

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON GOVERNMENTAL OPERATIONS

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City Hall

B E F O R E:
BEN KALLOS
Chairperson

COUNCIL MEMBERS:
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Mark Levine
David G. Greenfield
Vincent Ignizio

A P P E A R A N C E S (CONTINUED)

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First Deputy Executive Director
NYC Financial Information Services
Agency

Alexandra Fisher
First Deputy Executive Director
NYC Office of Payroll
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Appeals

Bob Gormley
District Manager
Community Board 2
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COMMITTEE ON GOVERNMENTAL OPERATIONS

CHAIRPERSON KALLOS: Good morning.

Welcome to the Committee on Governmental Operations hearing on Fiscal 2015 Preliminary Budget and the Preliminary Mayor's Management Report. My name is Ben Kallos. You can tweet me @BenKallos and I'm the chair of the committee. I'd like to introduce my colleague, Council Member Matteo from Staten Island. I'd like to take a moment to thank my Principal Financial Analyst, John Russell; my Policy Analyst, Tim Machesov [phonetic] and my Committee Counsel, David Seitzer.

Today we will hear from seven agencies that carry out core functions of our city, from fighting our legal battles to carrying out our elections. This committee will review their financial plans, budget proposals, performance measures and operational issues to aid them in efficient and effective functioning. The agencies that will testify today are the Financial Information Services Agency; Office of Payroll Administration; Board of Elections; the Law Department; the Department of Citywide Administrative Services; the Department of Records and Information Services; the Office of

1
2 Administrative Tax Appeals and the Community
3 Boards, after which the general public will have an
4 opportunity to weigh in.

5 We are here as a City Council Committee
6 to provide support for our agencies, oversee them
7 when necessary and to eliminate corruption and
8 waste to make sure that every penny of our \$70
9 billion budget gets spent on our city's 8.5 million
10 residents. This hearing gets to the heart of what
11 the Committee on Governmental Operations is tasked
12 with doing, which is to help ensure that the
13 government works seamlessly and transparently for
14 all New Yorkers and I'm happy to be here today.

15 First off, we will hear from the Financial
16 Information Services Agencies from the first Deputy
17 Executive Director, Rose-Ellen Myers and the Office
18 of Payroll Administration's First Deputy Executive
19 Director, Alexandra Fisher. Welcome.

20 [Pause]

21 CHAIRPERSON KALLOS: Just by way of
22 background for those in the audience and watching
23 and streaming, FISA controls {pause in tape}
24 functions and operations for the City's payroll,
25 accounting and purchasing systems, managing the

1 citywide Financial Management System, FMS,
2 generates and distribute... [background voice] Hm?
3 Thank you. Generates and distributes reports for
4 accounting and budget oversights and provides
5 online access to budgetary or related data for use
6 by city managers and others. FISA's proposed
7 budget for Fiscal Year 2015 totals \$9.7 million,
8 including Personnel Services funding of \$45.1
9 million to support 456 full-time positions.

11 The Office of Payroll Administration is
12 also responsible for the distribution of payrolls;
13 the accounting for payrolls; administration of
14 payroll deductions; check distribution services;
15 maintenance of integrity and accuracy of the
16 payroll management system and supporting the
17 development implementation of that payroll
18 management system and in full disclosure, that's
19 where I get my check from. In its proposed budget
20 for Fiscal Year 2015, it totals \$27.7 million,
21 including Personnel Services funding of \$16.2
22 million to support 203 full-time positions.

23 During today's hearing we'll examine
24 various aspects of both agencies' budgets and
25 discuss the operations and upkeep of several

2 citywide IT systems, including FMS, the City's
3 Financial Management System; CityTime, the City's
4 timekeeping system; NYCAPS, the City's human
5 resources database and the Payroll Management
6 System. Please proceed with your prepared remarks
7 whenever you're ready.

8 ROSE-ELLEN MYERS: Morning. My name is
9 Rose Ellen Myers. I'm the First Deputy Executive
10 Director of the Financial Information Services
11 Agency. FISA's Executive Director position is
12 currently vacant, so I'm handling the
13 responsibilities of the day to day operations of
14 the agency.

15 The portion of the Mayor's Preliminary
16 Budget that pertains to FISA will allow it to
17 maintain its current levels of service. The budget
18 provides FISA with the resources it needs to
19 support the citywide financial payroll, human
20 resources and timekeeping applications, which it
21 maintains for city officials who utilize them to
22 carry out their charter mandated activities related
23 to budgeting, financial planning, accounting,
24 procurement, payroll pension and personnel
25 functions. FISA provides services to various

2 entities through the operation and maintenance of
3 major information systems such as the Payroll
4 Management System; the Financial Management System;
5 the Pension Payroll Management System and the New
6 York City Automated Personnel System and CityTime.

7 FISA provides technical expertise and
8 support primarily to the Office of Management and
9 Budget, the Office of the Comptroller; the Office
10 of Payroll Administration; Labor Relations and the
11 Department of Citywide Administrative Services.

12 FISA ensures citywide system access and provides
13 technical assistance to all agencies processing
14 transactions in FMS, PMS, PPMS, NYCAPS and
15 CityTime.

16 Today, the systems that FISA supports
17 are all implemented and utilized by tens of
18 thousands of users in the performance of their
19 duties on behalf of the people of our city.

20 The Financial Management System
21 supports the base functions required of the
22 citywide budget and accounting system. FMS
23 processes [background voice] data for inclusion in
24 the City's Financial Plans, Budget, Comptroller's
25 Annual Statements and all required tax reports. In

2 Calendar Year 2013, FMS generated approximately
3 709,000 disbursements valued at approximately \$45
4 billion.

5 FISA would like to report a positive
6 trend toward greater usage of Electronic Funds
7 Transfers by vendors and other payees receiving
8 payments from the city. In Calendar Year 2010,
9 approximately 41 percent of the city's total
10 disbursements were made using EFT. By the end of
11 2011, that percentage had reached 57 percent and
12 during 2013, the EFT percentage grew higher still
13 to 69 percent. This trend toward greater use of
14 EFT is due to a number of complementary initiatives
15 such as City legislation, which makes EFT the
16 preferred method of payment by agencies, a nominal
17 paper check fee that has raised over \$1 million to
18 date for the city since the end of Fiscal Year 2011
19 and aggressive vendor enrollment activities.

20 FISA, working with the Mayor's Office
21 of Contract Services and DCAS, completed a set of
22 procurement improvement initiatives. The
23 initiatives underway include the deployment of an
24 automated and standardized procurement process,
25

2 self-service vendor commodity enrollment and
3 electronic order processing for selected contracts.

4 FISA, working with the Office of the
5 Comptroller, completed initiatives to improve
6 financial and tax reporting capabilities. The
7 initiatives include the deployment of the 1042-S
8 tax reporting and the automated generation of
9 additional components of the City's Annual
10 Financial Report.

11 The Debt Management System is a custom
12 built application for the City of New York that is
13 used by investment banks, bond counsel and City
14 employees. The application is the official
15 repository of data pertaining to debt issued by New
16 York City and certain other debt issuing
17 authorities. The DMS application includes over 100
18 years of historical data. FISA completed the
19 initial implementation and continues to maintain
20 the application and apply enhancements as
21 prioritized by DMS stakeholders. Enhancements
22 currently underway include the creation of new
23 reports and upgrades to the client software.

24 The Payroll Management System is the
25 computerized payroll system used for producing the

2 City's payroll. PMS processes over nine million
3 payments annually by running over 300 pay cycles
4 per year that produce payrolls valued at \$28
5 billion. FISA is currently working on several
6 initiatives to move non-payroll functionality out
7 of the Payroll Management System as part of the
8 project to replace it.

9 The Pension Payroll Management System
10 is used for producing payments to New York City
11 retirees. For Calendar Year 2013, it produced over
12 3.7 million payments by running over 180 pay cycles
13 for a payroll valued at approximately \$13 billion.
14 FISA manages the distribution of retiree checks,
15 1099 forms and EFT quarterly statements to
16 pensioners.

17 NYCAPS is a citywide human resources
18 and benefits system which processes transactions
19 for City employees. In the past year, the NYCAPS
20 application was expanded in several areas. First,
21 the E-Hire functionality was enhanced in
22 conjunction with NYC.Gov to present an easier to
23 use interface to allow applicants to find job
24 opportunities within New York City government.
25 Working with the Department of Education, the

2 remaining department populations continue to be
3 rolled into NYCAPS. Since last year, the
4 paraprofessional school-based hourly support
5 employees were converted. The Per Diem teachers
6 will be converted in May and the Per Session
7 teachers and custodians in the fall, and this will
8 complete DOE's integration into NYCAPS.

9 And lastly, FISA and the Office of
10 Labor Relations continue to work on the other
11 systems which support the processing of retiree
12 benefits and plan on converting them into NYCAPS.

13 The CityTime system is a unified and
14 automated timekeeping system, which interfaces with
15 the City's Payroll Management System, to support
16 accurate time and attendance records and payroll
17 calculations. At this time, approximately 161,000
18 employees across 66 agencies and 127 collective
19 bargaining units have been deployed on CityTime.

20 FISA is on target to meet the
21 objectives set forth in the FISA Board Resolution
22 of June 2011. That resolution called for replacing
23 20 consultants with City employees per year.
24 FISA's goal is to reduce CityTime consultant head
25 count to around five by July of 2014.

2 FISA is working with the Department of
3 Information Technology and Telecommunications with
4 data on job postings for its Open Date website.

5 FISA also provided the New York City Comptroller's
6 Office with payroll contract and payment data for
7 the Comptroller's Checkbook 2.0 website. We
8 continue to support their efforts as they design
9 additional components of their Checkbook site.

10 FISA's staffing for Fiscal Year 2014
11 and 2015 is an authorized 436 and 456 employees
12 respectively. The total January Plan budget
13 allocation for FY '15 is \$99 million; \$45 million
14 for Personal Services and \$54 million for Other
15 Than Personal Services. Thank you.

16 CHAIRPERSON KALLOS: Thank you.

17 ALEXANDRA FISHER: Good morning. My
18 name is Alexandra Fisher. I'm the First Deputy
19 Executive Director of the Office of Payroll
20 Administration. Our agency Executive Director slot
21 is also vacant at this time and I am handling the
22 day to day operations.

23 The portion of the Mayor's Preliminary
24 Budget that pertains to OPA will allow OPA to
25 maintain its current levels of service. The budget

2 provides OPA with the necessary resources to
3 support employee and retiree payrolls, including
4 the management and reconciliation of the City's
5 payroll bank accounts. In furtherance of its
6 mission, OPA maintains and enforces uniform payroll
7 policies and procedures; coordinates payroll
8 matters among central agencies including the
9 Comptroller's Office, DCAS, OLR, OMB, Finance and
10 Law; ensures the continued security, integrity and
11 effectiveness of the City's payroll system, as well
12 as compliance with requirements of federal, state
13 and city taxing authorities, while using technology
14 to the greatest possible advantage in support of
15 its operations.

16 The following operational divisions
17 carry out much of the activity related to the core
18 mission of OPA. OPA Payroll Operations: OPA
19 manages the payroll check and direct deposit
20 distribution to City agencies. In Calendar Year
21 2013, over nine million payments were made to
22 active City employees. Over seven million of these
23 were direct deposit payments and over one million
24 were paper checks. This reflects a direct deposit
25 participation rate of 80.47 percent. OPA also

2 manages the movement of funds for 18 payroll
3 accounts. In addition, OPA manages the retiree
4 payroll distribution for the pension system. In
5 Calendar Year 2013, over 3.6 million payments were
6 made to City retirees. Just over three million of
7 these were direct deposit payments and over 625,000
8 were paper checks. This reflects a direct deposit
9 participation rate of 84 percent.

10 Use of direct deposit is promoted by
11 OPA. Toward that end, the agency partners with
12 seven financial institutions in the "Free Checking
13 with Direct Deposit" initiative. Paper checks,
14 stop payment notices and check replacements are
15 processed by OPA. In Calendar Year 2013, 5,733
16 paper checks were replaced.

17 As a fiduciary, OPA is responsible for
18 reporting wages, pension distributions and
19 withholding tax information to federal and state
20 taxing authorities for the City's employer
21 entities. These entities include the City, the New
22 York Housing Authority and the New York City
23 Municipal Water Finance Authority. These entities
24 also include the New York City Retirement System
25

1 Pension Trust and the New York City Retirement
2 System Trust.

3
4 OPA ensures the City complies with
5 ordered deductions that have been served upon City
6 employees. Some of these ordered deductions
7 include child support, Internal Revenue Service tax
8 levies/repayment agreements, credit or garnishment
9 orders, higher education loan orders and national
10 medical support notices. OPA is responsible for
11 collecting and remitting City employees' voluntary
12 payroll deductions and data, including union dues,
13 life insurance premiums and political dues to
14 internal and external entities.

15 The City's Commuter Benefits Program is
16 administered by OPA. The expanded transit benefit
17 program offers eligible employees the opportunity
18 to use pre-tax and post-tax earnings to cover
19 certain public transportation costs throughout the
20 New York Tri-State area. As of the end of February
21 2014, more than 54,000 City employees were
22 participating. During 2014, the program will be
23 adding the Premium MetroCard to the existing
24 transit benefit options. The Premium MetroCard is
25 an annual Unlimited Ride MetroCard that is accepted

2 wherever the 30-day Unlimited Ride MetroCard is
3 accepted.

4 OPA Citywide Systems Support Services:

5 this division's mission is to maintain and provide
6 citywide agency support and training for use of OPA
7 citywide systems, as well as support for use of
8 internal OPA systems used by OPA's Payroll
9 Operations Division. OPA is responsible for the
10 business addressed by eight major citywide systems
11 covering payroll, pension and timekeeping
12 functions. These systems include PMS, the Payroll
13 Management System; Pension Payroll Management
14 System; Workers Compensation System; CityTime; City
15 Human Resources Management System; Replacement and
16 Correction System for W-2s; Welfare Benefit Annuity
17 System and EFORMS/ESTUBS. In addition to
18 maintaining and ensuring that these systems meet
19 business needs, OPA also provides support and help
20 desk functions. This unit addresses agency
21 questions and issues and disseminates information
22 pertaining to OPA citywide systems.

23 OPA's responsibilities cover a broad
24 range of activities including business analysis
25 requirements gathering, validating payroll results,

2 data assurance for tax filings and troubleshooting
3 system business issues. OPA assesses and makes
4 system update recommendations based on changes to
5 over 180 union agreements, as well as legislative
6 or other required business changes.

7 An important function of OPA's support
8 services division is its proactive agency outreach.
9 This approach focuses on assisting agencies with
10 correcting transactions, recommending business
11 process changes and communicating system updates to
12 the user community. OPA also engages agencies to
13 participate in software testing to ensure software
14 usability meets business needs.

15 Agency Budget Information: OPA has
16 authorized full-time staffing levels of 203 for
17 Fiscal Year '14 and 203 for Fiscal Year '15. OPA's
18 total January Plan budget allocation for FY '14 is
19 \$28.2 million; \$16.8 million for Personal Services
20 and \$11.4 million for Other Than Personal Services.
21 For FY '15, the January Plan budget allocation is
22 \$27.7 million; \$16.2 million for Personal Services
23 and \$11.5 million for Other Than Personal Services.
24 I should note that agency payrolls are funded
25

2 through their respective budgets. OPA's budget
3 includes only OPA staff. Thank you.

4 CHAIRPERSON KALLOS: Thank you, First
5 Deputy Executive Director Alexandra Fisher and
6 First Deputy Executive Director Rose-Ellen Myers.
7 The core financial plan includes funding for
8 CityTime, the web-based citywide municipal employee
9 timekeeping system in both FISA's and OPA's
10 budgets. Can you explain the roles of FISA versus
11 OPA with regard to the operation and maintenance of
12 CityTime and why are CityTime resources budgeted
13 into agencies?

14 ALEXANDRA FISHER: Well, let me give it
15 a shot, if I can. So OPA's business is payroll and
16 making sure that City employees are paid and so we
17 are the payroll/tax experts and it's the business
18 of Payroll that is fed by the CityTime software, so
19 our time... the individuals who work for the City
20 enter their time to the CityTime, but the business
21 aspects of how that all plays out is an area of
22 expertise in our agency. FISA provides the system
23 support, the updates, the programming. They
24 maintain the systems, they back up the systems and
25

2 the data resides on their system and then we work
3 closely on all of that.

4 CHAIRPERSON KALLOS: Thank you. How
5 close are we to fully implementing CityTime?

6 ROSE-ELLEN MYERS: CityTime is fully
7 implemented in so far as all the functionality that
8 has been defined today has been billed. The
9 question of other agencies who haven't... who don't
10 participate in CityTime now; is that what you're
11 referring to?

12 CHAIRPERSON KALLOS: Sure. What other
13 agencies could we do; could the New York City Board
14 of Elections join CityTime?

15 ROSE-ELLEN MYERS: Absolutely.

16 CHAIRPERSON KALLOS: Thank you. In
17 June of 2011, an agreement was reached between the
18 Comptroller and the Mayor's office, which calls for
19 a gradual transfer of the management of the system
20 from outside consultants to City employees and all
21 83 consultant positions will be phased out or
22 replaced by City employees. Can you give a status
23 update on the plan to convert CityTime outside
24 consultants to City employees?

25 ROSE-ELLEN MYERS: Uhm...

2 CHAIRPERSON KALLOS: [interposing] I...
3 I know...

4 [crosstalk]

5 ROSE-ELLEN MYERS: It's...

6 [crosstalk]

7 CHAIRPERSON KALLOS: You mentioned it
8 in your testimony.

9 ROSE-ELLEN MYERS: Yeah, we are on
10 track to fulfill the commitment in that agreement.
11 We have been converting at least 20 consultants
12 into City employees every year. We continue to be
13 on track for this year as well.

14 CHAIRPERSON KALLOS: Do you know what
15 cost savings have been associated with those
16 consultant conversions?

17 ROSE-ELLEN MYERS: I do and as soon as
18 we find the page we will let you know.

19 [Pause]

20 ROSE-ELLEN MYERS: I don't quite get
21 where the... [background voices] I can even read
22 this number with my glasses. Yeah, right now we
23 have saved \$4.6 million.

24 CHAIRPERSON KALLOS: That is amazing,
25 great news, so taking our consultants and

2 converting them into City employees for just 83 has
3 saved \$4.6 million?

4 ROSE-ELLEN MYERS: Yes.

5 CHAIRPERSON KALLOS: Thank you.
6 That's amazing. Have you identified other
7 opportunities to convert outside consultants to
8 city employees within your respective agencies?

9 ROSE-ELLEN MYERS: We are doing this
10 actually in all of our projects now. As we roll in
11 maintenance mode, we convert from consultant into
12 City heads and that's... it's just an ongoing FISA
13 strategy and as we convert consultants into
14 employees, we do that at a smaller number because
15 we're in a maintenance mode where we need less
16 people to keep the system going.

17 CHAIRPERSON KALLOS: I think for a
18 final hearing, I'd love to hear a plan that you may
19 have and how many people and what your projection
20 is on how to do it 'cause \$4.6 million in cost
21 savings is incredible and that is a lot of money
22 we'll be able to put towards other uses. Last
23 year, FISA identified a major budget surplus of
24 \$9.1 million and a year in surplus of \$3.4 during
25 FISA's budget hearing last year. The Director

2 testified that he anticipated a similar budget
3 surplus for Fiscal Year 2014. Can we expect a
4 budget surplus for Fiscal Year '14 and can we
5 estimate FISA's Fiscal 2014 team budget surplus?

6 ROSE-ELLEN MYERS: Yeah, we will
7 probably have some surplus. We're in the process
8 of calculating what that will be.

9 CHAIRPERSON KALLOS: Okay, thank you
10 for being responsible and making sure that there is
11 a surplus. I'd like to turn it over to my
12 colleague, Council Member Matteo.

13 COUNCIL MEMBER MATTEO: Thank you,
14 Chair. So in your testimony, Miss Fisher, you
15 talked about seven million were in... City
16 employees were in direct deposit by 1 million... or
17 over a million were by check. My first question is
18 can you tell me how much it is to issue paper
19 checks compared to direct deposit obviously?

20 [background voices]

21 [Pause]

22 ALEXANDRA FISHER: Okay, so the general
23 number is \$2.71 for the paper checks with the...

24 [crosstalk]

25 COUNCIL MEMBER MATTEO: Per check?

2 ALEXANDRA FISHER: Per check.

3 COUNCIL MEMBER MATTEO: And are you
4 trying... is there an outreach to get the people
5 who get checks to get into direct deposit?

6 ALEXANDRA FISHER: I'm sorry, outreach?

7 [crosstalk]

8 COUNCIL MEMBER MATTEO: Is there
9 outreach or are we trying to get the million plus
10 to go into direct deposit?

11 ALEXANDRA FISHER: Yes, we've done
12 outreach. We put messages on our website. We put
13 messages on the paper checks themselves. We
14 certainly do. We speak to people through our
15 various employees doing our forms and the like.

16 COUNCIL MEMBER MATTEO: Has there been
17 a general consensus on a reason why people don't
18 want to have direct deposit or...

19 ALEXANDRA FISHER: I'm not 100 percent
20 sure. I think some of it is just habit and people
21 being used to one way of doing things, but as we've
22 indicated in the testimony, we do have the free
23 checking initiative available so people can
24 participate without too much concern.

1
2 COUNCIL MEMBER MATTEO: Alright well,
3 anything that we can do to save money. I'm with
4 Chair Kallos on that, so I'd appreciate it if you
5 could just keep trying to get that other one
6 million into direct deposit.

7 ALEXANDRA FISHER: Absolutely. We're
8 on the same page.

9 COUNCIL MEMBER MATTEO: Thank you.

10 CHAIRPERSON KALLOS: Just want to echo
11 my colleague's sentiments. We are committed to
12 working with you to saving any costs we can and if
13 direct deposit can save us money, we're on board
14 for it and are looking for a way to enable you on
15 that. The budget of both OPA and FISA include
16 significant resources for many of the same citywide
17 IT systems. Last year, the Executive Director,
18 Robert Townsend, testified that in an effort to
19 increase efficiencies and eliminate redundancies,
20 the two agencies were working on a plan to co-
21 locate. This is not the other sort of
22 controversial co-location that's been in the news
23 recently, but what is the status of the plan to co-
24 locate FISA and the OPA, and in your opinion, does
25

1
2 it make sense to merge FISA and OPA and what are
3 your thoughts?

4 ROSE-ELLEN MYERS: Well, let me talk to
5 the co-location for a start. DCAS is currently in
6 negotiation with the landlord at 450 33rd Street
7 where FISA is located for both OPA and FISA so that
8 we will be on two adjoining floors. So hopefully
9 that lease will be completed sometime this spring.

10 CHAIRPERSON KALLOS: Thank you. The
11 Capital Plan includes a FISA electronic data
12 processing equipment lump sum project line for
13 current year and out years with plan commitments
14 totaling approximately \$73.6 million. Why is it a
15 lump sum and would it be possible to tell us how
16 that lump sum will be used in more specifics? And
17 moreover, how can we track how these funds and
18 these lines are used?

19 [Pause]

20 ROSE-ELLEN MYERS: We're...

21 [Pause]

22 ROSE-ELLEN MYERS: Yeah, that \$73
23 million is for an alternate data center plan that
24 we had initiated last year, which is currently
25 under review with OMB.

2 CHAIRPERSON KALLOS: So okay, just as a
3 follow up, so the Preliminary Plan includes new
4 funding for \$7.8 million in Fiscal Year '15 for an
5 alternate data center, so...

6 ROSE-ELLEN MYERS: Wait, I'm...

7 CHAIRPERSON KALLOS: So that's the
8 expense side? Okay.

9 [Pause]

10 ROSE-ELLEN MYERS: Right, right.
11 That's for some improvements in the data center at
12 450 West 33rd Street, which we're working with OMB
13 on the details of those dollars.

