilities of settlement house staff at all levels.

Background

New York City relies on nonprofit human service providers to serve New Yorkers in need. From prenatal care for expecting parents, to early childhood education, to afterschool programs and in-school support, to summer camp, to youth workforce development programs like the Summer Youth Employment Program (SYEP), to college preparedness and college retention, to adult literacy and adult education programming, to adult workforce development, to aging services like Older Adult Centers (OACs) and services that allow older adults to age in place like Naturally Occurring Retirement Communities (NORCs). Further, New York City relies on these same nonprofits to help New Yorkers meet their basic needs, including housing supports, mental health programming, benefit and entitlement navigation services, legal assistance, food access, home delivered meals, transportation—the list goes on and on.

Despite this, human services workers in New York City are grossly underpaid, and that dynamic is driven by insufficient funding in government contracts. Across UNH's network of settlement houses in New York City, 76% of their total budget comes from government sources, and 65% of that is from New York City. Unfortunately, contracts from New York City often do not include sufficient funding to pay workers a fair and dignified wage. UNH conducted a survey that found that the household income of 63% of full-time settlement house staff was less than \$50,000 per year.

Wages have failed to keep up with both inflation and changes to the job market, and as a result the human services sector continues to sit on the cliff of a staffing crisis. On average, more than a third (35%) of UNH settlement house members reported double-digit job vacancy rates of 10% or higher in 2023, up from 31% the previous year, and nearly two-thirds (65%) of UNH settlement house members reported that job positions remained vacant for 3 months or more in the past year, including 14% who said that positions remained vacant for 6 months or longer.

Without increased budgets in government contracts to cover wage increases, nonprofits will be unable to recruit and train the next generation of nonprofit leaders, setting future New Yorkers up for significant barriers to accessing services that grow over time. Further, insufficient staffing has made it increasingly difficult for nonprofits to serve New Yorkers, leading to under-enrollment, challenges meeting staffing ratios for children and youth programs, and in some cases program closures.

COLA for Human Services Workers

For years, the human services sector has warned of a staffing crisis citing low wage levels. Over the last three years, the City has responded by issuing a one-time bonus for our workforce that was equivalent to less than 1%, and two rounds of "workforce enhancements" that have led to estimated contract-by-contract increases of between 1.5 and 2.5%. This year, we are grateful to learn that a multi-year Cost of Living Adjustment (COLA) deal has been struck that will add 3% raises for this essential workforce year-over-year for three years on top of the previous Workforce Enhancement Initiative investments in FY25.

The benefit of a multi-year COLA is that these funds will be automatically built into contract budgets such that providers can plan ahead and count on those dollars to increase staff salaries on a regular schedule, leading to fair and predictable raises for the workforce. Multi-year COLAs give workers a sense of stability, as they can plan and rely on how much their wages might increase year over year.

UNH thanks the Council for your dedicated advocacy on behalf of and alongside the human services workforce. We look forward to continued work together to move towards wages for human service workers that are reflective of the deeply important work they do for communities.

Create a Prevailing Wage Schedule for Human Services Workers

While the recently-announced COLA will provide immediate relief for workers, we must do more to undo years of budgets that left behind human service workers. UNH supports Intro 734-2024 (sponsored by Council Member Stevens) to establish a prevailing wage for City-contracted human service workers, which would require City agencies to include sufficient funding to cover those wages in contracts, and track implementation of those wages by human service contractors.

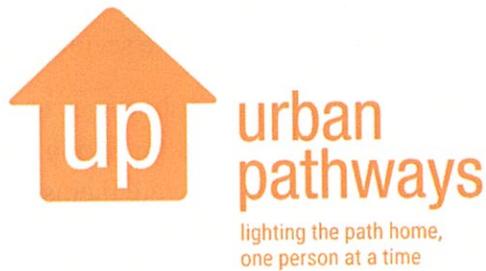
While setting a prevailing wage schedule for human service workers will be arduous and will require careful analysis, we cannot continue to ignore the need. For years, the government at every level has asked nonprofit partners to “do more with less.” This dynamic has pushed our sector to a real breaking point, and our workforce has suffered the consequences. It’s time for us to look beyond stopgap measures and towards efforts that would have a long-lasting impact on the human service sector.

UNH urges the Council to pass CM Stevens’ prevailing wage legislation and ensure that sufficient funding is included to limit major disruptions to programs.