14 CHAIRPERSON KALLOS: And just for
15 clarification, can you tell us about the alternate
16 data center and why it's necessary?

17 ROSE-ELLEN MYERS: The systems that
18 FISA runs need to remain pretty seamless in the
19 event of a disaster, so it's a project to ensure
20 that we can continue to run the payroll systems and
21 the financial systems in the event something
22 happens to the building or something...

23 CHAIRPERSON KALLOS: Okay.

24 ROSE-ELLEN MYERS: [interposing]
25 Happens to Manhattan.

2 CHAIRPERSON KALLOS: Where is it
3 located? Are you allowed to disclose that?

4 ROSE-ELLEN MYERS: I'd rather not.

5 CHAIRPERSON KALLOS: Fair enough. I'd
6 like to turn it over to my colleague, Council
7 Member Matteo.

8 COUNCIL MEMBER MATTEO: Thank you,
9 Chair Kallos. So I want to go over the contract
10 budget. FISA's Fiscal 2015 Contract Budget is
11 about \$45 million per 75 contracts; OPA at about
12 \$10.9 for 12. Can you talk about some of the major
13 contracts that comprise the FISA and OPA's Contract
14 Budget?

15 ROSE-ELLEN MYERS: Most of that is
16 maintenance on the systems that we won.

17 COUNCIL MEMBER MATTEO: All... most of
18 the contracts are for maintenance?

19 ROSE-ELLEN MYERS: Yes.

20 COUNCIL MEMBER MATTEO: And do you
21 have... is there a process that... so there's no
22 vendors included or do you select vendors for the
23 maintenance or it's in-house?

24 ROSE-ELLEN MYERS: Most of what we do
25 in terms of the development is in-house, but the

2 underlying applications and the databases we need
3 to... and the hardware and software that run the
4 systems we need to pay maintenance to the vendors.

5 COUNCIL MEMBER MATTEO: So when you do
6 have to put out a contract for a vendor, how many
7 or do you use Minority and Women Business
8 Enterprises and is there a percentage?

9 ROSE-ELLEN MYERS: Right. Everything
10 we do is competitively bid; follows the city's
11 procurement rules.

12 COUNCIL MEMBER MATTEO: Okay, thank
13 you, Chair.

14 CHAIRPERSON KALLOS: In hopes of saving
15 every penny that we can, in 2012, Local Law 18
16 requires the City to give the Council quarterly
17 reports on significant cost overruns in capital
18 projects. In the past year, have you identified
19 any capital projects that have significantly
20 exceeded its initial budget?

21 ROSE-ELLEN MYERS: No.

22 CHAIRPERSON KALLOS: That's really
23 great work.

24 ROSE-ELLEN MYERS: We're working really
25 hard at this.

2 CHAIRPERSON KALLOS: Thank you. Our
3 goal is to work closely with you to make sure any
4 time there's an overrun that the Comptroller's
5 office and the Law Department and everyone else are
6 fully engaged to make sure that we are spending
7 exactly what we set out to spend. During last
8 year's budget hearing, the Executive Director,
9 Robert Townsend, reported that there was a need to
10 replace the antiquated Payroll Management System.
11 What is the status of the plan to replace the
12 existing Payroll Management System and how much
13 will it cost to develop and maintain?

14 ROSE-ELLEN MYERS: At the moment, we
15 are continuing to do requirements gathering. As I
16 testified, we are in the process of taking some of
17 the functionality that existed within the payroll
18 system that was non-payroll related and moving it
19 into other applications so that we can get to a
20 payroll system that is just payroll, which would
21 enable us to replace it at the most cost-effective
22 way that we can.

23 CHAIRPERSON KALLOS: Thank you. OPA's
24 Fiscal 2013 actual expenditures totaled \$13.2
25 million, while its Fiscal 2014 Budget totals \$28.2

1
2 million. Can you explain why the OPA's budget for
3 Fiscal 2014 is considerably more than the agency's
4 Fiscal 2013 actual expenditures and do you
5 anticipate further surpluses for OPA in Fiscal
6 Years 2014 or '15?

7 ALEXANDRA FISHER: With regard to the
8 surpluses, I'll know better in the coming weeks I
9 would say, and your first question was... I'm
10 sorry.

11 CHAIRPERSON KALLOS: Can you explain
12 any of the... why OPA's budget for Fiscal Year 2014
13 is considerably more than the agency's 2013 actual
14 expenditures?

15 ALEXANDRA FISHER: Give me one second
16 and I'll find that. I'd like to get... can I get
17 back to you?

18 CHAIRPERSON KALLOS: Absolutely.

19 ALEXANDRA FISHER: I can back get to
20 you.

21 CHAIRPERSON KALLOS: One other item
22 from your testimony, TransitChek. I subscribe to
23 it. I don't own a car. I think that in spite of
24 the fact that it loses tax dollars that the City
25 would be getting otherwise, I think it's an amazing

1
2 program and what we currently... your testimony
3 says we have 54,000 TransitChek subscribers, while
4 we still have about 350,000 City employees. How
5 can I get every single City employee saving pre-tax
6 dollars, saving money, using public transportation
7 and just getting all those members of our... all of
8 our employees onto TransitChek? How can we do
9 that?

10 ALEXANDRA FISHER: So what we've been
11 doing most recently is we've conducted a group of
12 forums for the various HR staff throughout the city
13 to remind them of how the system works and how they
14 can help ourselves and our contractor get more
15 people to use it. They're developing a whole new
16 marketing campaign with new posters and handouts
17 and information and we also think that the addition
18 of the Premium MetroCard, which is the annual one,
19 may bring in some additional users, so we're trying
20 various avenues with our vendor, a very aggressive
21 marketing campaign we hope.

22 CHAIRPERSON KALLOS: But when I get the
23 Premium Card and annual card and I lose it what
24 will happen?

1
2 ALEXANDRA FISHER: You'll be able to
3 replace it quickly.

4 CHAIRPERSON KALLOS: That sounds great.

5 ALEXANDER FISHER: At no cost.

6 CHAIRPERSON KALLOS: Both of your
7 agencies are doing such excellent work. Thank you
8 for answering all of our questions and coming here
9 ready and armed with all the answers. Do you...
10 either of your agencies have additional testimony
11 or things that we did not bring up that you'd like
12 to present?

13 ROSE-ELLEN MYERS: Mm-mm, no.

14 ALEXANDRA FISHER: No.

15 CHAIRPERSON KALLOS: Okay, I'm going to
16 recess the hearing until 11:15 for Board of
17 Elections. Thank you again for your testimony and
18 for joining us.

19 ROSE-ELLEN MYERS: Thank you.

20 [gavel]

21 [Pause]

22 CHAIRPERSON KALLOS: I now call the
23 Governmental Operations Committee back to order.

24 [gavel] We will now hear from Michael J. Ryan,
25 Executive Director of the Board of Elections. The

1 Board is responsible for conducting all elections
2 in the City of New York. Its Fiscal 2014 Budget
3 totals 143.3 million including 72.8 million in
4 Personal Services funding to support 346 full-time
5 positions and over 36,000 poll workers. The
6 Board's Fiscal 2015 proposed budget of \$76.5
7 million, which is far less than the current year,
8 is likely to be modified to meet the Board's
9 changing needs. Because of the nature of
10 elections, the BOE's budget varies significantly
11 from year to year based on several variables
12 including the type of election, implementation of
13 new voter laws, special elections and other changes
14 in election schedules, many of which occur mid-
15 year. In today's hearing we will examine the
16 Board's budgetary needs for upcoming fiscal year
17 and discuss reforms to the Board's operations that
18 potentially lead to cost savings. We will find out
19 how the Board is preparing for upcoming elections
20 this year and what it is doing to improve Election
21 Day operations. We will also take a moment to
22 follow up on our last hearing, which was at the end
23 of February and hoping that we will have responses
24 to the DOI investigation, as well as the
25

1 Preliminary Compliance Plan. With that said,
2 welcome to Mike Ryan, the Executive Director and
3 please present your prepared remarks whenever
4 you're ready.
5

6 MICHAEL RYAN: Thank you, Chair Kallos
7 and members of the City Council's Committee on
8 Governmental Operations. As always, I want to
9 thank this committee for giving us the opportunity
10 to be here before you on behalf of the Board of
11 Elections in the City of New York. My name is
12 Michael Ryan and I am the Executive Director of the
13 Board of Elections. Seated next to me at my left
14 is Dawn Sandow, the Deputy Executive Director. In
15 addition, staff members that are present here today
16 are the Administrative Manager, Pamela Perkins;
17 General Counsel, Steven Richman; Deputy General
18 Counsel, Raphael Savino; the Acting Finance
19 Officer, Gerald Sullivan; Director of
20 Communications and Public Affairs, Valerie Vazquez;
21 Director of Electronic Voting Systems, John Naudus;
22 Director of Management Information, Steve Ferguson;
23 Chief Voting Machine Technician, John O'Grady;
24 Coordinator of Elections Day Operations, Debra
25 Leible; Coordinator of Customer Service, Daniel

1
2 Lavelle; Coordinator of Ballot Management, Tom
3 Sattie; Training Specialist, Steven Thompson,
4 Acting Chief Contracting Officer, John Luisi and I
5 think there are some employees back the Board of
6 Elections carrying on the rest of the day's
7 operations.

8 Before I begin, I would like to address
9 the... before I begin addressing 2015, I would like
10 to address the budgetary shortfall in the Board of
11 Elections for 2014. The Board greatly appreciates
12 the additional \$7 million allocated by the Mayor's
13 Preliminary Budget. The Board has unfunded needs
14 for FY '14 including an estimated interagency
15 telecommunications deficit for the Department of
16 Information Technology and Telecommunications of
17 approximately \$630,000. In addition, the program
18 to eliminate the gap, also known as the PEG, is an
19 estimated \$8.8 million for Other Than Personal
20 services. That is not achievable and we urge the
21 Council to remove this PEG from the current budget.
22 For each of the past 12 years, a budget PEG has
23 been imposed upon the Board and has never been
24 achievable. This is a clear demonstration of
25 chronic and sustained budgetary underfunding. This

2 consistent underfunding has placed the Board in
3 financial jeopardy and has negatively impacted the
4 Board's ability to effectively and efficiently
5 conduct elections. As a result, the Board has been
6 forced to rely excessively on overtime payments to
7 otherwise underpaid staff. As we move forward in
8 this process, I urge the Mayor and the Council to
9 work with the Board with a view towards right
10 sizing our staff needs and to provide a fair and
11 equitable level of compensation for employees of
12 the Board at all levels.

13 In order to fulfill its constitutional
14 and statutory mission successfully, the Board is
15 requesting that the City provide sufficient
16 additional resources for Fiscal Year 2015. The
17 Mayor's Preliminary Budget for FY '15 contains a
18 projected shortfall of at least \$23.8 million in
19 current PS funding, \$14.25 million in new PS
20 funding and an additional \$16.84 million in OTPS
21 funding including the \$8.8 million in another
22 itemized PEG reduction. This \$54.5 million
23 shortfall represents 40 percent of the Board's
24 Fiscal Year 2014 Budget. In addition, the Board is
25 in the process of evaluating the implementation of

1
2 an electronic timekeeping system. It is
3 anticipated that the Board will request a budget
4 modification during FY '15 to procure an electronic
5 system upon the decision of the commissioners as to
6 which vendor would provide such services.

7 The FY '15 shortfall is disconcerting,
8 as the Board must conduct both a Primary and a
9 citywide General election when New York City voters
10 will cast ballots for Governor, State Attorney
11 General, State Comptroller and all members of
12 Congress, the State Senate and the Assembly within
13 the City of New York and it's worth noting that the
14 June Primary will contribute to the shortfall in
15 the FY 2014 Budget. Virtually all of the Board's
16 duties, responsibilities and activities are
17 prescribed by federal, state and local law. The
18 Board does not have the discretion to postpone or
19 cancel an election based on inadequate funding.

20 The Board urges the City to re-
21 appropriate for FY '15 the approximately \$2.5
22 million remaining from the Help America Vote Act,
23 also known as HAVA, grant funds provided by the
24 federal and state governments that are eligible for
25 reimbursement. These grants enable the Board to

1
2 improve poll site accessibility, both on a
3 permanent and temporary basis, as well as conduct
4 enhanced poll worker training and public education
5 activities.

6 Poll workers, as a result of an
7 Internal Revenue Service, IRS, determination, must
8 be treated as employees of the City of New York.
9 Consequently, such employees are compensated from
10 the PS allocation. The FY '15 allocation for poll
11 workers is \$14.7 million. The Board estimates that
12 this is \$7.9 million less than the \$22.6 million
13 needed to train and deploy approximately 36,000
14 poll workers for each currently scheduled election
15 event during FY '15, and there is an attachment to
16 ur testimony that details those issues.

17 Please note that the Board will
18 continue its fiscally responsible practice to
19 combine election districts where legally
20 permissible and assign a reduced number of poll
21 workers accordingly. State election law severely
22 constrains the Board's ability to combine election
23 districts in the scheduled elections during FY '15.
24 In addition, gubernatorial elections historically
25

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2 have the second highest voter turnout during the
3 four-year election cycle.

4 In FY 2013 and FY '14, the Board
5 retained a training consultant. Based on the
6 recommendations of our training consultant, the
7 Board implemented certain changes to the poll
8 worker training program. Due to the compressed
9 timeframe and the use of two vastly different voter
10 systems, this vendor was very limited in the scope
11 of recommendations that could be made and
12 implemented for the poll worker training program.
13 It is important to note that legislation
14 authorizing the use of lever machines for the
15 Primary and Run-Off Elections was not signed into
16 law by the Governor until July 9th, 2013.

17 As a result of reviewing the vendor's
18 recommendations, the Board has moved to the
19 completion of a negotiated acquisition for the
20 retention of expert election administration
21 professionals. This vendor will be tasked with
22 analyzing the Board's current training and Election
23 Day practices and serve as consultants for the
24 implementation of any recommendations. The
25 consultants will assist in implementing best

1
2 practices from across the country, as set forth in
3 the bipartisan Presidential Commission on Election
4 Administration report titled, "The American Voting
5 Experience," released in January 2014, as well as
6 any other sources that may be recommended. The
7 Board believes that bringing on election specific
8 experts for a multi-year contract is the best way
9 to move forward with the process of improving our
10 poll worker training program. The Board recognizes
11 the need for the implementation of such an
12 initiative. Indeed, there has been significant
13 public discourse regarding enhancement of the poll
14 worker training program by the Board, advocacy
15 groups, various legislative bodies and the
16 Department of Investigation. As such, we are
17 seeking the partnership of the Mayor and the City
18 Council in helping the Board achieve this
19 universally recognized goal. This necessary and
20 ambitious undertaking is not without cost. Based
21 upon preliminary estimates, it is anticipated that
22 this process will occur over several fiscal years
23 and total approximately \$1 million with an
24 immediate impact of approximately \$250,000 for
25 Fiscal Year 2015.

1
2 Given the dramatic changes in the
3 conduct of elections imposed upon the voters and
4 poll workers of the City of New York by federal and
5 state law, it is vital for the Mayor to heed the
6 Board's call to increase the compensation for all
7 poll workers by \$100 for each election event. This
8 increase in poll worker compensation last occurred
9 in August of 2001 by Mayoral Executive Order more
10 than 12 years ago. The time has long since passed
11 for an increase. The Board recognizes that even
12 with this increase, the compensation for poll
13 workers will be, by no acceptable definition,
14 exorbitant.

15 The case in support of this increase is
16 clear. Poll workers are now required to work
17 longer hours with additional responsibilities using
18 the Electronic Voting System. With the enhanced
19 testing standards already implemented for poll
20 workers, such an increase is essential to enable
21 the Board to recruit and retain qualified poll
22 workers year after year. Several City Council
23 members and the Asian American Legal Defense and
24 Education Fund, AALDEF, have previously expressed
25 support for this proposal. The Board urges that

1
2 the Council and the Mayor to place appropriate
3 emphasis on just compensation for poll workers as
4 they remain the frontline protectors of our
5 democracy. The Board asks this Council to implore
6 the Mayor to grant this increase effective
7 immediately, and that is detailed in Attachment
8 number two.

9 The current baseline funding for poll
10 worker performance incentive of \$35 per poll worker
11 is inadequate. The Board asks the Mayor and the
12 Council to fund a fair and equitable \$100
13 performance incentive. To be eligible for this
14 incentive, poll workers must attend appropriate
15 training, pass the exam and work at least two
16 elections per year. It should be noted that the
17 performance incentive was \$100 in Fiscal Year 2011
18 when supplemented by additional City funding for
19 the first year of implementation of the Electronic
20 Voting System. The baseline funding remains at the
21 unacceptable \$35 level. With this funding, the
22 Board will continue to improve its program to
23 retain qualified poll workers from event to event
24 and help to ensure that all poll sites are staffed
25 with trained and experienced poll workers during

1 elections. And it's not in my prepared testimony,
2 but I'd also like to point out that in 2013, we did
3 an analysis and in fact, approximately 60 percent
4 of the poll workers that we utilize come from our
5 recruitment drive and not from the individual local
6 parties, so we have a higher ratio now of
7 independently recruited poll workers than we do
8 coming from the various party apparatus.

10 The Board's Management System manages,
11 maintains and develops and operates the Board's
12 complex technology and data systems. Such systems
13 are vital to enable the Board to meet its mandated
14 responsibilities to the voters of the City of New
15 York. Specifically, the Board is requesting
16 \$500,000 in capital funding to procure a vendor for
17 the continued development testing, documentation
18 and implementation of the infrastructure for its
19 Election Information System Mobile Applications
20 Program during Fiscal Year 2015. We believe this
21 is vital to voter outreach and we would hope that
22 the City Council places appropriate emphasis on it
23 as well. These applications will be used to
24 support both Board operations, as well as
25 information to the voting public. This will also

1 provide the capacity to address special situations
2 and hopefully never repeated ones like Hurricane
3 Sandy. Initial applications consist of Election
4 Day poll worker for ElectionDayWorker.com; Poll
5 Site Locator, which is already in use. That allows
6 for the look up PollSiteLocator.com; Election
7 Responder, which would be an enhancement to our
8 Call Center and Election Day Management; Poll
9 Worker Management and Election Night Results.

11 The Board is in the process of
12 completing the installation of a 50 Megabit
13 Ethernet Private Line, also known as an EPL, high-
14 speed network at all Board facilities. I'm certain
15 Chair Kallos knows more about that than I do. But
16 in any event, this installation was made possible
17 by a City Council addition to the Board's FY '13
18 Budget. EPL lines, like other forms of technology,
19 require annual maintenance. The cost of such
20 maintenance at current levels is approximately
21 \$265,000. While the Board appreciates the
22 Council's prior support enabling the Board to
23 upgrade the EPL lines, it is now necessary to
24 recognize the importance of funding the EPL
25 maintenance in the Board's baseline budget.

1
2 I am pleased to state that the Board
3 was the first non-Mayoral agency to comply with
4 Section 1063 of the New York City Charter requiring
5 webcasting and/or posting of digital video of the
6 public meetings of the Commissioners. This
7 provision of the City Charter was effective March
8 the 3rd, 2014 and the Board recorded its March 4th,
9 2014 meeting and posted the video by close of
10 business on that date. As an interim solution, the
11 Board is digitally recording the weekly
12 Commissioners meetings and posting them to the web
13 via a You Tube channel. While this meets the
14 minimum requirements of the City Charter, it does
15 not provide the Board with the technology necessary
16 to meet the ultimate aim of Section 1063 to webcast
17 live where practicable. The Board requires funding
18 to procure professional webcasting services to
19 fulfill the Charter's goal. This will provide
20 higher quality audio and video. Such webcasting
21 services are more "user-friendly" and will provide
22 the public with an ease of access to the meetings
23 via video data files that can be appropriately
24 archived and indexed. Simply put, interested
25 persons will be able to search the database by

1 meeting date, subject matter keywords, search terms
2 and the like. This requires an appropriation of at
3 least \$35,000 for Fiscal Year 2015, consisting of
4 an initial cost of \$10,000 and an annual service
5 fee of approximately \$25,000. The annual service
6 fee needs to be baselined as a recurring cost in FY
7 '16 and in future years.

8
9 Virtually all of the Board's internal
10 information systems utilize Microsoft software.
11 The systems are vital to the daily operations of
12 the Board. The Board must obtain Microsoft
13 software licenses agency-wide to replace outdated
14 software and operating systems that are no longer
15 supported by Microsoft. Licenses for Microsoft
16 Office, Exchange, SQL Server and operating systems
17 require updates costing approximately \$400,000.

18 The number and types of Election Day
19 staff and equipment transported by the Board has
20 increased with the introduction of the Electronic
21 Voting System. In addition to delivering almost
22 3,700 scanners to all poll sites, the Board
23 transports to an increased number of monitoring
24 teams and technicians and thousands of supply
25 cards, ballot marking devices, privacy booths,

2 tables and chairs to more than 1,200 poll sites
3 located throughout the city and that number
4 typically approaches closer to 1,300 poll sites.
5 For the FY 2015 elections, both the Primary and the
6 General, the estimated cost to the Board for
7 contracted equipment transportation and staff
8 deployment transportation will be approximately
9 \$401 million. The Mayor's Preliminary Budget
10 allocates \$2.75 million for this need, leaving a
11 shortfall of approximately \$1.35 million.

12 To supplement the legally required
13 notices for the 2014 Election Cycle, the Board
14 urges the City Council to support enhancing voter
15 outreach efforts. Such efforts include additional
16 advertisements in citywide and community newspapers
17 at an estimated cost of \$300,000. The failure to
18 do so will hamper the Board's ability to
19 effectively reach voters with important election
20 related information. The Board further urges the
21 Mayor and the City Council to partner with the
22 Board to encourage the Metropolitan Transit
23 Authority to do its part and provide no cost public
24 service announcements to the Board during various
25 Election Cycles throughout the year. Such

1 advertising will reach millions of New Yorkers and
2 subway stations on the trains and on the rolling
3 billboards known as New York City buses. The Board
4 stands for the proposition that all government
5 entities should be working together to educate the
6 voters and enhance the voting experience. If the
7 Board remains alone in this endeavor, maximum
8 effectiveness of voter outreach will never be
9 realized. The Board further urges the Mayor and
10 the Council to provide assistance in establishing
11 public-private voter education endeavors and to
12 utilize the disparate "bully pulpits" to assist in
13 that regard. We believe that with the solid voice
14 behind the Board that that dream will be realized.
15 If all aspects of government work toward this
16 common goal, the private sector and corporate
17 entities that benefit greatly by calling the City
18 of New York home will surely recognize the
19 importance of these efforts and commit the
20 resources necessary to partner with the Board and
21 implement new and creative voter outreach programs.

22
23 The City Council allocated funds for
24 the Board to acquire 450 reporting tablets. These
25 tablets are distributed through Assembly District

2 monitors, also known as AD monitors, and field
3 staff to electronically report issues at over 1,200
4 poll sites in quote "real time," and reduce if not
5 totally eliminate the need for Board staff to
6 transfer information. The tablets transmit
7 incident reports and resolutions from AD monitors,
8 voting machine technicians and other field staff
9 directly to the Board's existing Call Center
10 system. This streamlines the method of incident
11 reporting, which previously relied on the
12 inefficient telephone call in process.

13 Additionally, the tablets alert staff to respond to
14 poll site locations to rectify any situations in
15 their assigned coverage area. The Board incurs a
16 wide cost each year of approximately \$105,000.

17 This cost for wireless service has not been funded
18 in the Preliminary Budget for FY 2015. The use of
19 tablets will continue to improve service to the
20 voters. As such, the Board requests that this
21 allocation be part of baseline funding.