PASSport Transition

As the Mayors Office of Contract Services (MOCS) has progressed the transition from HHS Accelerator to PASSPort, providers have come across a number of challenges and workflow interruptions. We appreciate MOCS for responding quickly to concerns, though they are not always able to address the underlying causes of issues as they arise. UNH urges the Council to ensure that sufficient funding is available to MOCS such that they are fully staffed and able to devote resources to addressing software bugs promptly.

Thank you for your time. For any follow up questions, I can be contacted at jfalcone@unhny.org.



**Testimony
New York City Council
Committee on Contracts
Fiscal Year 2025 Preliminary Budget Hearing
March 22, 2024**

Good afternoon, Chair Won and members of the Committee. My name is Nicole McVinua, and I am the Director of Policy at Urban Pathways. Thank you for the opportunity to testify at today's Fiscal Year 2025 Preliminary Budget hearing about the need for procurement reform and timely payments for nonprofits.

Urban Pathways is a nonprofit homeless services and supportive housing provider serving single adults. Last year, we served over 2,000 unique individuals through a full continuum of services including street outreach, drop-in services, safe havens and stabilization beds, extended-stay residences, and permanent supportive housing in Manhattan, Brooklyn, Queens, and the Bronx. We also offer a wide range of additional programming to meet the needs of our clients, including our Total Wellness, Employment, and Advocacy programs. We hold City contracts with DHS, DOHMH, and HRA.

Human Services COLA

We would like to thank the City Council and the Adams Administration for last week's announcement of a \$741 million investment in the City-contracted human services workforce through a 3 percent cost-of-living adjustment each year for the next three years. This will result in a 9.27 percent increase in human services workers' salaries between now and 2026.

This increase will have a substantial positive impact on our workforce and the sustainability of our programs. Our services are not possible without the hard work of our dedicated staff. Our 24/7 programs require case managers to connect the people we serve with the services and resources needed to meet their goals, maintenance workers to keep buildings clean, security staff to ensure the safety of our residents, and cooks to provide healthy meals. Due to historic underinvestment in the human services sector over the last several decades, these frontline essential workers who are majority women and people of color are paid poverty-level wages.

Human services workers make 20-35 percent less in median annual wages and benefits than workers in comparable positions in the public and private sector.

While there is more work to be done to bring true livable wages to the human services sector, we commend the City Council and Adams Administration for taking this critical step in addressing the underpayment of our essential workforce who dedicate themselves to ensuring the health and safety of our communities every day. We are grateful for your continued support and look forward to working with the City for a seamless COLA implementation, and to seeing the positive impact that the stability of a guaranteed COLA will have on our staff along with the 80,000 City-contracted human services workers citywide.

Procurement Reform

We appreciate the efforts of the Joint Task Force to Get Nonprofits Paid on Time to create substantial reforms to address the procurement challenges faced by nonprofits. However, there continue to be delays in the contracting process and getting reimbursements for services provided. **Nonprofits are contracted by the City to provide essential services on government's behalf, but the City is not paying contracted nonprofits who deliver critical services to our city's residents most in need on time. In many instances, payments are made months or even years after services have been provided.**

Currently, Urban Pathways is owed almost \$2 million by the Department of Homeless Services (DHS), which contracts our drop-in center, Safe Havens, and stabilization beds. DHS is changing their system from HHS Accelerator to Passport, and while the migration occurs, we are not able to bill for or receive reimbursements. As of February 28, 2024, we are pending \$1,033,000 net reimbursement from DHS for services rendered, and an additional \$881,150 in reimbursements for money paid to vendors for subcontracted services for not only Fiscal Year 2024, but also Fiscal Year 2023. There is no other industry that is expected to continue performing work at the same standards when they are owed millions of dollars in back pay.

In addition to payment delays, **the 65A process for subcontractors that DSS-contracted providers must adhere to, is inefficient and lacks transparency.** Completing the 65A form and process requires three bids for subcontracted services over \$25,000. There are some types of services that choosing a vendor based solely on price does not make sense, such as psychiatric services. There are numerous factors to consider, including best fit and service models for the people we serve, when bringing in psychiatric services to a program. If we do not select the lowest of the three bids, we are required to submit a justification letter. Approvals take an extensive amount of time and if a submission is denied there is no explanation as to the reason why, what needs to be done to correct the submission to get it approved, or how to proceed. This process must be made more efficient and transparent, so that we can contract with vendors that will best perform the work in a timely manner.

While all of Urban Pathways' contracts are currently registered, this has not always been the case and is not the case for our colleagues, as 54% of all DHS contracts were registered late in FY24. We additionally remain concerned that we are just three months from the start of FY25 and our contracts are not registered for the upcoming fiscal year. **The inability to depend on our contracts being registered on time leaves us uncertain of how to plan our organizational FY25 budgets, since late registration delays both the advances we receive on our contracts and our ability to submit invoices for reimbursement. Nonprofits must be able to rely on our contracts to be registered and paid on time to have a sustainable organization.**

The City must also pay nonprofit service providers for the true cost of running the services provided. In last year's budget, while many other PEGS were restored, all DHS contracts received a 2.5% cut. This cut and flat contracts reflect how our contracts continuously fail to keep pace with the true cost of providing essential, life-saving services.

To remedy these concerns, the City must:

- **deploy a Rapid Response Team to address the current DHS contracting and payments backlog, and pay nonprofit providers what we are owed;**
- **drastically reform its procurement and payment process, with additional staff, updated technology, increased efficiency and transparency, and a streamlined process that eliminates burden and barriers; and**
- **pay the true cost of the services being provided through the term of its contracts.**

Thank you for the opportunity to testify today. We look forward to working with the City Council on a fair and equitable budget for all New Yorkers.

For questions or more information, please contact:

Nicole McVinua, Director of Policy
nmcvinua@urbanpathways.org
212-736-7385, Ext: 233

City Council Contracts Committee Testimony 3-22-24 – HELP USA President & CEO D Lehman

Good afternoon. I am Dan Lehman, President & CEO of HELP USA.

HELP runs homeless shelters, homelessness prevention programs and supportive housing services via contracts with the Department of Homeless Services; the Human Resources Administration; and the Department of Health & Mental Hygiene.

Prior to joining HELP, I spent 15 years in City government, at OMB; at DFTA; at HRA; and as Deputy Commissioner for all finance and contracting functions at DOHMH.

I was also CFO and COO at Children’s Aid, a large multi-service provider.

Though contract and payment delays have been perennial problems, I have been struck by how much more severe and pervasive the pain now seems to be.

Contract registrations still are frequently delayed, with the expectation that providers will begin work well in advance of receiving full payment remains an ongoing concern; but other administrative and systems processing issues cause considerable pain as well.

Delays in budget acceptance and modifications prevent timely reimbursement. Furthermore, providers are often “locked out” from submitting reimbursement claims because of pending budget authorizations and approvals.

The cumbersome “65-A” process for subcontractor approvals slows down critical goods and services essential to transitional housing shelter operations.

Contract advances may be significantly delayed – and often consumed by expenses incurred before contracts are registered.

Budget cuts offset new funding, such as the Workforce Enhancement Initiative. Sometimes budget increases are often so delayed, that they are difficult to incorporate because additional changes have occurred in the meantime. This

City Council Contracts Committee Testimony 3-22-24 – HELP USA President & CEO D Lehman

delays putting funds to use. Contract budget adjustments may also lag behind other mandates like increases in the New York State required minimum wage or New York City-mandated prevailing wage for certain positions, forcing providers to cover these additional costs without additional funds for multiple months.

The transition to PassPort for contract management has been incredibly difficult, adding to an already fraught environment.

There have been substantial “unfunded mandates” – from funding agencies (such as the required 40-hour security training course for safety staff in DHS-funded transitional housing shelters); from the Mayoral administration or other regulatory agencies (such as the new food service standards, with increased nutritional content levels for all meals); and from the City Council as well (prevailing wage for safety staff in DHS-funded transitional housing shelters.).

These challenges impose real costs. To bridge cash needs, we have spent \$236,000 on interest for our line of credit so far in FY24. This is not covered by contracts.

Looking ahead to FY25, we hope the recent three-year salary COLA will be implemented timely and efficiently, including benefits as well.

A multi-year escalation for “other than personnel services” costs is desperately needed; as are fair indirect rates that are properly funded.

The nonprofit providers the City depends on cannot be the City’s bank as well.

Problems with administrative processes and system implementations cannot be the basis for delayed payment.

Contracts and cash flow are the lifeblood of this sector. Without addressing these pervasive problems, the best policy and program ideas will inevitably be stunted.