22 The Electronic Voting System continues
23 to evolve. As technology is ever changing, it is
24 essential to provide expert training and support to
25 key personnel including voting machine technicians,

1 VMTs, Electronic Voting Systems Programmers, also
2 known as EVS programmers. Such training must be
3 provided by the current vendor, Election Systems
4 and Software, also known as ES&S. With each
5 passing election, the Board reaches new levels of
6 efficiency in preparing the poll site scanners and
7 ballot marking devices. The Election Management
8 System software and the voting equipment firmware
9 are upgraded regularly. Such upgrades are mandated
10 by the New York State Board of Elections
11 certification process. The current upgrades are
12 being undertaken with a view toward reducing ballot
13 jams, providing technicians with more specific
14 directional prompts during the machine set up
15 process and adjusting the poll closing protocol to
16 significantly reduce the delays associated with
17 unofficial results reporting caused by the
18 currently certified system. The Board urged ES&S
19 to develop a process to allow the printing of
20 election results tapes from the "backup" portable
21 memory device. This change will allow for the
22 removal and transport of the primary PMD from each
23 scanner to the 76 police precincts throughout the
24 city without being unnecessarily delayed by waiting
25

2 for the results tapes to finish printing. This
3 will significantly speed up the release of the
4 unofficial results on election night. The State
5 Board of Elections acted expeditiously upon this
6 request and the process for certification is well
7 underway.

8 The required enhanced voter training
9 and support for the September Primary and November
10 General Elections cost \$1.98 million, just shy of
11 \$2 million. This necessary expenditure is a
12 substantial reduction from the \$4.4 million cost in
13 Fiscal Year 2013. This represents a \$2.56 million
14 cost savings differential and has been accomplished
15 via increased Board technical staff independence
16 and a decreased reliance on vendor service in
17 keeping with our theme of vendor independence. In
18 addition, Dominion Voting Systems support and
19 supplies for the general central ballot scanning
20 system, which counts absentee, special, military
21 and affidavit ballots, will cost \$230,000 for the
22 September Primary and the November Generals.

23 The Board has identified three areas of
24 operation within a poll site that require
25 improvement to more efficiently meet the needs of

1 the Electronic Voting System environment. The
2 Board staff, through its ingenuity, ability,
3 knowledge and dedication, has developed a prototype
4 known as the Voter Information Center Kiosk,
5 affectionately referred to as VICKi. This single
6 piece of equipment innovatively addresses three
7 critical functions for poll site operations and
8 since the software was developed entirely in-house,
9 expansion is viewed as a reality down the road if
10 we get the appropriate funding to do this project.
11 These functions are poll worker attendance,
12 efficient electronic replacement for the paper
13 street finder books used to provide voters with
14 their proper ED and AD and to assist voters who
15 arrive at incorrect poll sites and a terminal to
16 upload unofficial election night results.

17 The poll worker attendance module will
18 allow the poll worker to scan their Notice to Work
19 card, providing the Board with real time
20 notification of the arrival of each poll worker at
21 the assigned poll site and will eliminate the
22 organized chaos that is the first thing in the
23 morning at the various election sites and in the
24 central office. This module will allow for the
25

1
2 proactive deployment of standby poll workers and
3 eliminate the remarkably inefficient and somewhat
4 chaotic system of phone call notification, upon
5 which the Board must currently rely.

6 VICKi has been designed to allow two
7 voters to access important information
8 simultaneously. The design incorporates touch
9 screens on both sides of the unit. The electronic
10 street finder would allow the voter to enter their
11 address and be informed using GPS technology if
12 they are in the correct poll site and if not,
13 provide the voter with printed directions to the
14 proper poll site. Presently, this information is
15 available on the Board's website. This system
16 would provide the voter with the ability to get
17 this information at every poll site when the
18 information is needed most. At the close of polls,
19 VICKi would become an election night reporting
20 terminal, allowing the poll workers to upload the
21 PMD and transmit unofficial election results
22 directly from the poll site. That aspect would
23 certainly require partnering with the State Board
24 of Elections to ensure that we're doing that within
25 acceptable rules and regulations. The Board will

1 utilize commercially available components including
2 the Shoup Machine, also known as the lever machine,
3 cabinets and Board staff to program and assemble
4 VICKi. As VICKi has been developed entirely in-
5 house, any necessary modifications and/or
6 enhancements will be completed and implemented
7 entirely by Board staff without reliance on
8 expensive technology consultants or vendors. The
9 final design will ensure that functions of VICKi
10 will be in compliance with any requirements of the
11 Americans with Disabilities Act.
12

13 The Board has examined various ways to
14 bring technology into the poll site. It has been
15 suggested by some that the Board should utilize
16 hand-held tablets to meet the extensive
17 technological needs at the poll site. For the
18 reasons set forth below and other significant
19 operational concerns, tablets would be an
20 irresponsible investment of City capital funds.
21 The utilizations of tablets would require the Board
22 to rely on outside vendors to provide excessive
23 wireless connectivity. The tablets would require
24 the purchase of carts to securely store and safely
25 transport these devices along with all peripheral

1 supplies. The Board has conducted a financial
2 analysis and found the initial investment for the
3 purchase of tablets and all the necessary
4 additional equipment is approximately \$4.7 million.
5 The same analysis shows that the initial investment
6 for full implementation of VICKi if it is built
7 exactly as the prototype is made is \$6.8 million;
8 however, we look forward to partnering with the
9 City Council, the Mayor's office and any other
10 interested stakeholders to explore opportunities to
11 drive that cost down so that we can ensure that
12 we're spending the taxpayers' money as prudently,
13 as wisely and as efficiently as possible.

15 VICKi will be equipped with a
16 commercial grade wireless router that will enable
17 each poll site to be an independent and secure hot
18 spot under the control of the Board. A hot spot
19 can service perhaps as many as 24 devices, but
20 certainly 15 individual devices safely and
21 securely. As such, the annual cost for wireless
22 connectivity would be limited to approximately
23 \$315,000, \$34.99 x 1,500 units x the six-month
24 contract currently required under the
25 appropriations contract that we're working with.

2 And that would be appropriated from the Board's
3 expense budget with no additional per unit cost.

4 The utilization of tablets would
5 require wireless connectivity costs for each
6 device. The annual cost for wireless connectivity
7 using tablets is under current contracting
8 circumstances \$720,000, $\$39.99 \times 3,000$ units \times six
9 months, appropriated from the Board's expense
10 budget, an increase of approximately \$400,000 over
11 the cost of VICKi for wireless connectivity, and
12 that would go up every time an additional device
13 were added.

14 As the technological requirements of
15 poll sites increase over the course of time, the
16 wireless connectivity costs will balloon. The
17 grand beneficiary of using tablets versus VICKi
18 will be a contractual wireless service provider.
19 The taxpayers of the City of New York will bear
20 this unnecessary burden. To further illustrate
21 this point, for each additional device required at
22 the poll site in the absence of VICKi results in at
23 least an additional \$360,000 annually and a cost
24 that will only increase with the passage of time.
25 In the event of State authorization of the

1 electronic poll books, the Board's preliminary
2 estimate for wireless connectivity for these
3 devices alone exceeds \$1 million annually. As is
4 clearly demonstrated, any increased capital cost of
5 implementing VICKi would be devoured by the
6 unnecessary increase in expense money required to
7 secure sufficient wireless connectivity with the
8 utilization of tablets. Prudent budgeting demands
9 this trade off of capital versus expense funds.
10 this trade off of capital versus expense funds.

11 VICKi provides significant logistical
12 advantages in critical and core areas. For
13 example, in ease of use and set up for the poll
14 workers, the potential opportunities to enhance the
15 voter experience and more efficiently and
16 effectively use technology in election management.
17 Specifically, VICKi will be rolled into the poll
18 site and require that the poll workers simply plug
19 into an electrical outlet, open the doors and turn
20 it on. Even as the use of tablets become more
21 expansive in our society, they present a steep
22 learning curve for the poll workers and the public.

23 VICKi allows us to further our vendor
24 independent strategy, as the hardware incorporated
25 into VICKi supports the use of any wireless

1
2 services available in New York City, unlike
3 tablets, which are locked into a particular
4 wireless carrier. The software utilized by VICKi
5 was developed in-house by Board staff. As such, it
6 will be sustained moving forward without incurring
7 additional vendor expense.

8 With Council and Mayor funding this
9 worthy initiative in NY '15, the Board anticipates
10 being able to launch a small, but significant pilot
11 utilizing 100 VICKi units during the 2014 election.
12 Incorporating lessons learned from the pilot, the
13 Board's goal is to deploy VICKi in all poll sites
14 for 2015 and again, I stress the presently
15 developed version of VICKi is a prototype and we
16 would be looking to partner with everyone that's an
17 available stakeholder to see how we can improve it
18 and drive the cost down. It is estimated that this
19 project will cost approximately \$6.8 million to
20 build 1,500 units. Again, that's based on the
21 prototype numbers only. This project should be
22 funded in the City's capital budget. The Board
23 estimates that the cost to maintain the wireless
24 connectivity will be approximately \$315,000
25 annually.

1 During the Board's February 28, 2014
2 testimony of the New York City joint Government
3 Operations and Oversight and Investigations
4 Committee hearing, inclusive of the question and
5 answer session that followed, the Council was
6 advised that a serious and ultimately unsustainable
7 circumstance present at the Board involving chronic
8 and systematic underfunding. The Board is required
9 to conduct elections when mandated by federal and
10 state law or by Executive Action. The Board does
11 not have the option to quote unquote "pick and
12 choose" those elections that will be conducted
13 versus those elections that will be set aside due
14 to lack of funding. It must be emphasized that all
15 elections are conducted with the same level of
16 effort, whether the funding has been allocated or
17 the Board has been shortchanged. While the Board
18 has been historically a convenient foil for public
19 criticism, it has, at the same time, been the
20 victim of a funding scheme that seems to have been
21 intentionally designed to quote unquote "cash
22 starve" the agency to accomplish some unknown and
23 ultimately inconceivable goal.
24

1 The time has long since passed for all
2 aspects of government to work together with the
3 Board of Elections toward the common goal of
4 serving the voters of the City of New York as
5 effectively as possible. While the Board readily
6 recognizes those operational areas that need
7 improvement over the course of time and works
8 diligently to make such improvements, it is
9 patently unfair to deprive the Board of the
10 required resources on the one hand and then be
11 critical of how we do our jobs on the other hand.
12 Every agency in the City of New York requires
13 proper funding levels and adequate resources to
14 meet its core responsibilities and the Board is no
15 different.

17 This chronic and systemic underfunding
18 has led to pay inequality and an unnecessary strain
19 on an overworked and underpaid dedicated workforce.
20 Any qualified budget professional will acknowledge
21 that an agency that is properly funded with the
22 requisite amount of employees is financially more
23 viable and productively more efficient than an
24 agency that must consistently rely on overtime to
25 meet its core responsibilities and statutorily

1 mandated deadlines. This unacceptable circumstance
2 can no longer be tolerated. It is neither fair to
3 the voters of the City of New York nor to the
4 dedicated men and women who serve those voters.
5 Given the mandated tasks required of the Board and
6 the statutorily imposed deadline that must be met,
7 proper funding, equitable pay scales and sufficient
8 staffing levels are required. For the purposes of
9 comparison, there is approximately a 37 percent
10 discrepancy between the average salary for the
11 Board's employees and those at the... for example,
12 the City Campaign Finance Board. For example, an
13 administrative assistant at the Board of Elections
14 is paid \$42,000 per year, while the same title at
15 the CFB is \$61,000 per year. Similar disparities
16 exist when examining the Boards of Elections in the
17 surrounding counties. Today, clerks at the Board
18 who performed many important functions receive
19 compensation of approximately between \$22,000 and
20 \$29,000 annually. In the adjacent counties of
21 Westchester and Nassau, their clerks earn between
22 \$36,000 and \$55,000 per year annually. And
23 additionally, the starting salary for a voting
24 machine technician, who is responsible for the
25

2 maintenance, testing and set up our Poll Site
3 Voting System is only \$30,000 per year. Voting
4 machine technicians in both Westchester and Nassau
5 counties are paid \$73,000 per year. By act of
6 Congress, the Board was required to implement an
7 Electronic Voting System. This system is
8 exponentially more complex than the old-fashioned
9 vote lever machines. Deploying and maintaining the
10 Electronic Voting System requires significant
11 technological skills. As such, the Board is
12 required to conduct extensive training of current
13 employees and substantial recruitment of new
14 employees with the skills necessary to perform the
15 required tasks. In this era of ever increasing
16 technological saturation, a failure to immediately
17 address the financial and staffing needs of the
18 Board will place the voting process in dangerous
19 and unnecessary peril.

20 The foregoing is not simply the opinion
21 of the Board, although it is strongly such. It is
22 also the conclusion reached by the Presidential
23 Commission Report, which states, "The country's
24 elections officials find themselves second guessed
25 and heavily criticized when elections run into

1 problems and praise is not forthcoming in
2 comparable volume or at all when the process runs
3 smoothly. At the same time," and here it comes,
4 "these officials are all too often given inadequate
5 resources with which to carry out this critical
6 function. The Commissioner arrived at a renewed
7 appreciate of how hard, diligently and effectively
8 the vast majority of the country's elections
9 officials work to provide well run elections and
10 for voters and how difficult the job is."

12 The Board's dedicated public servants
13 deserve a living wage that adequately reflects the
14 technical skills required to perform their duties.
15 It has become somewhat of an urban myth that
16 individuals become employees of the Board of
17 Elections to essentially retire and live from the
18 independent wealth amassed from their salaries.
19 This Council can be assured that nothing could be
20 further from the truth. In fact, the employees of
21 the Board remain grossly and unfairly underpaid for
22 the services provided. While pontification
23 regarding the importance of elections is often
24 heard in many circles, unfortunately, the resources
25 do not match the rhetoric. The Board urges the

1 Mayor and the Council to embark on this change
2 process and bring the Board into a new era of
3 adequate resources that will promote efficiency and
4 enhance voter service. The Board estimates that an
5 appropriation of at least an additional \$11 million
6 would enable the Board to raise the salaries of all
7 employees and thus bring them closer to their
8 counterparts at the Campaign Finance Board and
9 other Boards of Elections. The additional \$11
10 million reflects an increase of 37 percent to the
11 Board's current PS allocation.
12

13 The Board has reviewed the current
14 staff allocation and determined that the Board
15 needs an additional 81 positions, which includes
16 supervisory, clerical and office support positions,
17 and this is simply a restatement of prior requests.
18 We did receive 23 additional heads based on a
19 request, a prior request for 104, so this is just a
20 restatement of that. Most of these positions will
21 be assigned to the borough offices, while a few
22 will be located at the Board's Executive Office.
23 Without funding for these new positions, the
24 Board's ability to comply with the mandates and
25 responsibilities imposed as a result of state and

1 federal legislation and the use of Electronic
2 Voting Systems is seriously jeopardized.

3
4 Included among those new positions is a
5 Borough Voting Systems Unit in each borough
6 consisting of two supervisors and two support staff
7 dedicated to managing the full range of activities
8 including testing, pre-election preparation and
9 post-election canvassing related to the Electronic
10 Voting System. The Board projects that the total
11 additional annual cost for these 81 positions is
12 approximately \$3.25 million.

13 To conduct fair, honest and open
14 elections is a fundamental right in our democracy.
15 The constant underfunding for not just the Board,
16 but for the elections administrators across the
17 state and indeed the nation is alarming. Again, I
18 will refer the Council to the bipartisan
19 Presidential Commission Report, which provides
20 detailed evidence for this pervasive problem. Any
21 further fiscal constraints placed on the Board will
22 render the ability of the Board to conduct
23 effective elections in serious danger. Clearly,
24 funding cuts must not be contemplated. Rather,
25 those charged with fiscal allocation must do

1
2 whatever is necessary to provide the Board with
3 sufficient resources and just compensation for the
4 services provided. While the Board is sensitive to
5 the fiscal challenges face by the City, the need of
6 the Board to perform its duties must be met. The
7 Board assures the Council that any allocated
8 resources will be wisely utilized and the public
9 trust will be our guidepost.

10 For the Council's reference, please
11 find Attachment three summarizing the Board's
12 unfunded fiscal needs. It is respectfully trusted
13 that this committee will take the time necessary to
14 fully consider this testimony and the attachments.
15 It is further trusted that upon due consideration,
16 the Council will work closely with the Mayor and
17 the Board to ensure that sufficient resources are
18 allocated to guarantee the voters of the City of
19 New York will be well served. As always, my
20 colleagues and I are available to answer any
21 questions that you may have and we are always
22 available if anyone should need any further
23 information, and I certainly appreciate this
24 committee's attention and the allocation of time to
25 make our case here today.

1
2 CHAIRPERSON KALLOS: Thank you for the
3 18 pages of testimony and the 45 minute reading.
4 For the Executive hearing, if I could request an
5 Executive summary and you can still submit the
6 larger testimony. Thank you for all of your hard
7 work on this; for the considerable testimony here
8 today; for spending a lot of time before this
9 committee and I expect it will continue. One of my
10 colleagues has multiple committees on which he
11 serves, so I'm going to recognize Mark Levine,
12 council member for the Upper West Side, who has
13 joined us and Council Member David Greenfield, who
14 will ask some questions.

15 COUNCIL MEMBER GREENFIELD: Thank you,
16 Mr. Chairman and thank you, Mr. Ryan, for your
17 exhaustive testimony here this morning. I have to
18 tell you, I've been a council member now for over
19 four years. I've never heard quite testimony like
20 this. I'm going to specifically refer to something
21 that you said, which piqued my interest. "While
22 the Board has historically been a convenient foil
23 for public criticism, it has at the same time been
24 the victim of a funding scheme that seems to have
25 been intentionally designed to "cash starve," in

2 quotations, mind you, "the agency to accomplish
3 some unknown and ultimately inconceivable goal."
4 Wow. Those are some fighting words. Would you
5 care to elaborate as to this grand conspiracy to go
6 after the Board of Elections?

7 MICHAEL RYAN: I don't take them as
8 fighting words, Council Member, and I'm sorry that
9 you take it that way. What I'm simply trying to
10 point out is that the way funding is done is
11 there's always a budget restoration process. Now,
12 that having been said, you know, we're typically
13 made whole at the back end of the process, but what
14 that doesn't allow is it doesn't allow us to do
15 appropriate financial planning moving forward
16 because we're always chasing the money so to speak,
17 and that has created some... I will say some
18 institutional laziness within the Board of
19 Elections because they're always relying on the
20 budget restoration process. I do believe that
21 there were some quadrants within government, not
22 necessarily the City Council, and certainly the
23 City Council has been supportive, but there has
24 been you know, Executive level you know,
25 deficiencies...

2 COUNCIL MEMBER GREENFIELD: Okay.

3 [crosstalk]

4 MICHAEL RYAN: In terms of Executive
5 budgets that have been passed in previous years and
6 I think that that has hurt the Board of Elections
7 and I certainly meant no insult intended to the
8 City Council, and it really was done to stress my
9 desire to work...

10 [crosstalk]

11 COUNCIL MEMBER GREENFIELD: And I...
12 let me... Mr. Ryan, I don't mind insults. We're in
13 the business of getting insults as council members,
14 so that's okay. I just thought it was curious
15 because I will say a few things. As you know, the
16 Council has consistently called for more funding
17 and in our budget recommendations throughout the
18 years we've always said that we believe the Board
19 of Elections needs more funding. In fact, at the
20 last meeting that... the oversight where we had the
21 Department of Investigations Commissioner here, I
22 specifically said that I think that you need more
23 funding. I just think that that's a little bit...
24 a little bit out there, honestly. Some unknown,
25 ultimately inconceivable goal... I mean I've never

1
2 honestly heard... I'm just being fair... I've never
3 heard a government agency tell us before that they
4 believe that there's a conspiracy effectively to
5 have them fail, which is essentially what you said,
6 and I don't think that's fair. I will also point
7 out that in the end of the day, we have a lot of
8 agencies that come in here and they're underfunded.
9 That's a normal process of the government, which is
10 unfortunately, we have a lot of tasks and they're
11 underfunded and we fight for them and I certainly
12 am committed to fighting for the Board of
13 Elections. But I will say that agencies do have a
14 responsibility as well when they come in to talk to
15 us about their best practices, efficiencies and
16 doing more with less, which other agencies do,
17 right? I mean we don't have other agencies that...
18 the Police Department doesn't come in and say,
19 "Well, if you can't fund us, guess what? You know,
20 at the appropriate levels, criminals are going to
21 slip through the system." And we had the DA's
22 offices here last week and they're always
23 underfunded and they certainly don't tell us that
24 people aren't getting prosecuted, so I don't think
25 it's completely fair to put the burden on us and I

1 would really like to see, and I believe that you,
2 in your new capacity, you are trying to act in good
3 faith, although certainly, I guess you're pushing
4 back on a narrative that you don't appreciate it,
5 but I do think there's two sides to this story,
6 which is that some of us want to be helpful. At
7 the same time, more could be done on the Board of
8 Elections side and there are institutional
9 problems, as you said yourself; I believe you said
10 the word was institutional laziness that needs to
11 be corrected, so if we want to have a fair
12 dialogue, I think you should consider coming back
13 to the Chair of the committee and saying, "Mr.
14 Chairman, you know, here are the things that we
15 could do better and here's where we could and
16 here's where we could streamline and here's what we
17 really need from you guys," and I think that would
18 be a fair and honest discussion because quite
19 frankly, I agree with you and I think that you know
20 I'm not one of those who runs and yells and screams
21 and attacks the Board of Elections unfairly. I
22 think that we're just adding to the hyperbole when
23 the Executive Director comes in and says, "Hey,
24 we've got this vast conspiracy of folks who are out
25

1
2 to get us." I think we've got to step it down a
3 notch and try to actually come up with practical
4 solutions because I do want to see you succeed.

5 MICHAEL RYAN: And I appreciate that,
6 but unfortunately, these forums are our time to
7 make our case and in some respects, I think there
8 were individuals in the past that did take a
9 position that did not provide adequate funding to
10 the City Council. And my purpose of including
11 that, and that was my language and no one else's,
12 so if anybody bears responsibility for that it's
13 me. I simply want to turn the page and move
14 forward and work as a partner with the City Council
15 and with the new administration to make sure that
16 we're in the best possible position to serve the
17 voters of the City of New York and we certainly
18 recognize the pressure that the City Council and
19 the Mayor's office is under with respect to all of
20 the other unions that need to be negotiated, as
21 well as a whole host of problems. We had a very
22 unexpected snowstorm season this year, which
23 further taxed the resources of the city. What we
24 simply want is a seat at the table, as I know that
25 this committee will give us, and I've been working

1
2 closely with Chair Kallos. In the short-term,
3 we've agreed that it will... us meeting with the
4 committee on a regular basis, you know, monthly or
5 more often if necessary will be certainly helpful
6 to the process and certainly we look to have these
7 conversations in a more private dialogue that will
8 allow for more constructive work to be done.

9 COUNCIL MEMBER GREENFIELD: Thank you,
10 Mr. Ryan. I have just one very specific question
11 specifically regarding ballot jams. One of the
12 major complaints that we've received, and I
13 understand that they are new machines and that the
14 technicians are underpaid, but one of the major
15 complaints that we receive are that these machines
16 break down. They get jammed; they break,
17 especially on Election Day. It causes excessive
18 waste. Can you tell us specifically how many
19 ballot jams did you have in September and November?
20 What was the incidence; the percentage? How long
21 did it take to fix those ballot jams, keeping in
22 mind, of course, that your best trained technicians
23 are apparently moving to Long Island where they can
24 double their salaries?

1
2 MICHAEL RYAN: Right. I can get you
3 the information with specific number of ballot
4 jams; however, I can tell you that post-election,
5 we had a five hour meeting with ES&S, the vendor
6 and one of the things... among the things that we
7 discussed... apparently, from the analysis, the
8 biggest cause of ballot jams was quote unquote "the
9 timid voter," and the wheels start to turn, and I
10 know this kind of gets hypertechnical, but there
11 was time out feature that stopped the wheels from
12 turning if the voter did not put it within two
13 seconds. That's going to be extended so that we
14 won't have these jams that indicate, you know, the
15 time out and the machine stops. In addition,
16 there's a myriad of technical adjustments that are
17 going to be made inside the machines to where the
18 ballot gets parked there's a plate that needs to be
19 shifted down a little bit lower so that in the
20 event the ballot gets rejected, when it comes back
21 out, it doesn't curl up. So we are working closely
22 with the vendor to reduce the ballot jams as much
23 as we possibly can.

24 COUNCIL MEMBER GREENFIELD: I

25 appreciate that. I would just say that honestly

2 from my feedback, that and the font size are the
3 two biggest sources of frustration for voters; font
4 size obviously for those who are older and the
5 ballot jams lead to very long lines and people
6 called me and told me, "Hey, I'm not waiting an
7 hour to vote," and of course, I fought with them.
8 "This is America, a democracy," yada, yada and they
9 said...

10 [crosstalk]

11 MICHAEL RYAN: Right.

12 [crosstalk]

13 COUNCIL MEMBER GREENFIELD: "No, I'm
14 not waiting an hour to vote." So that really ends
15 up subverting democracy when we've got these broken
16 machines and I'm not blaming you. I'm just asking
17 that you, in fact, make it a top priority because
18 that really... and there's no way to prove this
19 obviously 'cause there's no statistics on how many
20 people walk in and actually turn around and leave,
21 but anecdotally, we've heard from many people who
22 have walked in and literally turned around and
23 actually have left the polling sites.

24 MICHAEL RYAN: And that truly is a
25 shame and I will tell you with respect to the font

2 size, the Commissioners voted... I believe it was
3 in the early part of this month in March I
4 believe... to go with a three language maximum
5 ballot and that's going to be primarily affecting
6 those areas in Queens. There's like 79 election
7 districts in Queens.

8 COUNCIL MEMBER GREENFIELD: Will the
9 fonts be larger now?

10 MICHAEL RYAN: The fonts will be
11 larger. We anticipate that the font...

12 [crosstalk]

13 COUNCIL MEMBER GREENFIELD: Oh, happy
14 day.

15 MICHAEL RYAN: For this upcoming
16 election cycle will be a 10 point font...

17 [crosstalk]

18 COUNCIL MEMBER GREENFIELD: God bless.

19 [crosstalk]

20 MICHAEL RYAN: Up from the six point
21 font, but we also look to work not only with the
22 City Council, but others to improve the system
23 further and if more language requirements come in,
24 we're really going to have to consider going to a
25 two-page ballot and that day looks like it's coming

1
2 at some point. The problem with doing that
3 immediately, for those who have suggested that we
4 should, is the current state certified iteration of
5 the software and firmware allows for the counting
6 of the ballots only by page, not by individual
7 ballot. That would create ballot accountability
8 problems for us, so it's a trade off against the
9 smaller font versus potentially the misplacement or
10 miscounting of ballots moving forward.

11 COUNCIL MEMBER GREENFIELD: Well, once
12 again, I appreciate it and I will echo your
13 remarks. There's nobody that is more dedicated to
14 helping you reform the process and getting the
15 proper funding as our Chairman, Mr. Kallos, and so
16 I would encourage you to work with him and I look
17 forward to getting those specific details on the
18 ballot jams and as well as if we can get some more
19 information on cost cutting measures that you're
20 taking internally at the Board of Elections to try
21 to be more efficient and then of course, we
22 certainly will be supportive of efforts to try to
23 get more funding for the Board of Elections. Thank
24 you.

1 MICHAEL RYAN: Thank you very much, Mr.
2
3 Councilman.

4 CHAIRPERSON KALLOS: Thank you, Council
5 Member Greenfield and it's not just me as chair. I
6 also have members like Council Member Greenfield,
7 who will be joining in working out a lot of this.
8 So the hour is short. We're over our time limit at
9 this point, but we have a lot that we need to get
10 through. Before we get to the budget piece, I
11 would like to follow up on the previous hearing.
12 So at our previous hearing, we had literally a
13 laundry list of things that we agreed that would
14 happen, so I'd like to get through those; yes or no
15 or...

16 MICHAEL RYAN: [interposing] 'Kay.

17 CHAIRPERSON KALLOS: I'll get back to
18 you later as quickly as possible. So the first
19 thing we agreed was that you would respond to the
20 Department of Investigation in one month with a
21 corrective action plan. You delivered this to me
22 when you came to give your testimony. It is a
23 response to DOI, but it does not appear to be a
24 corrective action plan and, in fact, I appreciate
25 that you responded to them at my request and for

1 giving me credit there, but my preference would
2 have been for you to engage in the process honestly
3 and wholeheartedly and it seems that through a
4 brief review of this, a lot of the places the
5 answer was either yes, we were already going to do
6 it or the Commissioners have to approve it or we're
7 working on it, but one of the things we had spoken
8 about is that I wanted to see dates certain and I
9 believe that is what the DOI requested, so I'm in
10 receipt of this document. Is there a follow up
11 document that's going to come up with corrective
12 action plan of the Commissioners; here are your
13 concerns and here is our corrective action plan,
14 not just here is our position of why we will not
15 comply?
16

17 MICHAEL RYAN: I don't believe that
18 that document is a non-compliance document. I
19 think it accurately reflects the reality of the
20 process. We have a Board comprised of 10
21 Commissioners. Nothing will happen at the Board
22 unless six of the 10, irrespective of how many show
23 up on a particular day, vote for something to
24 happen. So we have implemented many of the things
25 that were addressed in the report and over the

1 course of time, these issues will be continually
2 addressed. Much in the same way that you know, any
3 legislator cannot accurately predict when their
4 sponsored bill will become law, I cannot, in my
5 position as the Executive Director, predict when
6 various items will be responded to affirmatively or
7 negatively by the Commissioners. But I can assure
8 you we're working on everything that's in that
9 report.
10

11 CHAIRPERSON KALLOS: Yeah, we'll go
12 through that. If it is the Commissioners that need
13 to give the responses, then perhaps the next
14 corrective action plan that would be more fully
15 compliant needs to be voted on and signed by
16 Commissioners where instead of it being you saying
17 it is a decision up to the Commissioners, it is the
18 Commissioners themselves taking responsibility for
19 their powers under the constitution and actually
20 saying we will do this or we won't do this so that
21 we can move forward with those who ultimately have
22 the decision making authority. Continuing on, I
23 appreciate that we will be having regular updates
24 and we will work closely with you to make sure that
25 you're coming before this body monthly on the DOI

2 report and other compliance. Hiring practices:
3 will the BOE now be standardizing the hiring and
4 screening process across all five boroughs; yes or
5 no? Or when is it going to be implemented?

6 MICHAEL RYAN: Again, that is a
7 Commissioner level decision with respect to hiring
8 practices.

9 CHAIRPERSON KALLOS: I need the
10 Commissioners to respond to that. Will you provide
11 an estimate on the cost of having DOI conduct
12 background checks on some of the New York City
13 Board of Elections employees that they've outlined
14 should be receiving the background checks?

15 MICHAEL RYAN: Well, certainly I would
16 be looking to work with the Department of
17 Investigation and I think they would be in a better
18 position to answer that question than the Board of
19 Elections. But that having been said, I think
20 their recommendation in that regard was a little
21 bit unclear. While they state what the City
22 standard is...

23 CHAIRPERSON KALLOS: [interposing] Mm-
24 hm.

1
2 MICHAEL RYAN: They also seem to say
3 that every Board of Elections employee should have
4 a background check. Now, for the permanent
5 employees that we hire, that is a much easier
6 implementation. For the temporary employees that
7 we hire that serve throughout the year, that
8 creates a real timeframe and a real crunch
9 associated with getting a background check done and
10 then have somebody be on staff for July 1.

11 CHAIRPERSON KALLOS: Can you please
12 provide a corrective action plan with regards to
13 background checks with the employees that you
14 propose should receive the background checks and a
15 cost estimate from the DOI; even soliciting from
16 the DOI that these are the title and pay rates and
17 individuals you believe should have background
18 checks and asking them whether or not that is
19 substantial compliance at their request and the
20 cost associated with it and if there is cost
21 associated with it. Political activities: in your
22 response to... you gave the same response as you
23 gave during the testimony. Have there been any
24 investigations or terminations or commitments to do
25 so for anyone who's being required to engage in

1 political activities or punished for their
2 political activity?

3
4 MICHAEL RYAN: Since the issuance of
5 the report no, but historically at the Board there
6 have been individuals who have been terminated for
7 engaging in political activities on Board time at
8 Board offices and it is clearly, clearly prohibited
9 by the policies and procedures as well as the COIB
10 rules.

11 CHAIRPERSON KALLOS: With regards to
12 again, a compliance plan, if you can provide a
13 timeline of this is the training that is given;
14 these are the months that the training is given;
15 this is when the employees get it; it is part of
16 this packet. Provide that so that it is more than
17 just a sentence in a response, but actually a
18 substantial compliance where you're going over and
19 above to just say this is all the things we are
20 doing on this issue so that the DOI and this body
21 can review.

22 MICHAEL RYAN: I certainly can get back
23 to the committee on that. We do bi-annual COIB
24 training.

25 CHAIRPERSON KALLOS: Mm-hm.

1
2 MICHAEL RYAN: That's on ongoing basis.
3 I don't know when the next one is scheduled, but I
4 could certainly let you know. As well, after the
5 DOI unit was formed, we started having DOI come in
6 and do various trainings throughout the five
7 boroughs and we certainly expect that that would
8 continue over the course of time.

9 CHAIRPERSON KALLOS: I would appreciate
10 in your follow up compliance plan you say that you
11 are willing to have the DOI come in and that these
12 are the dates and... or request dates from them so
13 that we can get the ball rolling beyond saying that
14 we're already doing it, but actually against
15 substantial compliance. Employee training and
16 accountability: what is the date certain that
17 you'll be ready to have a professionalized poll
18 worker training system set up?

19 MICHAEL RYAN: We are in the process of
20 doing a negotiated acquisition. That procurement
21 process is nearing its conclusion. We expect that
22 we would be able to utilize HAVA funds to fund
23 that. We have approximately \$1.2 million in the
24 HAVA funds. The only danger with that is that that
25 comes up for review separate and apart from the

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Board of Elections every September, so if for some reason they decided to discontinue HAVA funds, the Board would essentially be... is in the position of having expended the initial approximately \$250,000 for the election professionals and then having the proverbial rug pulled out from underneath us.

CHAIRPERSON KALLOS: And at that point it would be up to my body to restore those funds, but if you can please again, with the compliance plan provide a timeline of this is how long it will take for the RFP process and for whatever it is and just...

[crosstalk]

MICHAEL RYAN: Right.

CHAIRPERSON KALLOS: Have the date certain for us to work from so we have something to measure versus we're working on it.

MICHAEL RYAN: Right. What I can tell you is we are following the PPB rules and I can give you a timeline of the expected implementation based on compliance with the PPB rules.

CHAIRPERSON KALLOS: Will there be more hands on role playing for poll workers and... yes, will you have that?

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2 MICHAEL RYAN: Well, our training
3 starts in July...

4 CHAIRPERSON KALLOS: [interposing] Uh-
5 huh.

6 MICHAEL RYAN: And even without a new
7 vendor in place or a new consultant in place, I
8 should say, there will be more role playing and
9 hands on. The problem that we had when DOI looked
10 at 2013 was we were compressing two trainings into
11 one without having additional time to do two
12 separate trainings, so the role play and the hands
13 on was reduced for 2013 and we expect at a minimum
14 that that will be restored back to previous levels
15 because we're only going to be using one system.

16 CHAIRPERSON KALLOS: In your testimony,
17 you mentioned improvements to your timekeeping,
18 which is something that was identified in the DOI
19 report, but I don't believe you gave a similar
20 response in your response to the DOI. Can the
21 Board of Elections adopt CityTime? The FISA and
22 OPA have both agreed that they can provide it and
23 it would be at significantly reduced costs to your
24 specific agency.

1
2 MICHAEL RYAN: Right. That is one
3 particular potential solution, but in order to give
4 the Commissioners a complete package of
5 information, we are looking at multiple vendors.
6 Some of the elements of CityTime, quite frankly,
7 that we discussed in-house that we don't like is
8 the hand scanning aspect of it, and there are
9 operational difficulties potentially associated
10 with that and we're looking at a potential card
11 scanning system, which will allow for us additional
12 management benefits in that we would anticipate
13 changing out some of our lock codes to provide for
14 the card scanner access to get at the various
15 points of the building, which will allow myself and
16 the remainder of management staff to more
17 effectively track employees' whereabouts. So we're
18 looking at both systems. We recognize that time
19 cards are unsustainable.

20 CHAIRPERSON KALLOS: I don't believe
21 that there's... so CityTime is already paid for.
22 We've made a multi-million dollar investment as a
23 city and I don't believe anything else would be
24 free to your agency and given that you're asking
25 for substantial other funds, I would recommend the

2 severe savings by joining the rest of the city and
3 how many agencies are currently on CityTime? I
4 think we just recent... several hundred.

5 MICHAEL RYAN: Right.

6 CHAIRPERSON KALLOS: 100 and... 140
7 something, so if we can work for a substantial
8 number of collective bargaining units, it can work
9 for the Board of Elections.

10 MICHAEL RYAN: Okay and getting back to
11 your other point earlier, Miss Sandow just informed
12 me that our DOI training was last summer and the
13 COIB training was last spring, so we'd expect that
14 the COIB training would occur again next spring.

15 CHAIRPERSON KALLOS: Okay.

16 MICHAEL RYAN: And I would expect that
17 the DOI training would continue on an annual basis.
18 It makes sense for us to do it after we get our
19 temp employees in so that we service the maximum
20 number of employees with that information.

21 CHAIRPERSON KALLOS: In your response
22 to when you evaluate CityTime versus your other
23 option, please make sure that we have a date
24 certain by which you and/or the Commissioners
25 perhaps that this is the day you will have your

1
2 report ready for the Commissioners and this is the
3 date that the Commissioners will be asked to vote
4 on it in public on a webcast. With regard to the
5 voting experience, privacy screens and that
6 implementation, as well as when you will have a
7 date certain for implementing the software to
8 filter write-in votes instead of NYC DOE employees
9 and producing a report on ballot security in
10 Manhattan, which includes corrective actions.

11 MICHAEL RYAN: Okay, with respect to
12 the privacy screens, as is indicated in my response
13 to DOI, that is not universally accepted as the
14 most beneficial way to go. One of the problems
15 that we have is lighting in the polling places and
16 some of the advocacy groups have indicated that
17 that might create a problem and that there won't be
18 sufficient lighting when people go to cast their
19 ballots. But there are different options that
20 we're looking at and one of the things that we
21 wanted to do when we're bringing the vendor in is
22 also to give us some idea of best practices in
23 terms of poll site set-up, so that's something that
24 we expect we will be doing down the road as well.

1
2 CHAIRPERSON KALLOS: Again, compliance
3 plan; please provide dates certain. This is our
4 date for evaluation; this is our date for report;
5 this is our date that the Commissioners will
6 consider it. I understand that you have
7 Commissioners and that they have the ultimate
8 decision making process, but we're working on it is
9 great, but having something to measure it by is
10 incredibly more useful so that we can skip having
11 to go through this list every time.

12 MICHAEL RYAN: Write-in votes...

13 CHAIRPERSON KALLOS: Yes.

14 MICHAEL RYAN: Again, I know this
15 starts to become a mantra, but our EVS staff,
16 Electronic Voting System staff, is evaluating how
17 the technology works. Presently, the way it's
18 captured in the system...

19 CHAIRPERSON KALLOS: [interposing] Mm-
20 hm.

21 MICHAEL RYAN: The box is too small and
22 we're working with the vendor and that's going to
23 result... that's going to require the vendor coming
24 back to us with an answer. We certainly can secure
25

1
2 from the vendor their potential timeframe, but if
3 they're going to enlarge that box...

4 CHAIRPERSON KALLOS: [interposing]
5 That's fine.

6 MICHAEL RYAN: But... okay.

7 CHAIRPERSON KALLOS: That's perfect.

8 MICHAEL RYAN: And then what was the
9 third thing? I'm sorry?

10 CHAIRPERSON KALLOS: A report on the
11 ballot security in Manhattan and corrective
12 actions.

13 MICHEEL RYAN: Well, the employees in
14 Manhattan have all been retrained. We can get you
15 details on that.

16 CHAIRPERSON KALLOS: Yes, please.

17 MICHAEL RYAN: The other thing with
18 Manhattan is quite frankly, we're stressing
19 adherence to the procedures because it works well
20 in the other boroughs and we just seem to have a
21 problem with Manhattan, so if we get Manhattan to
22 comply with the procedures as presently in place,
23 that would be the corrective action.

24 CHAIRPERSON KALLOS: You mentioned you
25 would bring a certain number of items to the

1
2 attention of the Commissioners in early March;
3 specifically civil service exams for New York City
4 Board of Elections employees; publicly posting all
5 vacancies for positions which are not statutorily
6 or constitutionally limited; Commissioner
7 determination before dropping voters from the roles
8 and employing the use of background checks on
9 managerial positions... we already... and the
10 elimination of voter cards. I understand there's
11 been movement on voter cards. What about publicly
12 posting all vacancies? Has that happened yet?

13 MICHAEL RYAN: That has not happened
14 yet and I will, again, readdress that issue with
15 the Commissioners.

16 CHAIRPERSON KALLOS: Okay and when will
17 we hear back?

18 MICHAEL RYAN: Well, I suppose you'll
19 hear back as soon as possible or...

20 CHAIRPERSON KALLOS: [interposing]
21 Okay.

22 MICHAEL RYAN: The next time that you
23 have me before this committee.

24 [crosstalk]

2 CHAIRPERSON KALLOS: Well, there's no
3 constitutional mandate against publicly posting
4 positions that are available.

5 MICHAEL RYAN: And I think the
6 acknowledgement of that is what I said earlier in
7 my testimony with respect to the ratio of Board
8 solicited poll workers versus those assigned by
9 counties is now actually more...

10 [crosstalk]

11 CHAIRPERSON KALLOS: 60/40?

12 [crosstalk]

13 MICHAEL RYAN: What's...

14 [crosstalk]

15 CHAIRPERSON KALLOS: 60/40 is a great
16 step in the right direction, but if you came to me
17 and said, "I need more money for advertising poll
18 worker positions and the other 360 positions," that
19 would be something that would be something that
20 would be very persuasive to me.

21 MICHAEL RYAN: Right.

22 CHAIRPERSON KALLOS: So...

23 MICHAEL RYAN: One of the things that I
24 think we can do though separate and apart from
25 additional funding is what we suggested earlier,

2 which is partnering at various times of the year
3 with the MTA to utilize the advertising services in
4 the subways and the buses and that would
5 essentially I think be at no cost you know, to the
6 City and the system.

7 CHAIRPERSON KALLOS: Where are you on
8 performance evaluations?

9 MICHAEL RYAN: We started doing them.
10 They had apparently gotten off track at some point.
11 The policy is that they're supposed to be done
12 annually and that's what we're going to adhere to
13 and the new Director of Personnel...

14 CHAIRPERSON KALLOS: [interposing] Mm-
15 hm.

16 MICHAEL RYAN: Is implementing that and
17 that is by Executive management and Commissioner
18 direction being one of her priorities, but they are
19 underway and I can tell you that we're also looking
20 in addition to that you know, time and leave
21 oversight. We've put a program in place absent
22 electronic timekeeping. We have an in-house
23 developed time tracking system that generates
24 monthly reports and we have been you know, really
25 chomping at the bit with our managers to make sure

1
2 that they're staying on top of their staff and it's
3 something that Executive management looks at very
4 closely.

5 CHAIRPERSON KALLOS: If we can have a
6 date certain as far a corrective action plan of
7 when the performance evaluations will be conducted.
8 Perhaps it is something that happens... [background
9 voice] Okay, so...

10 MICHAEL RYAN: So we'll get you the
11 specifics on it.

12 CHAIRPERSON KALLOS: That would be
13 amazing. During the last hearing, you indicated
14 that you're currently posting all positions in PVS
15 on the New York City Board of Elections website and
16 I requested that that may be posted as computer
17 readable format. Has that happened yet?

18 MICHAEL RYAN: Quite frankly, I forgot
19 you said about that one, so...

20 [crosstalk]

21 CHAIRPERSON KALLOS: Well...

22 [crosstalk]

23 MICHAEL RYAN: I missed it, but we have
24 our MIS people here and you know, they've heard
25

1
2 you, I'll write it down again and we'll make sure
3 that that happens.

4 CHAIRPERSON KALLOS: Okay and I saw in
5 the DOI response that you are now considering
6 adding the Arabic numeral birth dates on the voter
7 rolls and instructing the poll workers to see that,
8 so I am very happy to see that.

9 MICHAEL RYAN: And in addition, we're
10 working on tabbing. I know this sounds kind of
11 basic, but we're working on tabbing...

12 CHAIRPERSON KALLOS: [interposing] Mm-
13 hm.

14 MICHAEL RYAN: The voter books; voter
15 rolls with letter tabs so that when the poll
16 workers are searching for a name, they'll have it
17 A, B, C, D.

18 CHAIRPERSON KALLOS: With regard to
19 poll workers certification, I requested that you
20 investigate whether or not you could do it by task
21 so that certain people are trained minimally at
22 check-in tables and then the next step up is sign-
23 in table and the next step up is setting up
24 machines. I understand that you'd brought up some
25 concerns, but if you can either do an internal

1
2 report or provide a more than off the cuff response
3 as to why we can't have certifications by task, I
4 would be... that would be appreciated and just
5 provide some sort of timeline. Even though this
6 may be something low priority, just knowing what is
7 to investigate, that would be amazing.

8 MICHAEL RYAN: Okay and we'll have
9 training obviously starting in July.

10 CHAIRPERSON KALLOS: Mm-hm.

11 MICHAEL RYAN: One of our fears, and
12 this is certainly something that we can talk about
13 offline, but I can tell you right off the top, one
14 of our fears is because we have a significant
15 discrepancy between those folks that promise that
16 they're going to be poll workers and those folks
17 that actually show up...

18 CHAIRPERSON KALLOS: [interposing] Mm-
19 hm.

20 MICHAEL RYAN: The idea of cross-
21 training is something that we like, but that
22 doesn't mean we cannot be disabused of that notion
23 if it's in fact an erroneous assumption.

24 CHAIRPERSON KALLOS: Thank you and then
25 I believe the last item on the punch list was in

2 your testimony, you asked for dollars for voter
3 education. Would that voter education include
4 education for primary voters stating that they do
5 not need... sorry, for General election voters
6 indicating that they do not need to vote down the
7 line so that in addition to fixing the training so
8 that people do not leave with that erroneous
9 assumption that a voter being given that
10 instruction is empowered to say no, no, no, I know
11 better 'cause I got a mailing from the Board of...

12 [crosstalk]

13 MICHAEL RYAN: You...

14 [crosstalk]

15 CHAIRPERSON KALLOS: Elections on that.

16 MICHAEL RYAN: That's an important
17 suggestion. We include that in our training, but
18 quite frankly, it wasn't something that we
19 contemplated in the public education piece.

20 CHAIRPERSON KALLOS: Mm-hm.

21 MICHAEL RYAN: But certainly I'll work
22 with our Director of Public Relations to make sure
23 that we can integrate that into our program as we
24 move forward.