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Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____
 in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Janelle Farris
Address: 151 Lawrence Street Bkley NY
I represent: Brooklyn Community Services
Address: (see above)

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 in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Sarah Butch
Address: 671 Degraw St BK NY 11217
I represent: Fifth Ave Committee
Address: "

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 in favor in opposition

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(PLEASE PRINT)

Name: Lisa Rivera
Address: [REDACTED]
I represent: New York Legal Assistance Group
Address: 100 Pearl St.

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Date: 3/22/2024

(PLEASE PRINT)

Name: DAVID RUAN

Address: [Redacted] Astoria, NY 11106

I represent: Brooklyn Legal Services Corp

Address: 260 Broadway, Brooklyn, NY 11211

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in favor in opposition

Date: 3/22/24

(PLEASE PRINT)

Name: Greg Klemm

Address: _____

I represent: Legal Services NYC

Address: 40 Worth St, NY, NY 10013

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in favor in opposition

Date: 3/22/24

(PLEASE PRINT)

Name: Lauren Siciliano

Address: _____

I represent: Legal Aid Society

Address: 199 Water St. NYC

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Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 3/22/2024

(PLEASE PRINT)

Name: Keriam Pauls

Address: _____

I represent: Take Root Justice

Address: 123 William St. 4th Fl. NY, NY

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Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Michelle Jackson

Address: 130 East 59th St

I represent: Human Services Council

Address: _____

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Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 3/22/24

(PLEASE PRINT)

Name: Dan Lehman

Address: [Redacted] Brooklyn

I represent: HELP USA

Address: 115 E 13th St NY NY

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Appearance Card

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in favor in opposition

Date: _____

(PLEASE PRINT)

Name: WESLEY CHARLES

Address: _____ BL NY

I represent: THE BRONX DEMOCRATS

Address: 360 E. 161 ST BL NY

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Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 3/22/24

(PLEASE PRINT)

Name: JOHN T. FALCONE

Address: 95 BROADWAY, S. 2210 NY, NY

I represent: UNITED NEIGHBORHOOD HOUSES

Address: _____

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Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 3/22/24

(PLEASE PRINT)

Name: Nicole McVinea

Address: _____ New York, NY 10033

I represent: Urban Pathways

Address: 375 8th Ave, 16th Floor, New York, NY 10018

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Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Kristin Miller

Address: [Redacted] Bkln NY 11209

I represent: Homeless Services United (HSU)

Address: 307 W. 38th St. NY NY 10018

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Shelter
Provider

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 3-22-2024

(PLEASE PRINT)

Name: Lauren Schuster

Address: _____

I represent: Urban Resources Institute (URI)

Address: 205 E. 42nd St NYC

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Appearance Card

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in favor in opposition

Date: 3-22-2024

(PLEASE PRINT)

Name: Ariane Cruz

Address: _____

I represent: Philantropy New York

Address: 320 4th St. Manhattan

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S.S.

Appearance Card

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I intend to appear and speak on Int. No. _____ Res. No. _____
 in favor in opposition

Date: 3-22-2024

(PLEASE PRINT)

Name: Sara Batchu

Address: _____

I represent: Fifth Ave Committee

Address: 621 B Degraw St. Brooklyn

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~~SECRET~~

Appearance Card

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I intend to appear and speak on Int. No. _____ Res. No. _____
 in favor in opposition

Date: 3-27-2024

(PLEASE PRINT)

Name: Kerriann Pauls

Address: _____

I represent: Take Root Amnesty CA 112

Address: 123 William St NYC

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Appearance Card

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I intend to appear and speak on Int. No. _____ Res. No. _____
 in favor in opposition

Date: 3/22/24

(PLEASE PRINT)

Name: Yexenia Markland

Address: 255 Greenwich St.

I represent: Mayor's of Contract Services

Address: 255 Greenwich St.

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Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 3/22/24

(PLEASE PRINT)

Name: Lisa Flores

Address: 255 Greenwich St. NYC 10007

I represent: Mayor's Office Contract Services

Address: _____

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Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 3/22/24

(PLEASE PRINT)

Name: Helga Nyamffer

Address: 255 Greenwich St. 9th fl.

I represent: Mayor's office of Contract Services

Address: 255 Greenwich St 9th Fl

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THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Matt Sullivan

Address: 255 Greenwich St

I represent: MOLS

Address: 255 Greenwich St

Please complete this card and return to the Sergeant-at-Arms