25

2 CHAIRPERSON KALLOS: So thank you for
3 going over all the remaining items from the punch
4 list from the last hearing. Thank you for the
5 response to the DOI at my request. Even if I had
6 hoped for more, it is still a step in the right
7 direction. I look forward to working closely with
8 you in the coming months and meeting with you
9 monthly to make it happen. I will reserve my
10 budget questions 'til after my colleague, Council
11 Member Levine, who's been incredibly patient while
12 we've gone through this, and also to all the other
13 agencies that are now waiting past when they
14 started with their proposed start time. Council
15 Member?

16 COUNCIL MEMBER LEVINE: Thank you.
17 Thank you, Chair Kallos. Thanks to the Board for
18 being here today. I wanted to ask you a couple
19 questions about ways we can expand access to
20 voting; voter registration and voting itself. This
21 is a budget hearing, so I'd like to hear your
22 thoughts on the budgetary implications starting
23 with same day voter registration. Would there be
24 significant budget impact of such a policy?

2 MICHAEL RYAN: Same day voter
3 registration makes... it's very difficult if by
4 that you mean that they're going to register and
5 vote on the same day.

6 COUNCIL MEMBER LEVINE: That's right.

7 MICHAEL RYAN: Right. Because we cut
8 off the... presently, like for the last past
9 election, it was October the 11th was the cut off
10 date, the final cut off date and the final, final
11 date was October the 16th, so if you were not in
12 the voting books by that date, you don't vote on
13 Election Day and...

14 [crosstalk]

15 COUNCIL MEMBER LEVINE: Right.

16 MICHAEL RYAN: Part of the problem with
17 it is we're still required by state law to engage
18 in a bipartisan process of processing votes.
19 That's to make sure that one party or the other
20 doesn't you know, engage in any you know, for lack
21 of a better term, hanky panky and kind of swell
22 their ranks on Election Day. So my understanding
23 of our responsibilities in the law is that that, as
24 presently situated, is not a possibility.

2 COUNCIL MEMBER LEVINE: It would
3 require a state... a change in state election law
4 and such a change has been made in states all over
5 the country for I think important reasons. I'm
6 trying to understand whether in addition to the
7 legal challenges here, that this has a significant
8 budgetary impact. Would you have to hire
9 additional staff or equipment, for example?

10 MICHAEL RYAN: We would be required to
11 have bipartisan teams you know, essentially that
12 know the process in almost 1300 poll sites if
13 people are going to come in unless they're going to
14 go to a single location and you know, maybe in each
15 borough and then vote and then go... you know, and
16 then go to their individual...

17 [crosstalk]

18 COUNCIL MEMBER LEVINE: Right, but...

19 [crosstalk]

20 MICHAEL RYAN: Poll site.

21 [crosstalk]

22 COUNCIL MEMBER LEVINE: But in the
23 electronic era, you couldn't have a team centrally
24 located reviewing new registrants on that day?

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2 MICHAEL RYAN: That's provided that we
3 receive it electronically. So you start to you
4 know, mix messages if somebody doesn't have access
5 to you know, an electronic registration process and
6 they're going to register by paper. Well then,
7 they would be boxed out on Election Day and only
8 those individuals you know, that register
9 electronically would be able to vote. So there are
10 logistical problems that I would... it's an
11 interesting concept and I think probably one that
12 requires more of a conversation than we can have
13 here today at this hearing you know, considering
14 the press for time, but I would certainly welcome
15 the opportunity to discuss that with you, Council
16 Member or any member of your staff to see...

17 [crosstalk]

18 COUNCIL MEMBER LEVINE: Okay.

19 [crosstalk]

20 MICHAEL RYAN: You know, what the...

21 [crosstalk]

22 COUNCIL MEMBER LEVINE: And...

23 [crosstalk]

24 MICHAEL RYAN: Real impact would be.

25

2 COUNCIL MEMBER LEVINE: And we do not
3 currently have electronic voter registration
4 available. Is that right?

5 MICHAEL RYAN: No, that's actually not
6 correct. On March the 11th, by Executive decision,
7 we began to receive voter registration information
8 from the New York State Department of Motor
9 Vehicles and we worked with the State DVM and the
10 State Board very closely to make this happen.

11 We're receiving those only by electronic
12 transmission since March the 11th, so we now have a
13 system where a good number of our registrations are
14 coming through electronically. I believe that
15 paves the way for the logical next step, which is
16 for all of us to work together to figure out how we
17 can encourage those folks that register by paper
18 now to engage in an electronic voting process, at
19 least in terms of the pedigree information that
20 goes into the system, even if they still have to
21 get us back a form with their what we call wet
22 signature on it so that we can import that into the
23 system. But that would... that is a field that is
24 ripe to be cultivated for tremendous cost savings.
25 The more that we can eliminate paper, the better

2 off we're all going to be and for those ethnically
3 diverse names that can often result in misspelling
4 through manual data entry, that would reduce those
5 significantly, so those folks that remain on the
6 voter rolls because we can't do a name match would
7 be you know, significantly reduced moving forward.

8 COUNCIL MEMBER LEVINE: So the
9 registrations you're getting from the Motor
10 Vehicles are coming electronically and how do you
11 deal with the wet signature in that case?

12 MICHAEL RYAN: Well, state law says
13 that the signature the DMV captures for your
14 driver's license or your non-driver identification
15 card is sufficient and we get it electronic, so we
16 don't get... it's the functional equivalent of a
17 wet signature, but it's a digital image.

18 COUNCIL MEMBER LEVINE: But a private
19 citizen going onto that computer can only go so far
20 without ultimately still needing a piece of paper
21 that they put in the mail.

22 MICHAEL RYAN: Correct.

23 COUNCIL MEMBER LEVINE: So is there no
24 way to get around again, the wet signature
25

1 requirement there? A scan of the signature would
2 not be acceptable?
3

4 MICHAEL RYAN: I believe there is, but
5 it's you know, kind of the next step in the
6 process. So we've just implemented this full scale
7 acceptance of electronic voter registration forms
8 from DMV on March the 11th, but that is certainly
9 the very next step in the process and we plan to
10 work closely with the State Board of Elections to
11 develop a protocol, but it's more than just a
12 protocol. It's also part of a voter education
13 process that you can actually do this.

14 COUNCIL MEMBER LEVINE: To state the
15 obvious, and I know you know this, the next
16 generation of voters is going to be far more likely
17 to register if they can do it electronically. The
18 sooner we can get there, the better. You
19 identified I guess the next frontier is actual
20 voting online, correct? And is that...

21 MICHAEL RYAN: [interposing] I don't
22 know how far along that is with the State
23 legislature and as a ministerial agency, we do our
24 very best to stay out of issues that would
25 otherwise be the province of those who have a

2 different role in the system than we do. We will
3 endeavor to comply and will comply with any law
4 that's passed that's applicable by the City
5 Council, the State or the State legislature or...

6 [crosstalk]

7 COUNCIL MEMBER LEVINE: But assuming
8 that law was passed, what are the budget and system
9 identifications for you I mean in order for you to
10 decide whether to pass the law? I think people
11 need to understand as well what the budgetary
12 impact would be.

13 MICHAEL RYAN: Well, I think given the
14 fact that we essentially process these votes
15 electronically now, just in a different way, they
16 would be incorporated into the system. That
17 doesn't require bipartisan review. Once the votes
18 are cast, they're cast provided that they're cast
19 in a way that is acceptably secure for all of the
20 relevant stakeholders and then it is certainly
21 something that we can implement, and I don't see it
22 as having a negative budget impact and probably
23 over the course of time you know, we might have to
24 update the computer system. I don't think so if
25 it's going to be the same number of voters, but

2 over the course of time, it actually may turn out
3 to be a cost savings in that if we see that less
4 and less people are showing up at poll sites...

5 COUNCIL MEMBER LEVINE: [interposing]
6 Right.

7 MICHAEL RYAN: We might be able to at
8 least collapse the number of machines that we
9 deploy.

10 COUNCIL MEMBER LEVINE: It's a critical
11 point and it actually might be a saver.

12 MICHAEL RYAN: Right.

13 COUNCIL MEMBER LEVINE: Or at a minimum
14 it wouldn't cost more. That's good information.
15 Thank you.

16 MICHAEL RYAN: Thank you.

17 CHAIRPERSON KALLOS: Prior to this
18 hearing, you had a small press availability
19 downstairs demonstrating the Voter Information
20 Center Kiosk. I want to just thank you for
21 bringing it to City Hall ahead of the testimony and
22 making it available for inspection by the committee
23 members, the public and the press and I also wanted
24 to commend that I think that what you're doing is
25 exactly what every Executive Director and leader

1 should be doing in the city, which is being
2 proactive, coming up with cost saving measures and
3 trying to address need and even being ahead of the
4 Presidential Election Commission on trying to
5 create a Voter Information Kiosk. I had a chance
6 to see it. If I were going to be supportive of
7 something like that, you've done it exactly the way
8 I would've asked, which is build a prototype; do it
9 as inexpensively as possible; do it on your own
10 behest; don't do it just because a vendor asked you
11 to. At this point, there are no vendors involved.
12 You've put it together; you've created a working
13 model, so and it does so much and it illustrates a
14 long-term vision for election administration, so I
15 want to just leave with that and say thank you
16 about that. But that being said, I have expressed
17 and I will express now substantial concerns about
18 \$6.4 million based on the current cost, assuming
19 yes, it would be lower and I am a technology
20 person, but it seems like so many of the features
21 of this terminal could be done in manners that were
22 low tech. So in terms of the poll site finding
23 feature, it seems like one of the hardest problems
24 in Manhattan is that we have a lot of EDs for poll
25

2 sites, so one question would be versus a 1,500 poll
3 site rollout, is it possible to identify poll sites
4 that have more than one ED and how many poll sites
5 only have one ED 'cause obviously I don't think...
6 do you believe that a poll site with only one ED or
7 two or three EDs would need a Information Center
8 Kiosk?

9 MICHAEL RYAN: Well, it's about having
10 a single system for the city because of some of the
11 other functionality that we're talking about,
12 including the ability to check the poll workers in
13 and have them in the system. So that is an issue
14 that... that is an issue that we think integration
15 is essential given all the level of functionality
16 and what's more important to me, and I said this in
17 my availability, and I want to thank you, Chair
18 Kallos, for your input and in helping shape the
19 thought process with respect to this regard. I am
20 much more concerned about what the software does
21 than the hardware that we use to operate the
22 software. The software is where we get the
23 management benefits. Whatever hardware we use in
24 any way that we can partner with the City Council,
25 with the Mayor's office or any other acceptable

2 group to drive the cost of that down, we're open to
3 it. We just want it to work and do so efficiently
4 and effectively for the city and I got to tell you,
5 you know, spending the taxpayers' money wisely is
6 something that is near and dear to my heart and I
7 stress with our staff on a daily basis.

8 CHAIRPERSON KALLOS: One concern that's
9 been brought to my attention is with regard to...
10 so I... so let me just redirect, so you are
11 mentioning 1,500 poll sites. Certain places like
12 Manhattan, Queens and even certain borough...
13 most... certain places in certain boroughs will
14 have multiple EDs where you have 10 EDs or 15 EDs
15 in a specific poll site just because of the
16 concentration. Do you believe that you need to
17 have one of these information terminals at all
18 1,500 poll sites for the litany of reasons you've
19 given?

20 MICHAEL RYAN: Well, it's slightly less
21 than 1,300...

22 [crosstalk]

23 CHAIRPERSON KALLOS: At least one...

24 [crosstalk]

25 MICHAEL RYAN: The fif...

[crosstalk]

CHAIRPERSON KALLOS: Where?

MICHAEL RYAN: The 1,500 number was to have a sufficient number of back-up machines in the case that any would go down on Election Day. But yes, in order to have a integrated voting system that provides all of the level of functionality, the short answer is yes. We would like to have at least one at each poll site so that every poll site functions in the same manner, so we're getting disparate information.

CHAIRPERSON KALLOS: What is your... so the first feature is poll worker check-in and what is your current system?

MICHAEL RYAN: The current system is a grossly inefficient system where the poll worker forms are collected at the poll sites and put in an envelope and sent en masse back to our individual borough offices and then the borough offices do preliminary payroll processing and then the balance of the payroll processing is done at the central office.

CHAIRPERSON KALLOS: When poll workers arrive on site and a voting machine is not working,

2 how do they call in a complaint and a request for
3 repair?

4 MICHAEL RYAN: Presently?

5 CHAIRPERSON KALLOS: Yes.

6 MICHAEL RYAN: Just like that.

7 CHAIRPERSON KALLOS: So you...

8 [crosstalk]

9 MICHAEL RYAN: They call in a...

10 CHAIRPERSON KALLOS: [interposing] So
11 you have poll workers on site with phones.

12 MICHAEL RYAN: They typically bring
13 their own phones.

14 CHAIRPERSON KALLOS: So we are now...

15 [crosstalk]

16 MICHAEL RYAN: They are reliant on the
17 phones that may be present at the location where
18 they are.

19 CHAIRPERSON KALLOS: Would it be
20 possible for... perhaps less expensive to have poll
21 workers call in who is there so that you have live
22 information that way, which would be a lot less
23 expensive than...

24 MICHAEL RYAN: Well, that will
25 essentially replicate the current system, which

1
2 we're trying to get away from. We want to be able
3 to look in the system and see who's there you know,
4 as shortly after 5:00 as we can so that we can
5 immediately begin to deploy the standby pool.

6 CHAIRPERSON KALLOS: Versus if somebody
7 called or texted in with who is there.

8 MICHAEL RYAN: Correct because we would
9 have to process that information, whether it's done
10 by a text or whether it's done by a telephone call,
11 an individual will have to process that
12 information. Under this circumstance the
13 technology would process the information in real
14 time and then on the back end, the payroll is a
15 significant benefit to us and with the paper
16 reduction and we would more effectively and
17 efficiently process the payroll.

18 CHAIRPERSON KALLOS: So a text... a
19 feature phone is \$10. The plan for the day is very
20 minimal. Most people have them and they could
21 literally text in a number off the sheet to a
22 gateway and that could serve as a check-in and it
23 would be completely automated and you would know
24 who was there.

2 MICHAEL RYAN: Right. Miss Sandow
3 believes that she has a persuasive statement to
4 make.

5 DAWN SANDOW: This kiosk has three
6 functions. Right now, all five boroughs receive a
7 high volume of phone calls between 5:15 anywhere up
8 to 11:00. Our standbys all have to report to the
9 borough offices to receive phone calls to see where
10 the vacancies are. It's chaotic. It takes time.
11 There are so many staff that are deployed to our
12 Call Centers to receive these calls on Election
13 Day. If our poll workers have the ability to walk
14 into their poll site, scan their card and we are
15 all watching in the borough offices and in the
16 general office and we know in real time where the
17 vacancies are, that alleviates any phone calls.
18 Our poll sites... our poll workers are immediately
19 dispatched to those sites. Not only that, we will
20 know in real time if there is a problem at the poll
21 site. We will see nobody has checked in at this
22 poll site. The poll site's not open. We can
23 dispatch out AD monitors out to that site
24 immediately to see what the problem is. Is it
25 because there was no custodian to open up? Did no

1 poll workers show up? So that's one capability.
2
3 The second, right now at the end of the evening,
4 all the notices to work come back to the borough
5 offices. Our poll site units have to scan those
6 notices to work manually to do payroll. So now, if
7 our poll workers are scanning their cards, that
8 information is getting transferred into our system.
9 That alleviates the poll worker payroll. It also
10 can have our poll workers department now starting
11 on poll worker issues; getting the debriefings done
12 quicker; our poll workers being paid quicker.
13 That's one functionality. The second, we will have
14 our information clerks at these kiosks. They will
15 still have their information books; however, voters
16 can walk in; use the kiosk on their own. If they
17 need help, the information clerk is present to help
18 them. It gives them ED/AD; which table they have
19 to go to. If, in fact, they have gone to the wrong
20 poll site, it will give them step by step
21 directions driving, walking. It'll be printed out,
22 which is something that we can't do right now. Our
23 information clerks could never do that for a voter
24 when they come in. If there is a long line at the
25 information table, voters can come off that line;

2 they can go straight to the kiosk. Another
3 important thing is that all our information that is
4 usually kept on ED/AD table, which I feel sometimes
5 goes unnoticed by the voter and because the poll
6 workers are so busy, it get pushed aside. That
7 kiosk is now going to have all that information for
8 that voter, so if they want to take a registration;
9 if they want to take... what happens if you get an
10 over vote message or an under vote message, and
11 then at the end of the evening, instead of the NYPD
12 having to take the PMD, get it from the poll worker
13 into the yellow pouch, transport it to a precinct
14 and upload the results, we will be uploading the
15 results immediately from the poll sites. Those
16 results will be transferee to the Board's secured
17 site and we will be getting the results much
18 quicker. Now, there's also functionalities down
19 the road. I mean these are the three that we want
20 to start with, but there are also many other
21 functionalities that we're looking at. We may be
22 able to do away with our Call Center completely and
23 have the Call Center right on the monitor so that
24 our poll workers won't have to call in to say
25 there's a ballot jam. They will be able to go over

2 to the monitor and put in the information. That'll
3 automatically come to us; our tech will
4 automatically be dispatched. They're out there;
5 they fix the ballot; they fix the ballot jam; they
6 go right up to the monitor and we get resolution in
7 real time. So this has a promising future.

8 MICHAEL RYAN: And just on that one
9 issue, I'll take this back to Council Member
10 Greenfield's inquiry from before, 6,579 was the
11 reported total of ballot jams that we received
12 citywide for the General election in 2013.

13 CHAIRPERSON KALLOS: Thank you. So the
14 first... so I believe that... while your technical
15 team is here, I believe you are severely
16 underestimating the power of feature phones and
17 text messaging gateways, so I would ask that you
18 guys look into that because many of the things that
19 you're asking for; a \$3,000 piece of hardware to do
20 could be done just as easily with a text messaging
21 gateway and a \$10 feature phone. Moving on, so a
22 voter gets to a poll site. They got to the poll
23 site and the issue is finding the ED and in
24 Manhattan where you have 15 EDs in a poll site, the
25 lines don't form at the sign-in tables. The line

2 forms at the information check-in table where your
3 people are distributed. When I was Chief of Staff
4 to Assembly Member Jonathan Bing and working on his
5 campaign, we actually handed every poll watcher a
6 breakdown of literally just a street finder just
7 for that poll site.

8 MICHAEL RYAN: [interposing] And...

9 [crosstalk]

10 CHAIRPERSON KALLOS: So instead of
11 having to look at...

12 [crosstalk]

13 MICHAEL RYAN: And we implemented that
14 as well.

15 CHAIRPERSON KALLOS: So if we can do
16 that and perhaps instead of using a machine, we
17 just put a map on the wall so if somebody is not
18 able to use the street finder, which can be
19 difficult. Things are ordered in ways that east...
20 things are ordered by east and west versus by the
21 street numbers and sometimes people get confused,
22 who knows, but putting up a map... if a person
23 can't read the form maybe they can read a map, but
24 and if they can't do either of those then they can
25 do the check-in table, but again, that is low tech

2 solution and again, I'm one of the most high tech
3 people there is, but if the high tech person is
4 suggesting that there are less costly solutions,
5 that should serve as caution. So the person's
6 already there. They just need to find their ED.
7 I'm not sure that a \$3,000 piece of hardware is
8 going to help them find it better than having paper
9 on the walls or a map.

10 MICHAEL RYAN: I agree if that was the
11 sole functionality, but based...

12 [crosstalk]

13 CHAIRPERSON KALLOS: Yes.

14 [crosstalk]

15 MICHAEL RYAN: On what I've said and
16 what Deputy Director Sandow has said, we have...
17 we'll agree to disagree on that; however, what we
18 view it as... this'll be able to service two voters
19 simultaneously.

20 CHAIRPERSON KALLOS: Mm-hm.

21 MICHAEL RYAN: We don't view it as an
22 elimination of the responsibilities of the
23 information clerk. We view it as an opportunity
24 for the voters that can be serviced from the
25 technology to be serviced and for the information

2 clerk in those areas where lines form to quote
3 unquote "work the line," and go down the line where
4 the people are standing and use the street finder
5 for them and peel off those folks that they can off
6 the line and get them going where they need to go.
7 So we're kind of looking at it as a technology...

8 CHAIRPERSON KALLOS: [interposing] Mm-
9 hm.

10 MICHAEL RYAN: You know and a human
11 solution.

12 CHAIRPERSON KALLOS: With regard to the
13 technology itself, your testimony indicates
14 \$720,000 a year for tablets and for the wireless
15 connectivity there and \$315,000 a year for wireless
16 using... for VICKi again for the Verizon contractor
17 or whatnot. Why can't we use the City's existing
18 wireless service, NYSWiN, for the machine and save
19 ourselves millions of dollars?

20 MICHAEL RYAN: Well, we could I think
21 and that would have to be revisited with DoITT;
22 however, I can tell you that on April 2nd, 2013,
23 and since you're a techie, at 2:17 p.m., we
24 received a response from DoITT indicating that
25 their executive leadership determined that "we are

1 not in a position to take on the risk of handling
2 this kind of data." That was a direct response in
3 our inquiry to go the NYSWiN route before we
4 explored the more expensive route of the electronic
5 connectivity through an outside provider. So we
6 would like to explore those options. The door was
7 closed upon us; however, you know, every day's a
8 new day. If we can work together to work with
9 DoITT to see if there's you know, a different
10 solution or perhaps a hybrid solution where in some
11 areas we have to use you know, an electronic
12 service provider, but in other areas we can use
13 NYSWiN and mix and match, we're all open for that
14 and we don't want to spend money unnecessarily.

16 CHAIRPERSON KALLOS: So I want to thank
17 the Law Department for their continued patience.
18 I'll eventually get to the budget testimony, but
19 before I do I want to recognize Council Member and
20 minority leader Ignizio and if he has any
21 questions, I'd like to give him the floor.

22 COUNCIL MEMBER IGNIZIO: Thank you very
23 much, Mr. Chairman. I know I'm eager to hear from
24 your hearing and the technology that you all are
25 pursuing. I've known Mike and Dawn for some time

2 and I hope that we can build a better mousetrap
3 because it certainly is not functioning as we all
4 want to, yourself included; yourselves included.

5 MICHAEL RYAN: Correct.

6 COUNCIL MEMBER IGNIZIO: And you know,
7 the public believed that when we started with the
8 new machines that we were going to have a highly
9 functioning, quick end of day result with regards
10 to who won or lost an election, only to find out
11 that we don't hear... in some cases, we don't hear
12 from results on races 'til longer from the old...
13 longer than the old machine did. So I'm happy to
14 be here at the hearing and I just wanted to hear
15 what the... what's on the horizon for an agency
16 that is you know... which has come from archaic
17 machines that I believed worked better than the
18 current machines and hopefully the future is
19 brighter with regards to results in a more accurate
20 and well functioning agency under your direction.
21 Thank you.

22 CHAIRPERSON KALLOS: Okay, let's try to
23 make this quick. The five year average of the
24 Board of Elections: 2009, \$81 million; 2010, \$95
25 million; 2011, \$102 million; 2012, \$109 million;

2 2013, \$107 million. These are actual costs and in
3 spite of running three or four elections in a year
4 and I'm sure you can tell me which years were four
5 elections; which ones were three; which ones were
6 two. It's remained fairly flat. At this point,
7 you're coming to us asking for 140... \$143 million?

8 MICHAEL RYAN: That's the current
9 budget.

10 CHAIRPERSON KALLOS: That's the current
11 budget and then you're asking for an additional \$54
12 million for FY '15. Can you please explain the
13 discrepancy and why the costs have gone up by more
14 than 40 percent?

15 MICHAEL RYAN: Well, one of the issues
16 that I think we need to address is the issue of
17 paying equity and getting us you know, in a more
18 salary competitive environment. Clearly, what we
19 presented here today was a wish list to start the
20 conversation and certainly you know, we gave our
21 hey, if we had everything we wanted you know,
22 scenario, this is what we would need. I view this
23 as the first step in the process and I certainly
24 welcome the opportunity to pare that down and see
25 where we have areas of consensus, both on the core

2 functions that we need to maintain and where I
3 think that we need to make up some of the pay
4 inequities for our workforce.

5 CHAIRPERSON KALLOS: I come from a
6 background in business and as an investor and it's
7 hard for me to want to invest more when we're still
8 dealing with allegations of nepotism and a
9 commitment on the part of the organization... on
10 the part of the entity to your constitutional right
11 to patronage, so how can you take on patronage,
12 nepotism and make sure that everyone there is merit
13 based and that the people who shouldn't be there
14 aren't there so that I can feel comfortable
15 investing?

16 MICHAEL RYAN: Well, I've heard it said
17 that we have 10 percent of our workforce that are
18 all related to each other, but the fact of the
19 matter is, right to this moment, we've only been
20 made aware of four specific instances. Two of
21 those involve Commissioner level situations, which
22 I believe are still currently under investigation
23 by COIB, so those would be improper to comment on.
24 On the other two issues, we transferred one
25 employee from out from under direct familial

1 supervision and by both accounts of both
2 Commissioners, the Republican and the Democrat that
3 this person was a superior worker and she has been
4 transferred to the central office and in fact, has
5 been performing quite well in her duties there.

6 The other individual had a "fire or be transferred"
7 scenario proposed to him and he was, in fact,
8 terminated. So if there are other instances that I
9 am not aware of, we will certainly work with the
10 Department of Investigation to alleviate whatever
11 problems there are in that regard with respect to
12 current employees. And again, going back to
13 prospective future employees, I suspect that that
14 conversation in line with what we discussed earlier
15 will continue with the City Council, myself and
16 perhaps the Commissioners.

17
18 CHAIRPERSON KALLOS: Would it possible
19 to eliminate some of the patronage appointments;
20 some of the nepotism appointments; some of the
21 Commissioner appointments for people who maybe
22 should be getting paid what they're getting paid or
23 shouldn't be on the payroll so that we can
24 reallocate those salaries to eliminate the pay
25 inequity for those titles that are technical in

2 nature and have the skills that merit that pay
3 rate?

4 MICHAEL RYAN: I Suppose that that
5 process could be engaged at least in terms of
6 evaluation, but whether or not those positions
7 were, in fact, eliminated still comes back to a
8 Commissioner level decision, and I would like to
9 point out that... and I know it's stating the
10 obvious, but the Commissioners are ultimately
11 vetted and appointed by the City Council, so I
12 think that there is an oversight to this entire
13 process. How it's worked in the past, I'll leave
14 for others to judge, but that is you know,
15 certainly one of the Council's responsibilities in
16 terms of you know, appointing Commissioners and
17 might I add that the Commissioners make a
18 determination of who stays employed, including me,
19 so I'm certainly not involved in that decision. It
20 occurs above my authority.

21 CHAIRPERSON KALLOS: Has the DOI
22 identified any cost savings initiatives? If so,
23 will you please provide some details?

24 MICHAEL RYAN: Has the DOI in...

25 [crosstalk]

2 CHAIRPERSON KALLOS: Sorry, the BOE.

3 MICHAEL RYAN: Well, one of the things
4 that we're doing is we have eliminated the
5 retention of the buff cards, which are really the
6 voter registration forms. We have...

7 CHAIRPERSON KALLOS: [interposing]
8 Thank you for that. How much are we going to save
9 on that?

10 MICHAEL RYAN: Well, at an average of
11 \$23 a square foot x 10,200 feet it's \$235,000 a
12 year just for the active cards, and we have a whole
13 slew of cards that are called canceled cards that
14 are in warehouse facilities and I quite frankly,
15 did not do the analysis associated with that
16 because I will be very, very happy when the State
17 Board gets back to me that we've satisfied their
18 protocols to just tell the borough offices to go
19 ahead and start engaging the services of
20 ShredAbility to get rid of those cards. So that's
21 you know, one potential area of savings. And the
22 man hours associated with keeping and maintaining
23 those cards a very, very rough guesstimate is
24 approximately 1,500 hours annually.

2 CHAIRPERSON KALLOS: And what is that
3 cost savings translation?

4 MICHAEL RYAN: Well, it depends. You
5 know, there's a mix and match of the salary types
6 that handle these cards, so that is not readily
7 available, but it's a lot of money and more
8 importantly, even if that's not a direct cost
9 savings, it will allow us to redirect those workers
10 to doing more meaningful work and I would hope that
11 if we made them more productive that we would be
12 less reliant on overtime costs over the course of
13 time, but that is something that would
14 unfortunately be an evolutionary process. I don't
15 know that I could put my finger on a specific
16 dollar amount even if we did the analysis.

17 CHAIRPERSON KALLOS: And so reducing
18 overtime costs and moving more people over to
19 permanent positions and knowing which people are
20 seasonal or high priority...

21 MICHAEL RYAN: [interposing] Well, and
22 on that point moving people over to permanent
23 positions I think would allow us for the first time
24 to do shift work 'cause basically what happens
25 during an election cycle, we have the 13-day rule

2 and people work 12 hours a day you know, for 13
3 days in a row and then the 14th day they have to
4 get off. What happens with that is it also drives
5 up our outside vendor costs...

6 CHAIRPERSON KALLOS: [interposing] Uh-
7 huh.

8 MICHAEL RYAN: Because in order to
9 comply with Rule 6, the City Comptroller's Rule 6,
10 we end up providing transportation to people who
11 work you know, in excess of 10 hours and leave
12 after 9:00 at night.

13 CHAIRPERSON KALLOS: What measures...
14 [crosstalk]

15 MICHAEL RYAN: Which we'd be able...
16 [crosstalk]

17 CHAIRPERSON KALLOS: Have you taken to
18 limit those transportation costs?

19 MICHAEL RYAN: Well, again, we have
20 to... that's putting the cart before the horse. We
21 have to right size our staffing levels so that we
22 could implement shift work and reduce the overtime.
23 In other words, people work part of the day up to
24 an hour and then are relieved by the new shift
25 coming in, and that would get us out of the

2 necessity to comply with Rule 6 and drive down our
3 transportation costs with respect to employees
4 precipitously.

5 [crosstalk]

6 CHAIRPERSON KALLOS: You can start...
7 if you can comment as part of your compliance plan
8 or just a different plan; however you want to
9 phrase it with right sizing and where you're going
10 to make cuts and what salaries you're going to
11 propose and in order to have equity. I'm not sure
12 we're going to ever be able to match Westchester
13 and Long Island. They seem to have pretty high pay
14 rates. I'm thinking I might be able to get a
15 second job working with them. I don't know, but
16 they seem pretty high and I would be curious to see
17 what the skill levels are, but...

18 MICHAEL RYAN: [interposing] It was
19 purely for illustrative purposes.

20 CHAIRPERSON KALLOS: Fair enough. In
21 terms of cost savings, what's the annual cost to
22 warehouse for the old voting machines and what
23 is... how much can we get by selling them or
24 scrapping them?

25

1
2 MICHAEL RYAN: In excess of \$2 million
3 to warehouse the old machines. Once we get to a
4 resolution on the either instant run-off that I'm
5 hearing about and I'd actually received a call that
6 there may be a consensus bill in the... you know,
7 coming up in the state...

8 [crosstalk]

9 CHAIRPERSON KALLOS: So...

10 [crosstalk]

11 MICHAEL RYAN: Legislature. If that
12 happens, that will be a good thing. Once we know
13 that we are not going to have that compressed
14 timeframe between election events, we can get rid
15 of them and a straight up analysis is 17 cents per
16 pound for the metal and each machine weighs over
17 800 pounds, but that's not factoring in the
18 components, so if we simply scrap them, it'll be 17
19 cents a pound. If we break them down before we
20 scrap them, we'll be able to pull out the aluminum
21 and the copper and the steel that get compensated
22 at different rates. So it's possible and if we
23 wanted to do it the quick and easy way; take the 17
24 cents a pound and discard the machines, that's one
25 way to do it. If we want to engage in some time at

2 stripping the machines and trying to you know,
3 squeeze a little bit more juice out of the lemon,
4 so to speak, we might be able to get more money.
5 But at baselined 17 cents a pound x 800 you know x
6 over 6,000 machines if we get the 1,500 machines
7 that we want for VICKi, then it's 6,200. If we
8 don't, then it's 7,700.

9 CHAIRPERSON KALLOS: Thank you very
10 much for all the questions. Moving forward again,
11 I look forward to meeting with you on a monthly
12 basis. Wherein any time it is the Commissioners
13 who have ultimate responsibility, I no longer want
14 to hear it's the Commissioners that have
15 responsibility. I'd like to hear an answer from
16 the Commissioners themselves and thank you again.
17 I look forward to working very closely with you in
18 the coming months and years.

19 MICHAEL RYAN: Thank you very much. I
20 appreciate everyone's time.

21 [Pause]

22 CHAIRPERSON KALLOS: Governmental
23 Operations Committee is now called back to order.
24 [gavel] I'd like to welcome the newly appointed
25 Corporation Counsel, Zachary Carter.

2 Congratulations on your appointment. We look
3 forward to working with you.

4 The New York City Law Department is
5 responsible for all the legal affairs of the City.
6 It represents the City, the Mayor, elected
7 officials like me and the City's many agencies and
8 all affirmative and defensive civil litigation, as
9 well as juvenile delinquency prosecutions brought
10 Family Court and Administrative Code Enforcement
11 proceedings brought in Criminal Court.

12 The Department's proposed budget for
13 Fiscal Year 2015 totals \$158.5 million including
14 \$108.1 million to support 690 lawyers and \$850 to
15 support professionals, which I believe makes you
16 one of the largest law firms in the world.

17 In today's hearing, we will discuss
18 many aspects of the Department's budget, its
19 operational performance and how the Law Department
20 is handling various judgments and claims against
21 the City. We will further examine the Department's
22 approach to some high profile cases, including
23 those involving the NYPD, FDNY and how this
24 approach may differ from the previous
25 administration. we will also ask about any major

2 cases in the City with which the City is seeking to
3 recover payments from contractors who have either
4 overbilled or underdelivered on contracts with the
5 City.

6 There is a lot to talk about, so let's
7 get started. Thank you again for your patience
8 while we were dealing with the Board of Elections.
9 We would welcome any assistance you might have in
10 getting them to be one of our highest performing
11 agencies. We look forward to your testimony and as
12 an attorney, I'm glad to see you here and again,
13 look forward to working with you. We have a \$70
14 billion pocketbook and it's my job and the
15 Council's to try to defend that as much as
16 possible, but once we contract out, we need your
17 agency to keep every penny safe and make sure that
18 we're only spending what we've agreed to, so you do
19 a yeoman's job as an agency and without further
20 ado, please share your testimony.

21 ZACHARY CARTER: Well, thank you very
22 much. Good afternoon, Chair Kallos and
23 distinguished members of the Government Operations
24 Committee. It is my pleasure to come before you to
25 discuss the Law Department's Fiscal Year 2015

2 Preliminary Budget. I have with me colleagues;
3 senior colleagues from the Law Department.
4 Starting on my right, Georgia Pestana. Next to me
5 is our First Assistant, Corporation Counsel Jeff
6 Friedlander. On my left is Mal Higgins, who is our
7 Managing attorney. To his left is Larry Kahn...
8 I'm sorry... see, this is a testament to the fact
9 that a) I'm new and b) that I insist on ignoring my
10 senior moment, so I call him Mal Higgins and this
11 is actually... he is disguised as Mal Higgins. He
12 is actually Foster Mills, sorry, and Larry Kahn on
13 my left, who is Chief Litigating attorney and on
14 his left is Muriel Goode-Trufant, who doubles as
15 Chief of our Special Federal Litigation Unit...
16 Division rather and also our Chief EEO Officer.

17 To start, I've practiced law in this
18 city since 1975, when I graduated from NYU Law, but
19 my first encounter with the Law Department came
20 before my graduation when I was a student intern
21 for the Juvenile Rights Division of Legal Aid in
22 the Bronx, where I represented juveniles before the
23 Family Court. My adversaries were, at that time,
24 Assistant Corporation Counsel for the Family Court
25 Division of the Law Department, who prosecuted

2 juvenile delinquency petitions. I must confess
3 that back then I probably thought that the Family
4 Court Division was the only division of Corp
5 Counsel's office, and from my perspective, that was
6 not such an unreasonable belief. After all, I was
7 also a student at the NYU Criminal Law Clinic, and
8 in that capacity I represented defendants in the
9 Criminal Court in Manhattan and I certainly knew
10 that the Assistant District Attorneys who I faced
11 on the other side, that criminal practice was all
12 they did. It was impossible for me to imagine that
13 the Family Court Division was only one of 17
14 operating divisions of the Law Department and by no
15 means the largest. It would've been hard for me to
16 imagine that the important function of prosecuting
17 juvenile delinquency was something that the Law
18 Department did in its spare time.

19 Over my years of practice, I came to
20 more fully appreciate the range of work performed
21 by the Law Department, but still from an outsider's
22 perspective. I've litigated against the Department
23 on occasion. I have worked cooperatively with a
24 number of my predecessors in Bar Association
25 activities and on various boards. Most recently, I

1 worked with my immediate predecessor, Mike Cardozo,
2 when I chaired the Mayor's Committee on the
3 Judiciary. They've have shared with me their
4 experiences in this extraordinary job, but until I
5 actually came to work as Corporation Counsel, I did
6 not fully appreciate the sheer breadth of the legal
7 issues covered by the office or the depth of the
8 talent of its attorneys and support staff.

10 Today, I am accompanied by Law
11 Department executives and division chiefs, who
12 represent literally decades of legal experience and
13 I'm not just talking about in the aggregate. I
14 mean each of these folks sitting at the table have
15 spent decades in the office. I apologize to all
16 folks trying to conceal their age. These men and
17 women and others not in attendance today are on the
18 speed dials of numerous agency general counsel and
19 agency heads, who have for years depended on their
20 sound advice and representation on a practically
21 limitless range of legal issues that affect the
22 operations of the city.

23 On a typical day, I will review legal
24 matters affecting transportation; schools; law
25 enforcement in public safety including police, fire

2 and corrections; housing; public health; taxes, and
3 of course, the City both collects and pays taxes;
4 labor law; contracts; real estate law; municipal
5 finance; environmental law torts, lots and lots and
6 lots of torts. We also bring suits on behalf of
7 the City seeking affirmative relief, i.e. money
8 damages owed to the City.

9 In order to fulfill this responsibility
10 to represent the City and its agencies in
11 litigation and all other legal matters involving
12 the City, the Department employs approximately 730
13 attorneys and 630 support staff. Our legal staff
14 is diverse. Our 730 attorneys include
15 approximately 21 percent individuals of color and
16 56 percent women, but we will always strive to
17 improve that diversity.

18 We have taken and will continue to take
19 steps to reduce unnecessary litigation. Sometimes
20 that will take the form of aggressively defending
21 City agencies against recurring, frivolous claims.
22 In other cases, where a claim draws our attention
23 to serious institutional problems in need of
24 reform, we will bring that matter promptly to the
25 agency counsel and operational leaders in a

2 position to take long-term corrective action. We
3 will use the information we gain from defending
4 claims against the City; to manage its risk by
5 addressing policies, practices and operations that
6 give rise to recurring claims and exposure to
7 liability. As we advise the City and its
8 constituent agencies, we hope to provide the
9 quality of wise counsel that discourages advancing
10 policy goals through litigation except as a last
11 resort.

12 As you pointed out, our budget
13 appropriation, both for Personal Services and Other
14 Than Personal Services, for Fiscal Year 2015 is
15 approximately \$158,412,743. Our proposed Fiscal
16 Year 2015 head count is 1,353.

17 In conclusion, I thank you for your
18 support of the Law Division and look forward to our
19 continued cooperation. I would be happy to answer
20 any questions that you have and if I do not have
21 that information personally at my fingertips, I
22 will turn to one of my incredibly knowledgeable
23 colleagues.

24 CHAIRPERSON KALLOS: Thank you all for
25 coming out in such force. I do not believe that

2 were I private paying client I could afford your
3 combined billable hourly rates. So thank you for
4 that. Welcome. You come to this with fresh eyes.
5 As a newly appointed person and after your initial
6 review, do you have any thoughts on changes to
7 structure or management of the Law Department and
8 if any, what changes do you plan to make?

9 ZACHARY CARTER: Sure. I would say
10 that given the breadth of the issues that the Law
11 Department has to address in representing the
12 various agencies on the again, very virtually
13 limitless array of issues that organizing around
14 practice specialty is and remains a sound
15 organizing principle and so I would not consider
16 changing that model. At the same time though, as
17 many law firms in private practice do, there are
18 matters that require us to focus on specific
19 agencies, particularly the larger agencies that we
20 serve; the Department of Education, police, fire
21 and others and consequently, having teams that
22 focus on specific agencies is a matter that I think
23 we think is worthwhile exploring and that has been,
24 I'm sure, done in various incarnations over the
25 years and something that we will continue to look

2 at. Also, the Law Department is, in effect, a
3 canary in the coal mine with respect to being the
4 first to apprehend where there may be recurring
5 problems in agencies that give rise to litigation
6 and that expose the city and the agencies to
7 liability and therefore, we are in a position to
8 assist the City with its risk management functions
9 in terms of providing information to agencies as
10 soon as we apprehend that there's a recurring
11 problem and so we're going to placing as much
12 emphasis on that as possible.

13 CHAIRPERSON KALLOS: So when you were
14 talking about your background with juvenile
15 justice, you plucked my heart strings and you also
16 gave me a flashback to yesterday when we had
17 Commissioner Carrion from ACS. Currently there is
18 \$203 million that we're spending in the ACS budget
19 on juvenile justice. We have admissions of 3,419
20 children with an average daily population of 266
21 children at an average cost per day at \$777 a day
22 and an average length of stay of 29 days, which
23 comes out to \$22,533 per child per stay. Do you
24 have any inclinations or plans regarding
25 alternatives to detention and how you will be

1 prosecuting juvenile justice cases so that we can
2 take care of our children and get them back on the
3 right path instead of putting them into the system?
4

5 ZACHARY CARTER: Yeah well, what
6 differentiates the Family Court Act from the Penal
7 Code is that there's a presumption that you will
8 seek the least restrictive dispositional
9 alternative in order to address the young person's
10 needs before the court so that you can hopefully
11 arrest literally the conduct that has brought them
12 to the Family Court in the first place, and so
13 certainly I will be encouraging the Assistant
14 Corporation Counsel who handle juvenile cases to
15 try to identify those service providers in each of
16 the Family Court offices... Family Courts around
17 the boroughs that we serve to try to determine
18 whether or not there is a tailored dispositional
19 response for each individual offender and doing
20 that in a way that's consistent with public safety.

21 CHAIRPERSON KALLOS: Is it possible to
22 create some broad policies of saying that given
23 certain classes of violations that a child may be
24 before the Family Court related to that these are
25 the recommended steps and something similar to what

1 the Federal Court has done in just trying to make
2 sure that... at the Council I'm committed to
3 spending as much as we need to, whether it's
4 Universal Pre-K; after-schools to stop the schools
5 to prison pipeline that unfortunately starts with
6 the juvenile justice system. So any plans you're
7 willing to put before the body or announce with the
8 Mayor and whatnot around a change in tack would be
9 welcome.
10

11 ZACHARY CARTER: Certainly and to the
12 extent that we develop such plans, we'll certainly
13 bring them to the attention of the Council and this
14 committee. I have spent a lot of my career in
15 developing an alternatives to incarceration
16 programs, both as Executive Assistant DA in
17 Brooklyn; as a member of the Vera Institute of
18 Justice Board of Directors, so it's something that
19 I feel very strongly about and it's something that
20 we will certainly institute whenever we have the
21 opportunity.

22 CHAIRPERSON KALLOS: I have an alumni
23 of the Vera Institute on my staff. Debbie
24 Lightbody runs my constituent service and she works
25 closely on the elder issues. The previous

1 administration expanded the Law Department's
2 initiative to increase staffing to more vigorously
3 defend the City against civil lawsuits in an effort
4 to reduce judgments and claims against the City to
5 deter frivolous lawsuits. In your opinion, has the
6 initiative been effective in reducing the amount of
7 payments for judgments against the City and does
8 the Law Department plan to continue this
9 initiative?
10

11 ZACHARY CARTER: We certainly plan to
12 continue the initiative. In order to discourage
13 counsel, 'cause really it is not an individual
14 claimant problem. It's really a lawyer problem,
15 not in my view a individual citizen problem. In
16 order to discourage the filing of frivolous
17 lawsuits, there has to be a sense that there's a
18 credible level of trial capacity and you have to
19 have the means to expose suits as being without
20 merit through dispositive motion practice at the
21 earliest stage, and so if we use our resources to
22 identify those cases that can be disposed of by
23 motion practice, and particularly before the onset
24 of discovery, that is a win for our office and a
25 win for the City in terms of the expenditure of

1
2 resources and it does over time, I think, operate
3 to discourage attorneys who would be inclined to
4 file for the frivolous claims.

5 CHAIRPERSON KALLOS: In terms of
6 avoiding risk is it possible for the Law Department
7 to begin working with city agencies so that
8 residents who may have potential claims have their
9 claims heard and resolved in a less legalistic
10 fashion, but more of a just trying to make the
11 residents whole? I will admit I am an arbitrator
12 in the Small Claims Court. It's not a big deal.
13 Most things are much less than \$5,000, but I've
14 seen countless cases where a citizen has a problem.
15 We're trying to make the person whole and figure
16 out who's at fault and where is at fault and the
17 City's been unresponsive to a tee and the Law
18 Department and the City as a whole haven't gone
19 about trying to help somebody become whole. It's
20 just been about let's defend a lawsuit and whatever
21 and when you're talking about lawsuits for \$100 or
22 \$500 or even \$5,000 versus these million dollar
23 claims, it's more constituent service than anything
24 else.

2 ZACHARY CARTER: No, I agree with you
3 completely. Now, obviously, we can't permit the
4 City fist to suffer a death by a thousand cuts and
5 so some lawsuits, even at the lowest level, if they
6 are completely without merit, we have to be careful
7 about disposing of them wholesale. That being
8 said, to the extent that there are lawsuits that
9 make sense to be disposed without litigation;
10 frankly, to get as much of the lawyers out of the
11 way possible, when you see that a claim is
12 plausible on its face; that it has likely merit and
13 that it can be disposed of early and without an
14 expenditure of resources, we're more than happy to
15 do that.

16 CHAIRPERSON KALLOS: The City's
17 Judgment Claims Budget for Fiscal Year 2014 totals
18 \$718 million and is significantly higher than the
19 previous six year average actual expenditures of
20 \$598 million. Why is the Judgment Claims Budget
21 for Fiscal Year 2014 so much higher than it was
22 over the last six years?

23 ZACHARY CARTER: I mean quite frankly,
24 that figure is not ours. That comes from OMB and
25 we frankly, don't know how that was precisely

2 calculated, so I am not in a position really to
3 answer.

4 CHAIRPERSON KALLOS: Would your agency
5 be open to follow up? I'm here with our Senior...
6 our Principal Finance Analyst, John Russell, who
7 is, in my humble opinion, highly skilled and we
8 would love to work with you in determining what the
9 actual number is so that we can do that, but I
10 guess one follow up question is just are you
11 anticipating a surplus since the OMB number is
12 not... may not be accurate?

13 ZACHARY CARTER: I don't think we
14 anticipate a surplus, but I'll permit...

15 [background voice]

16 G. FOSTER MILLS: We just don't have
17 enough information to predict that. For example,
18 part of the Judgment and Claims Budget includes
19 cases that are settled by the Comptroller before
20 litigation starts. We have no knowledge of that
21 whatsoever, and so we are a subset of this number
22 and how it affects the final number is very, very
23 difficult for us to ascertain.

24 CHAIRPERSON KALLOS: So other than
25 increasing the number of lawyers assigned to handle

2 these cases... sorry, just to rewind, so based on
3 the number of cases that you have, which we'll get
4 into later, that are being settled do you expect
5 the payouts for Fiscal Year 2014 to be higher than
6 the previous years?

7 G. FOSTER MILLS: I think it's a little
8 too early to tell. The Comptroller every year
9 comes out with an official number of what the J and
10 C payout was for the prior Fiscal Year. They do
11 that some time I think in the late summer and they
12 have all kinds of accounting rules they have to
13 follow in order to get there, so it's really very
14 hard for us to predict that.

15 CHAIRPERSON KALLOS: And then as I was
16 going to say before, other than increasing the
17 number of lawyers assigned to handle these cases,
18 what efforts is the Law Department taking in
19 response to this, at least from OMB increase in
20 projected costs, and how can you advise the
21 agencies and hospitals to minimize the City's
22 exposure to liability and medical malpractice
23 cases?

24 ZACHARY CARTER: Well, what we have
25 tried to do is to focus our resources in a way, as

2 I said before, to attempt to resolve as many cases
3 by dispositive motion practice as possible, and
4 that requires a substantial effort on early
5 screening at intake to separate those cases that
6 should be disposed of, as you had encouraged, with
7 limited litigation at the right settlement amount,
8 but also identifying those cases where there is
9 significant exposure and where the stakes may be
10 high where we may have strong legal claims that
11 lend themselves to... lend the case to be dismissed
12 summarily. We also try to triage these cases in a
13 way that permits us to identify those cases that
14 should be tried and I think that we've established
15 in the cases that we have focused those resources
16 on a very excellent record of success at trial.

17 CHAIRPERSON KALLOS: With the Fire
18 Department, just moving onto some of the cases that
19 are in the news, we currently came to a
20 settlement... so first, what the City was doing was
21 wrong and I'm really glad that this administration
22 or Mayor de Blasio has agreed to settle this and
23 that we're fixing this practice and I guess one
24 question is along the margins, how did the
25 Department come to a \$98 million figure?

2 ZACHARY CARTER: Well, this was a
3 figure that was a product of negotiations going
4 back into the summer of last year, and it is simply
5 a back pay figure for all of the class claimants
6 who were covered by the allegations of the lawsuit.
7 And as a product, frankly, of the duration of the
8 suit, if the suit could've been resolved earlier,
9 the amount of the ultimate resolution or the
10 damages would've been lower, but it is what it is
11 and we have resolved it now and this is the figure
12 that was a direct product of just the number of
13 claimants and the number of years that have passed.

14 CHAIRPERSON KALLOS: How many of the
15 claimants are now joining the FDNY? How many of
16 the claimants are actually now going to join the
17 FDNY in spite of our previous practices?

18 [background voices]

19 ZACHARY CARTER: I'm informed a little
20 over 100.

21 CHAIRPERSON KALLOS: That's... and out
22 of how many claimants was that?

23 GEORGIA PESTANA: There's about 1,470.

24 CHAIRPERSON KALLOS: That's a good
25 start.

2 GEORGIA PESTANA: So not all of them
3 still want to be firefighters, so not all of them
4 are looking for the jobs and that's the process
5 we're going through right now.

6 CHAIRPERSON KALLOS: Your predecessor
7 has expressed concern that the City was overpaying
8 for fees related to the court-appointed Court
9 Monitor to oversee the procedure and policy changes
10 at the FDNY going forward. Do you believe the City
11 is being overcharged for the FDNY Court Monitor and
12 related costs?

13 ZACHARY CARTER: Well, I am not in a
14 position currently to assess whether or not the
15 past efforts of the Monitor were incurred an
16 excessive amount of fees, but what I do believe is
17 that because the City is now and our office is now
18 and the Department will now be in a cooperative
19 posture with the claimants and with the court in
20 resolving these issues that the Monitor will not...
21 should not be as taxed as he may have been
22 previously in supervising the reforms that should
23 result in increased diversity.

24 CHAIRPERSON KALLOS: In the past few
25 years, the Law Department has made a commitment to

1
2 more vigorously testing claims against the NYPD in
3 an effort to deter frivolous lawsuits and to
4 protect our City's Finest from frivolous
5 litigation. Are you working with the NYPD in any
6 way to identify trends or patterns of behavior
7 leading to civil rights claims in order to develop
8 policies and procedures that could be put in place
9 to help decrease the number of civil actions filed
10 against the NYPD?

11 ZACHARY CARTER: I think that in part
12 the disposition of the case in Floyd provides kind
13 of a platform for us to work closely with the NYPD
14 you know, broadly to deal with issues that may give
15 rise to lawsuits that can be prevented, and
16 certainly of the extent that there's a reform in
17 the stop-and-frisk practice and already a dramatic
18 reduction in stops that should help to reduce the
19 number of claims. Already claims over the last two
20 years against the NYPD have been reduced by nine
21 percent.

22 CHAIRPERSON KALLOS: That's
23 outstanding. I am against stop-and-frisk. I'm
24 glad that our new administration; our Mayor has
25 stopped the practice. In my district, District 5

2 on the Upper East Side, they were... the NYPD was
3 stopping more people of color than lived in my
4 district by a magnitude of almost four, so I'm glad
5 to see that practice stopped because it's
6 unsustainable for us to stop our friends, neighbors
7 and consumers anytime they come into a district
8 where we'd like them to be there. So that being
9 said, how much has it cost us as a city that the...
10 that stop-and-frisk had continued for so long and
11 now that we are finally able to not appeal the
12 ruling and the practice, how much is that going to
13 cost us, the Bloomberg's practice of having
14 continued that for so long?

15 ZACHARY CARTER: Well, I don't think
16 that I can put a dollar figure on that presently
17 and very frankly, from the point of view of a
18 veteran of many years in law enforcement, the
19 greatest damage or cost was an unnecessary rupture
20 in the relationship between the community and the
21 police that served them and I think that just the
22 efforts that have been made by our current
23 Commissioner, Commissioner Bratton, to repair that
24 damage and to establish a close working
25 relationship with the community served by the NYPD

2 are going to reduce those intangible costs and I
3 think also in the long run reduce the number of
4 meritorious claims.

5 CHAIRPERSON KALLOS: Thank you. Onto
6 the Central Park Five; if you can give us an update
7 on that case.

8 ZACHARY CARTER: Well, the only update
9 I can give you, because obviously it's a matter
10 that's in litigation, is that there are discussions
11 that are ongoing with counsel for the other
12 plaintiffs and that's as much as I can say at this
13 point.

14 CHAIRPERSON KALLOS: Thank you. Last
15 year, Verizon agreed to pay the City \$50 million
16 because of delays in projects associated with the
17 Emergency Communications Transformation project,
18 the large-scale effort to transform and consolidate
19 the City's 911 Emergency Dispatch System. During
20 the Finance Committee's 2015 Preliminary Budget
21 hearing, OMB confirmed that the Law Department is
22 currently engaged in efforts to recover payments
23 from Hewlett Packard and another major ECTP
24 contractor. What can you tell us about the
25 negotiations with Hewlett Packard to recover

2 unearned ECTP payments and can you talk about any
3 other effort to recover unearned payments made to
4 contractors working on major city projects?

5 ZACHARY CARTER: [off mic] Do you want
6 to handle that one?

7 JEFFREY FRIEDLANDER: Well, we're
8 currently seeking to recover the amount and in
9 negotiations with them and with the Comptroller's
10 office on trying to arrive at a number that would
11 be reasonable and reflect the damage the City has
12 suffered in that case.

13 CHAIRPERSON KALLOS: Are there other
14 areas that you're focusing on in addition to ECTP?

15 JEFFREY FRIEDLANDER: To recover
16 monies? Well, we have... no, we have an
17 affirmative litigation, which aside from the bread
18 and butter work that they do to collect fines that
19 are due to the City because of violations of the
20 building code or air code or the like, as well as
21 recovering monies that are due to us from insurance
22 companies who have... where there's insurance out
23 there and there's a lawsuit against the City where
24 we could recover and go after them where they've
25 recovered over the past 10 or 15 years hundreds of

1 millions of dollars. There are a number of cases
2 that are ongoing. We've recovered monies that were
3 due when school custodians, for example, have
4 falsely billed the Department of Education for work
5 that work that was done. We recover where there
6 are in force cigarette violators who bootleg
7 cigarettes coming into the city. We have a case
8 against pharmaceutical companies where there have
9 been improper Medicaid billing and again, we're
10 looking to recover monies from Mellon Bank where
11 the rate that was paid to the Deferred Compensation
12 Plan was not the best rate possible for overnight
13 exchange rates, and others along that road. School
14 Construction Authority where there is money that
15 should be recovered because of poor design of
16 school. So that's much of what our division;
17 Affirmative Litigation Division does and brings in
18 revenues to the City. It's one of the few engines
19 that we have to bring revenue in rather than
20 spending money to defend the City.

22 CHAIRPERSON KALLOS: I would love to
23 see that list if you'd be kind enough to share it
24 with our body, and are those projected revenues
25 recognized in the budget anywhere?

2 G. FOSTER MILLS: We have a revenue
3 budget that does when the collection gets close
4 enough that you can estimate what fiscal year it's
5 going to come in, it will come into our revenue
6 budget. The revenue budget right now is about \$29
7 million for this year.

8 CHAIRPERSON KALLOS: Working with the
9 Finance Council based on a Local Law that was
10 passed in 2012, we've identified roughly \$4 billion
11 in overspending on \$6 billion worth of contracts
12 over 113 separate projects. Would it be within the
13 Law Department's purview to help recover that \$4
14 billion or how would we work together to get that
15 money back or renegotiate those contracts or cancel
16 contracts where it seems like we've gone over by
17 more than 40 percent and in some cases more than
18 100 percent of the original contract price.

19 ZACHARY CARTER: Well, obviously, we
20 would have to review those contracts on a case by
21 case basis to determine whether the overcharges are
22 an issue of fraud or breach of contract or rather a
23 question of competence in terms of the other
24 contract oversight process. I mean there are times
25 when contracts, particularly in the construction

2 area, may have been estimated at a level that it is
3 unlikely that the contract could conceivably be
4 completed within the budgeted parameters and
5 therefore, leaves the project open to repeated
6 requests for change order, and that process is one
7 that has to be carefully monitored. It has to be
8 monitored in a way that's fair to contractors in
9 terms of compensating them for unanticipated events
10 that occur that occur in every construction
11 project, but also you have to make sure that they
12 are not carelessly granted and they're not a
13 product of inadequate supervision of the process.
14 So we're more than happy to help assist the Council
15 in reviewing any projects that are brought to our
16 attention where there's a suspicion that there may
17 be inappropriate overcharging so we can determine
18 whether or not there's an actionable event.

19 CHAIRPERSON KALLOS: I guess just
20 having gone to law school like you guys I still
21 think of things in terms of ACORNS and whatnot, so
22 if there's no ACORN on either side and whatnot then
23 there has to be consideration in a lot of these
24 contracts and change orders; catch them by surprise
25 when we're routinely getting overbilled. It's

2 Local Law 18 of 2012 that requires the City to give
3 the Council quarterly reports on significant cost
4 overruns in capital projects, so I am eager to work
5 closely with you and your team so that when the
6 Mona Lisa that we paid \$10 for, we cancel that
7 contract and when we paid a million dollars for the
8 Mona Lisa, but they're charging us a billion where
9 we're realizing that there was an issue with that
10 contract. I went to high school in the Bronx. I
11 went to Bronx Science. The Preliminary Plan
12 includes funding for a new Bronx Police Defense
13 Unit to address the high volume of Bronx cases
14 brought against the Police Department in State
15 Court. Why is that? What's going on with there
16 and what are the schools?

17 ZACHARY CARTER: I think that it has
18 been effective. We needed that influx of lawyers
19 just to keep pace with the filings against the NYPD
20 in that borough. Without those additional lawyers,
21 we could not target cases, both for dispositive
22 motion practice and gear up selected cases,
23 particularly the ones that appear to have high
24 values and high demands for trial. You know, I
25 think that we've had substantial success at both

2 the disposing of cases by dispositive motion and
3 success at trial as well, but I think it'll take
4 time to see what the long term impact of the
5 program has been, but I certainly support it
6 continuing and encourage the Council to support it.

7 CHAIRPERSON KALLOS: Thank you, and in
8 wrapping up and again, thank you for your patience
9 on fielding all these questions. The November Plan
10 included funding of \$1.2 million in Fiscal Year
11 2015 for the Senior Counsel Program. Can you tell
12 us a little bit about it and what it is intended to
13 achieve?

14 ZACHARY CARTER: I mean one of the
15 things that... I mean I've spent a good part of my
16 career in government, both in the federal
17 government in the Department of Justice and also
18 with the DA's office in Brooklyn. I have never
19 been at an agency whose bench strength was as deep
20 and whose talent base is as deep and to a large
21 extent, I think it's because of the Senior Counsel
22 Program. I mean it's probably no industry or line
23 of work where the Peter Principle can manifest
24 itself more; possibly in public education where you
25 remember your favorite teacher was taken out of the

1 classroom and promoted to being a lousy principal
2 or a guidance counselor, but that manifests itself
3 in public law offices as well. Through the Senior
4 Counsel Program we can keep excellent attorneys
5 doing what they do best. If they're great
6 appellate lawyers, they can keep doing it. If
7 they're great trial lawyers, they can keep doing
8 it. If they have no interest in or aptitude for
9 management, they can still get a decent raise and
10 support themselves and their families and that's
11 what the Senior Counsel Program does, and the proof
12 is in the pudding. We have... I have never been in
13 an organization of lawyers where there's so many
14 careerists and really, and not careerists who are
15 hanging on; careerists who are really, really good
16 at what they do and I think the Senior Counsel
17 Program is what supports that.

19 CHAIRPERSON KALLOS: I think you're the
20 first person to bring up Peter Drucker in a context
21 of government, so actually my senior thesis in SUNY
22 Albany was on the Peter Principle and
23 implementing... recommending implementation of
24 exactly what you just said, so that is absolutely
25 fascinating. Thank you so much. Sorry for running

2 behind and look forward to working with you and
3 your large firm of attorneys in making sure that
4 the City saves as much as we can and defends as
5 much as we can and acknowledges where we're wrong
6 and quickly settles things to make people whole and
7 moves our city along. Thank you very much.

8 ZACHARY CARTER: Thank you.

9 CHAIRPERSON KALLOS: Now I'd like to
10 welcome the newly appointed Commissioner of the
11 Department of Citywide Administrative Services,
12 Stacey Cumberbatch. Thank you for waiting an hour.
13 I'm sorry that we are running behind. I'd like to
14 congratulate you on your appointment. I'd like to
15 thank you for your long career of service. We
16 missed you when we were doing the FISA and OPA
17 testimony, as I'm sure you would've just as at home
18 there. We look forward to working with you.

19 The Department of Citywide
20 Administrative Services, DCAS, is responsible for
21 many citywide functions and ensures that city
22 agencies have the critical resources and support
23 needed to provide the best possible services to the
24 public. In Fiscal Year 2015 Preliminary Budget,
25 funding for DCAS totals \$1.14 billion, with the

2 majority allocated towards paying the heat, light
3 and power bills for all city agencies, which is
4 budgeted at \$800 million.

5 During today's hearing we will examine
6 many of the aspects of DCAS's operations and how
7 they impact the City's budget; specifically, we
8 would like to discuss the City's energy policy; the
9 efforts to centrally manage and lower cost for City
10 vehicles, fleet, citywide procurement and
11 contracting and asset management. We want to talk
12 about efforts to reduce citywide spending by
13 leveraging the City's purchasing power and
14 implementing strategies to streamline various
15 citywide operations. In the wake of Superstorm
16 Sandy, we would like to hear details of the City's
17 Resiliency Plan moving forward. There's a lot to
18 talk about, so whenever you're ready, we would like
19 to hear your testimony. Thank you so very much.

20 COMMISSIONER CUMBERBATCH: If you could
21 just give us a couple of minutes. My staff is
22 still coming into the room and we're transitioning
23 out the prior panel.

24 CHAIRPERSON KALLOS: We will recess
25 for...

2 COMMISSIONER CUMBERBATCH:

3 [interposing] Two minutes.

4 CHAIRPERSON KALLOS: For two minutes.

5 COMMISSIONER CUMBERBATCH: Thank you.

6 [gavel]

7 CHAIRPERSON KALLOS: Governmental
8 Operations Committee is now back to order. [gavel]

9 So we now have testimony from Commissioner Stacey
10 Cumberbatch for the Department of Citywide
11 Administrative Services. Sorry to keep you
12 waiting. Thank you for the brief break. I really
13 appreciated it, and without further ado, you do so
14 many things, so let's try to cover it.

15 COMMISSIONER CUMBERBATCH: Great. Good
16 afternoon, Chair Kallos and members of the
17 Governmental Operations Committee. I'm Stacey
18 Cumberbatch, Commissioner of the Department of
19 Citywide Administrative Services. I'm joined right
20 next to me by Rich Badillo, our Chief Financial
21 Officer for DCAS, as well as members of our Senior
22 Executive team from DCAS in the audience. We're
23 here today to discuss the plan expenditures and
24 revenues for FY '14 and FY '15, as well as
25 highlights of the DCAS Capital Plan. Thank you for

2 the opportunity to appear before you today. I look
3 forward to working with all of you in the days to
4 come.

5 DCAS ensures that city agencies have
6 the critical resources and support needed to
7 provide the best possible services to the public in
8 six key areas. Asset Management: We provide safe,
9 clean and efficient office space for the City's
10 workforce through our management of 55 public
11 buildings, 15 million square feet of owned space
12 and over 21.5 million square feet of leased space.
13 We also purchase, sell and lease real property and
14 locate and secure space for City agencies, with a
15 focus on more efficient use of office space as an
16 important cost saving action that also improves
17 delivery of City services. Since 2010, Asset
18 Management has been working to achieve the goal of
19 reducing City office space by 1.2 million square
20 feet by June 2014. With the sales of 346 Broadway
21 and 49-51 Chambers Street in the fall of 2013, DCAS
22 surpassed this goal by six months early.

23 Human Capital: We provide civil
24 service administration for over 200,000 city
25 workers in 40 mayoral agencies and 44 other

2 governmental entities. We annually test over
3 100,000 candidates for civil service exams, respond
4 to approximately 13,000 calls and emails related to
5 NYCAPS, which is the New York City Automated
6 Personnel System and train 17,000 City employees
7 through more than 1,350 classes. We are continuing
8 to expand eHire, an applicant tracking system and a
9 fundamental addition to the NYCAPS system. There
10 are 47 agencies currently on eHire, with additional
11 mayoral and non-mayoral agencies expected to join
12 later this year. Through eHire, the City's
13 recruitment and hiring processes are uniform,
14 streamlined and automated so that the City can
15 attract a large and diverse pool of qualified
16 candidates.

17 Third, Citywide Diversity and EEO: We
18 are responsible for the creation and execution of
19 diversity and inclusion strategies for the City and
20 for guiding mayoral agencies in devising and
21 carrying out their annual Diversity and Equal
22 Opportunity plans. We've launched the Citywide
23 Diversity Initiative, which rests on three
24 strategic plans: workforce, workplace and
25 community. This launch was accompanied by

2 extensive changes to our charter mandated annual
3 agency EEO plans. These plans, which we have
4 received from all agencies now have specific
5 strategies with diversity and inclusion commitment
6 statements from Commissioners, actions for targeted
7 recruitment and development of City employees, best
8 practices in selection and steps taken to provide
9 inclusive services to our diverse New York City
10 communities. Engagement among EEO officers has
11 greatly increased through the establishment of the
12 Citywide Diversity and EEO best practices group,
13 focused on strategy, metrics and professional
14 development.

15 Fourth, Purchasing: We purchase,
16 inspect and distribute supplies and equipment at
17 the lowest net cost and assist in the disposal of
18 surplus heavy equipment and goods. We purchase
19 approximately \$1.2 billion annually in goods and
20 services for the City through 1,000 citywide
21 requirement contracts and one-time purchases. We
22 leverage the City's purchasing power to obtain the
23 most competitive prices for goods and services by
24 aggregating demand and consolidating contracts. We
25 seek to maximize MWBE vendor participation by

2 conducting outreach and regularly representing the
3 agency at vendor work fairs. We also strive to
4 obtain local sources for goods and services to
5 promote the local economy. One example of this is
6 the recent implementation of price preferences and
7 extensive outreach to New York State food growers
8 and producers to procure locally sourced food
9 products. These efforts have improved the quality
10 and freshness of the produce purchased by the City,
11 reduced transportation costs and impacts and
12 increased support of sustainable food production.

13 Fifth, Fleet: We monitor City agency
14 fleets and City overall compliance with fleet
15 purchasing laws and environmental goals. We help
16 manage nearly 27,000 light, medium and heavy duty
17 vehicles, representing over \$2 billion in assets.
18 The fleet includes 6,070 alternative fuel units.
19 The majority of these fleet assets are operated by
20 10 agencies: Police; Fire; Corrections;
21 Sanitation; Environmental Protection;
22 Transportation; Parks; Mental Health and Health;
23 Department of Education and DCAS. We provide
24 maintenance and repairs; claims; parts; leasing;
25 auction and information management services to 50

2 City agencies that operate vehicles as well. In
3 addition, we manage the City's fueling contracts
4 and infrastructure that encompasses the purchase
5 and use of 29 million gallons annually. We also
6 lead citywide fleet initiatives, including a number
7 of Vision Zero initiatives and shared servicing.

8 Energy Management: We pay, monitor and
9 report on the heat, light and power budget for City
10 agencies and others, which is \$8 million in FY '14.
11 To control energy costs, DCAS is engaged in the
12 following: we review utility costs for potential
13 savings, we work directly with agencies through
14 incentive programs and energy efficient projects
15 and we analyze volumes of data to identify the most
16 cost-effective and energy-saving projects. DCAS
17 leads the efforts to accomplish the City's goal of
18 reducing energy consumption and greenhouse gas
19 emissions from City government operations 30
20 percent by 2017, as outlined in PlaNYC. Our
21 primary goals are to reduce and manage energy uses
22 to invest in projects and operations that reduce
23 cost and to support city agencies in these efforts.

24 So let me turn now to DCAS
25 expenditures. DCAS expense budget reflects funding

2 of \$1.2 billion in FY '14 and \$1.1 billion in FY
3 '15. Included in the funding is our budgeted head
4 count of 1,962 people in the current fiscal year
5 and 1,964 in FY '15. The majority of our planned
6 expenditures, as I stated earlier, \$800 million in
7 both FY '14 and FY '15, is allocated for Citywide
8 energy expenses. DCAS continues to work closely
9 with agencies citywide to enhance the energy
10 performance of their facilities through a range of
11 programs, which includes retrofitting equipment,
12 improving operations and maintenance and training
13 and outreach to reduce the City's energy costs.

14 DCAS Revenues: The total DCAS revenue
15 budget is \$317 million in FY '14 and \$60.5 million
16 in FY '15. The difference is primarily due to the
17 income in FY '14 from the sales of 49-51 Chambers
18 and 346 Broadway, which total \$214.2 million. Our
19 largest source of recurring revenue is the
20 commercial rentals of city-owned property,
21 projected to be \$41.9 million in FY '15. The major
22 sources of rental income are from ground leases for
23 Grand Hyatt Hotel, which is \$9.5 million; Carnegie
24 Hall, which is \$8.4 million annually and the
25 Archive in Greenwich Village at \$8 million.

2 Another significant revenue source is the sale of
3 surplus vehicles through auto auctions managed by
4 DCAS fleet. The planned revenue from the auto
5 auctions is \$4.7 million in FY '15. DCAS Citywide
6 Purchasing oversees the sale of non-vehicle surplus
7 goods at public auctions, internet and by
8 competitive sealed bids. The FY '15 Preliminary
9 Budget assumes \$2.2 million in proceeds from the
10 sale of surplus goods in FY '15. DCAS also
11 receives revenue from applicant filing fees for
12 civil service examinations. DCAS anticipates
13 collecting \$3.5 million in FY '15 from these fees.

14 Turning to DCAS's New Needs: Now I'd
15 like to discuss major expense budget adjustments
16 for DCAS reflected in the FY '15 Preliminary
17 Budget. DCAS received expense funding for Citywide
18 initiatives, such as post-Sandy Emergency Planning,
19 Employee Diversity and Inclusion Training for
20 agencies citywide and the establishment of an
21 eLearning Program. The FY '15 Preliminary Budget
22 also contains funding for Life and Safety projects,
23 as well as other mandated expenses.

24 DCAS Citywide Initiatives: DCAS played
25 a vital role during Superstorm Sandy by assisting

1 with emergency procurement needs, providing
2 emergency fueling sites and the towing of disabled
3 and abandoned vehicles from city streets. The FY
4 '15 Preliminary Budget contains \$475,000 for the
5 hiring of six post-Sandy emergency staffing
6 positions, including four procurement staff, who
7 will be responsible for developing citywide
8 procurement contracts to be used by City agencies
9 in the event of an emergency including ambulance
10 services, temporary shelter services, emergency
11 equipment rental and security services. The
12 remaining two positions are allocated for Citywide
13 fleet. These positions will work with the Office
14 of Emergency Management in the development of
15 protocols for emergency operations such as fuel
16 operations, debris management transport and towing
17 of disabled vehicles. Citywide EEO received
18 \$100,000 in the current fiscal year and \$75,000 in
19 FY '15 to provide City employees with mandated
20 diversity and inclusion training called Everybody
21 Matters. Human Capital is preparing a blended
22 learning platform, which allows student and
23 instructors to interact in the classroom or
24 remotely through computer or other mobile
25

2 technology. The platform will enable employees to
3 participate in training classes from their work
4 sites. Programming will include mandated
5 compliance training; for example, annual Department
6 of Investigation Corruptions Prevention Awareness,
7 as well as professional development. The FY '15
8 Preliminary Budget contains \$153,000 and two
9 positions dedicated to the rollout of this
10 particular Citywide initiative.

11 Life and Safety: DCAS received
12 \$440,000 in FY '14 for life and safety needs such
13 as purchasing of pest management equipment and the
14 rental of sidewalk sheds and scaffolding at various
15 locations.

16 Mandates: In compliance with the
17 United States Department of Justice court mandated
18 order for the creation of a new FDNY Fire
19 Department examination, a consultant was retained
20 for development of the test that was determined in
21 spring 2012 and from which new classes of
22 firefighters are being selected. This consultant
23 will still be required for services such as the
24 administration of make-up exams and to provide
25 expert testimony to support any legal challenges.

2 DCAS received \$310,000 in baseline funding for
3 these anticipated expenses.

4 DCAS Capital: Now I'll turn to DCAS's
5 Capital Plan, which totals \$1.1 billion together
6 for FY '14 and FY '15. DCAS is undertaking a
7 number of major construction equipment and energy
8 conservation initiative. Highlights of our program
9 include: DCAS's capital construction programs for
10 city-owned buildings in FY '14 and '15 totals \$464
11 million. Electrical upgrade at the Brooklyn
12 Municipal building located at 210 Joralemon Street;
13 a rehab of elevators at 253 Broadway; a new
14 community court at 444 Boyland Street in
15 Brownsville, Brooklyn; new elevators at the Queens
16 Supreme Court located at 88-11 Sutphin Boulevard in
17 Jamaica, Queens.

18 Construction to Support Civic Center
19 Programs: DCAS has allocated \$106 million for
20 ongoing work to renovate office space for tenants
21 relocating from 346 Broadway and 49-51 Chambers
22 Street. Sites include \$42 million for work at 1
23 Centre Street; \$27 million for work in leased
24 facilities; \$15 million for work at 100 Gold
25 Street.

2 DCAS's capital program for construction
3 and outfitting of leased space in FY '14 and '15
4 totals \$108 million. Projects include: an
5 alternate data center for FISA, Financial
6 Information Services Agency; relocations from 40
7 Rector Street to 100 Church Street for the Civilian
8 Complaint Review Board; the Office of
9 Administrative Trials and Hearings; the Campaign
10 Finance Board; the Department of Environmental
11 Protection; relocation of the Taxi and Limousine
12 Commission and the Office of Administrative Trials
13 and Hearings from 32-02 Queens Boulevard to 31-00
14 47th Avenue in Long Island City; improvement to
15 office space and licensing customer service area
16 for the Department of Consumer Affairs in Lower
17 Manhattan.

18 There is \$352 million in capital
19 funding allocated for Citywide energy conservation
20 projects managed in FY '14 and in FY '15. Projects
21 include lighting upgrades; occupancy center
22 installations; high efficiency motor installations
23 for mechanical and plumbing systems; building
24 envelope upgrades; building controls; cool roof
25 coatings and clean energy installations. The new

2 ACE program has launched another round this year
3 and has expanded funding potential for agency
4 identified projects to conserve energy and reduce
5 costs.

6 DCAS received \$22 million in capital
7 funds and \$3.8 million in expense funds for 330
8 units of additional emergency and storm-related
9 equipment for use by city agencies. 200 light
10 towers were received by agencies including police.
11 DCAS has placed orders for 35 fuel trucks and is
12 completing contracts for generators, forklifts and
13 water pumps.

14 DCAS is implementing a capital project
15 for \$6.75 million to complete a Citywide rollout of
16 the EJ Ward fuel tracking system. This rollout
17 includes a CANceiver units for each vehicle that
18 will be downloaded... that will download vehicle
19 engine information including speed, idling,
20 braking, seat belt operation, acceleration and
21 location information. This system will greatly
22 enhance our understanding of driver habits and the
23 ability to analyze and prevent collisions.

24 In 2013, DCAS completed rollout of a
25 new fleet management and maintenance tracking

2 system called NY Fleet Focus. This effort is part
3 of a two-year \$5.4 million capital project with
4 AssetWorks. In 2014, DCAS has begun Phase II of
5 this project, which includes the City's first
6 Citywide Collision management system called CRASH.
7 All City fleet collisions will be tracked in CRASH,
8 enabling the City to analyze collisions in improved
9 ways and assist the efforts of the Law Department
10 to address claims and litigation.

11 Conclusion: Thank you for the
12 opportunity to testify about DCAS, our planned
13 expenditures for FY '14 and FY '15, as well as our
14 capital commitment plan, and I'm please to take any
15 questions at this time.

16 CHAIRPERSON KALLOS: Thank you very
17 much for your great testimony that fell well short
18 of your colleague's at Board of Elections at 45
19 minutes. So thank you very much. The
20 administration energy policy will have a
21 significant impact on both the City's Expense
22 budget, which includes approximately \$800 million
23 for citywide heat, light and power budget and for
24 the over \$450 million for energy efficient related
25 capital projects. The Director of OMB has

2 testified that the de Blasio administration intends
3 to continue much of the previous administration's
4 energy policy. Do you plan to propose new
5 investments or direct more researches towards
6 energy policy initiatives? Yeah, that'll... I'll
7 start...

8 [crosstalk]

9 COMMISSIONER CUMBERBATCH: Right.
10 We...

11 [crosstalk]

12 CHAIRPERSON KALLOS: With that one.

13 COMMISSIONER CUMBERBATCH: We're joined
14 at the table by the Deputy Commissioner for Energy,
15 Kristin Barbato, who will answer that question.

16 DEPUTY COMMISSIONER BARBATO: Thank
17 you, council members and Commissioner Cumberbatch.
18 My name is Kristin Barbato and I can help answer
19 that question. I think it was actually in two
20 parts, if I'm correct. The first part was the HLP
21 budget and the second part was investment in energy
22 efficiency construction projects. Great. So
23 there's basically two things that we concentrate on
24 in the energy management team. One is commitment
25 to long term sustainability and energy efficiency

2 and we manage the HLP budget to be the most
3 effective use of budget dollars for the agency's
4 use of energy in their governmental operations.
5 The second is the range of capital and operational
6 programs designed to improve energy efficiency in
7 the municipal buildings. We do plan to continue
8 this capital plan as well as expense dollars for
9 operational types of programs to do so several
10 things in our municipal operations. I can go into
11 any detail that you'd like, but yes, there is...
12 the bottom line is yes, we plan to continue doing
13 these types of projects.

14 CHAIRPERSON KALLOS: In the interest of
15 time, if you can just provide a list to us after
16 the hearing to my analyst, John Russell, that would
17 be incredibly helpful. Does the City anticipate a
18 significant increase in heat, light and power
19 expenditures in Fiscal Year 2014 because of the
20 severity of the weather this winter?

21 DEPUTY COMMISSIONER BARBATO: No, the
22 answer is no, we don't expect any large increase or
23 disparate from FY '14. We still are looking at the
24 budget numbers, as we have several inputs that we
25 take from around City agencies, but the prevailing

2 knowledge is that no, we will not have a
3 significant difference.

4 CHAIRPERSON KALLOS: Will you share
5 your secret for how you did that?

6 DEPUTY COMMISSIONER BARBATO: Energy
7 efficiency projects.

8 COMMISSIONER CUMBERBATCH: And actually
9 it's really... honestly, it's through the very
10 careful management of the City's energy costs that
11 the Deputy Commissioner's group does on a daily
12 basis. They monitor each agency's cost based
13 almost on a real time basis, right?

14 DEPUTY COMMISSIONER BARBATO: Yes.

15 COMMISSIONER CUMBERBATCH: So we know
16 and have that data to give feedback to agencies on
17 how they are you know, using their energy and they
18 too have been educated. There are building
19 managers and operators on what they need to do to
20 keep that cost in check.

21 CHAIRPERSON KALLOS: I would love to
22 publicize your program and announce a victory lap
23 with you at some point so that the media can see
24 some of the great work we're doing. Along those
25 lines, it sounds like the agencies are being fairly

2 cooperative, but how does DCAS incentivize agencies
3 to minimize unnecessary energy uses?

4 DEPUTY COMMISSIONER BARBATO: Sure.

5 There's a couple of ways. First we have, as the
6 Commissioner pointed out, a lot of detailed
7 reporting so that they have access to what their
8 energy usage and the costs are so that on a monthly
9 basis they can review those costs. Secondly, we
10 have an education program through the Energy
11 Management Institute, which we partnered through
12 CUNY to provide education to the City employees.
13 Third, we have retrofit and other types of programs
14 that we use. One that the Commissioner mentioned
15 is the ACE program. It was newly implemented in
16 this past year to have agency initiated programs or
17 projects rather that meet certain criteria for
18 energy efficiency and cost savings and we help
19 provide funding and oversight for those projects.

20 CHAIRPERSON KALLOS: Thank you very
21 much. More on energy efficiency: so one of my
22 favorite laws is now... I thought it was Open Data.
23 I actually got to testify on that, but it's now
24 becoming Local Law 18 of 2012, which requires the
25 City to give the Council quarterly reports on

2 significant cost overruns in capital projects.
3 This year's report included energy efficiency
4 projects contracted with New York Power Authority
5 for which costs have risen from about \$600 million
6 to over \$1 billion. The reason provided was that
7 since the inception of the project a new statutory
8 requirement was created to reduce greenhouse gases
9 by 30 percent. What were the original targets and
10 why have the new targets increased the budget so
11 significantly?

12 DEPUTY COMMISSIONER BARBATO: To
13 clarify, I think the budget itself has actually
14 been about the same year on year for the last
15 several years on the order of about \$80 million per
16 year, but the uptick that occurred in FY '14
17 appears because there had been a lag in the
18 commitments in registrations for projects. Over
19 the course of this past year, we have increased the
20 commitments and registrations to align with the
21 plan and you'll see that going forward the
22 allocations for the capital commitment are on about
23 par with what the budget is.

24 CHAIRPERSON KALLOS: Continuing with
25 the energy efficiency, which is again, one of the

2 greatest things that DCAS does and a whole boatload
3 of things that DCAS does great, the capital plan
4 includes an energy efficiency lump sum capital
5 project line with planned commitments totally
6 approximately \$80 million. Can you provide a list
7 of all energy efficiency capital projects on which
8 DCAS is currently working and the yearly budget
9 savings for each project that it's estimated to
10 generate?

11 COMMISSIONER CUMBERBATCH:

12 [interposing] Mm-hm.

13 CHAIRPERSON KALLOS: And you don't have
14 to do that right now.

15 COMMISSIONER CUMBERBATCH: We'll
16 provide that to you.

17 CHAIRPERSON KALLOS: Thank you very
18 much. with regard to alternative energy sources,
19 do you believe that alternative energy sources such
20 as solar, wind or natural gas are a way in which
21 the City can achieve budget savings?

22 DEPUTY COMMISSIONER BARBATO: Yes, in
23 fact, we do have several programs that are... we
24 have several projects that are with alternate
25 energy resources as well as renewable energy

2 resources and because of the huge portfolio of
3 various types of facilities and buildings that we
4 have in City government, a portfolio of resources
5 is a great way to manage that.

6 CHAIRPERSON KALLOS: On that note, in
7 the face of our city and country looking at foreign
8 sources of energy, anything we do to decrease our
9 dependence and avoid having to build pipelines from
10 other countries would be greatly appreciated. Is
11 there any ability for you to invest in local energy
12 that's being created right here? So just to plug
13 my own district because that's part of why I'm
14 here, Roosevelt Island has the RITE project, R I T
15 E, Roosevelt Island Title Energy and we're
16 harvesting energy from the East River. I'm not
17 specifically requesting that, but if we can invest
18 in energy in this local New York City area that
19 creates jobs that can't be outsourced and renewable
20 sources of energy, it would be greatly appreciated.
21 Is there a way that that can happen?

22 COMMISSIONER CUMBERBATCH: I mean yes
23 to all of that. I mean I think...

24 CHAIRPERSON KALLOS: [interposing] Wow.
25

2 COMMISSIONER CUMBERBATCH: I think what
3 we're saying...

4 [crosstalk]

5 CHAIRPERSON KALLOS: Thank you.

6 [crosstalk]

7 COMMISSIONER CUMBERBATCH: Is that what
8 this program does is looking at... first of all, we
9 have a diverse building portfolio.

10 CHAIRPERSON KALLOS: Mm-hm.

11 COMMISSIONER CUMBERBATCH: And as the
12 Deputy Commissioner tried to explain is that it's
13 not one size fits all, so it's like we're looking
14 for all types of tools that might be available to
15 reduce our energy consumption; to grow the economy;
16 to source locally where we can, so I think the
17 point is you know, in a very managed fashion we are
18 open to looking at new ideas and experimentation.
19 I think that's what the ACE program seeks to do, is
20 on a small scale look to agencies to pilot new
21 initiatives that can test out you know, the
22 feasibility of using different types of energy
23 conservation efficiency tools. So yes, the answer
24 is we would be more than open to looking at those
25 alternative renewables that are locally sourced.

2 CHAIRPERSON KALLOS: With regard to the
3 city, so thank you very much for all that you're
4 doing and look...

5 [crosstalk]

6 COMMISSIONER CUMBERBATCH: Thank you.

7 [crosstalk]

8 CHAIRPERSON KALLOS: Forward to a more
9 detailed report. I'm going to move onto Citywide
10 Fleet Division.

11 COMMISSIONER CUMBERBATCH: Certainly.
12 Why don't you just introduce yourself?

13 KEITH KERMAN: Keith Kerman, the Chief
14 Fleet Officer.

15 [Response not heard]

16 KEITH KERMAN: I'm sure every agency
17 would say no. We reduced in 2013 500 light-duty
18 non-emergency vehicles, a fleet reduction that we
19 implemented to try and address you know, where
20 there might've been surplus.

21 [Responses not heard]

22 KEITH KERMAN: Yes.

23 [Response not heard]

24 KEITH KERMAN: They were sold through
25 surplus auction, which DCAS manages.

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[Response not heard]

COMMISSIONER CUMBERBATCH: [off mic] We can find that out, right?

KEITH KERMAN: We can find that out. It varies by type.

COMMISSIONER CUMBERBATCH: Mm-hm.

[Response not heard]

COMMISSIONER CUMBERBATCH: Mm-hm.

KEITH KERMAN: One of the projects that was described in the Commissioner's testimony is to put CANceivers on City vehicles and the CANceiver is a GPS and automatic vehicle location unit, so we're rolling that out now; we plan to be complete this year; for 15,000 vehicles and then the vehicles that won't... that are separate are in the emergency services that have already some form of AVL or GPS.

[Pause]

KEITH KERMAN: We'll get...

[crosstalk]

CHAIRPERSON KALLOS: Thank you.

KEITH KERMAN: Yeah, we'll get an extraordinary amount of additional information from this system to be able to manage the fleet; look at

2 efficiencies; look at areas where we can better
3 share vehicles, so yes.

4 COMMISSIONER CUMBERBATCH: So I think
5 the point of rolling out the CAN... how do you
6 pronounce it, CANceiver?

7 KEITH KERMAN: CANceiver.

8 COMMISSIONER CUMBERBATCH: CANceiver,
9 okay. Which is in part a GPS tool, but certainly
10 provides a lot more data on the behavior of the
11 vehicle, is that we're going to for the first time
12 establish a baseline to understand how our vehicles
13 are being utilized because that data will be
14 uploaded to a system and we can do a lot of
15 analysis around that. So you know, that will
16 assist in figuring out well, are there
17 underutilized vehicles in certain divisions; for
18 example, of an agency or you know, are a particular
19 set of vehicles from an agency getting into more
20 accidents than they should and what... you know,
21 all that type of information. It's going to be a
22 very rich dataset on which our consolidated fleet
23 program can figure out what's going on and get a
24 good picture and make recommendations and those
25 recommendations should translate into actual policy

2 implementation or changing of how we operate you
3 know, the fleet depending on the agency, so that's
4 the point. So right now we rolled out to what
5 agencies, the CANceiver?

6 KEITH KERMAN: Right now, the Parks
7 Department, the Taxi Limousine fleet; not the
8 taxis, but the taxi city-owned vehicles; the
9 Department of Corrections are the agencies we're
10 rolling out to now.

11 CHAIRPERSON KALLOS: So I'm actually
12 joined here by one of my policy interns; actually,
13 my Policy Director, Paul Westrick [phonetic] and
14 one of my policy interns, Mark Cheney [phonetic].
15 We had... concerns were raised by my constituents
16 relating to snow plows and we requested a lot of
17 that data, the GPS data.

18 COMMISSIONER CUMBERBATCH: Mm-hm.

19 CHAIRPERSON KALLOS: I also said my
20 other favorite law is Open Data. How soon can we
21 start getting that GPS data publicly released in as
22 close to real time as possible so that a council
23 member such as myself doesn't have to rely on
24 snow... PlowNYC to see a visual representation, but
25 I can actually crunch the data and figure out how

2 often and how frequently we were getting plowed and
3 where.

4 KEITH KERMAN: The system you are
5 referring to is managed by the Department of
6 Sanitation, not DCAS, so that would be a
7 question...

8 COMMISSIONER CUMBERBATCH:
9 [interposing] You're talking about the GPS
10 information on the Sanitation plows.

11 CHAIRPERSON KALLOS: Yeah.

12 COMMISSIONER CUMBERBATCH: That's
13 within their purview, not DCAS's.

14 CHAIRPERSON KALLOS: But are the
15 Sanitation trucks part of Fleet or...

16 COMMISSIONER CUMBERBATCH: Okay, so why
17 don't you explain what consolidation is and what
18 bill is managed by the agency.

19 CHAIRPERSON KALLOS: Fair enough.
20 Thank you. Sorry.

21 KEITH KERMAN: So the Department of
22 Sanitation fleet of about 5,500 vehicles is
23 absolutely part of the 27,000 vehicle that we
24 described as part of the City fleet. There are
25 some initiatives that are managed centrally, but

2 there are certainly many aspects of fleet operation
3 that are done out of agencies. So the specific
4 program you're referring to on plow tracking is not
5 a central initiative. That is an initiative that
6 is managed by the Department of Sanitation
7 directly.

8 CHAIRPERSON KALLOS: Okay and but with
9 regard to the vehicles with CANceivers, how soon
10 can we expect that data to be...

11 [crosstalk]

12 COMMISSIONER CUMBERBATCH: As we
13 stated, we are just rolling it out to...

14 [crosstalk]

15 CHAIRPERSON KALLOS: Yep.

16 [crosstalk]

17 COMMISSIONER CUMBERBATCH: Agencies, so
18 you know, we're getting data. I mean as we get
19 data from different agency behaviors and we can
20 certainly share that, but I think what we're trying
21 to do is roll it out more globally citywide to get
22 a baseline of what's going on in the city you know,
23 so that we can really analyze that and have that,
24 but as we roll out the complete agencies and have a
25 little time, you know, to see and gather the data,

2 certainly we can you know, review what we're
3 seeing. But it's obviously preliminary you know,
4 for an agency. It's not giving you, you know, a
5 view over time. It's giving you maybe a snapshot.
6 You know, let's say we put on... we finish Parks
7 today; maybe it's been in place for a month.
8 That's maybe not as rich of a dataset to really
9 give you an understanding of what's going on over
10 you know, a period of time.

11 CHAIRPERSON KALLOS: I agree and I am
12 glad to have you as a Commissioner so we can
13 discuss things like datasets. I'm going to move
14 onto post-Sandy Resiliency Plan.

15 COMMISSIONER CUMBERBATCH: Okay.

16 CHAIRPERSON KALLOS: So thank you very
17 much.

18 COMMISSIONER CUMBERBATCH: Thank you.

19 CHAIRPERSON KALLOS: And I'm really
20 excited with what you're doing with Fleet.

21 [background voice]

22 COMMISSIONER CUMBERBATCH: Okay, great.

23 CHAIRPERSON KALLOS: DCAS capital
24 program for Fiscal Years 2014 to 2017 includes \$150
25 million for Citywide resiliency measures and \$78.7

2 million for agency specific facility and
3 operational protective measures in the wake of
4 Superstorm Sandy. Can you provide more detail on
5 the post-Sandy resiliency plan and how this funding
6 will be used?

7 RICHARD BADILLO: I'm not sure the
8 funding that you're referring to. We have expense
9 dollars in our budget and we also have capital
10 dollars in this fiscal year of \$3.8 million
11 expense. [off mic] Do you think we need that?

12 CHAIRPERSON KALLOS: We're not going to
13 invite you back if you break our stuff. Okay.

14 RICHARD BADILLO: Someone... that was
15 the Law Department or no, the Board of Elections
16 you mentioned. Yeah, I'm aware of \$3.8 million
17 expense dollars this fiscal year and \$22 million in
18 capital dollars. Now, the numbers you're referring
19 to I don't recollect how they... here they are
20 within our budget, the category of those dollars.

21 COMMISSIONER CUMBERBATCH: So say the
22 number again. Uh-huh.

23 CHAIRPERSON KALLOS: Fiscal Years 2014
24 to 2017 includes \$150 million for Citywide
25 resiliency and \$78.7 for agency specific...

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2 COMMISSIONER CUMBERBATCH: Citywide.

3 CHAIRPERSON KALLOS: It's in the
4 capital plan.

5 RICHARD BADILLO: Yeah, we... mm-hm.

6 CHAIRPERSON KALLOS: As a lump sum
7 line.

8 RICHARD BADILLO: Yeah, it may be a
9 citywide number and those dollars...

10 [crosstalk]

11 COMMISSIONER CUMBERBATCH: Meaning it's
12 not necessarily Citywide Administrative Services.
13 Meaning it's...

14 [crosstalk]

15 RICHARD BADILLO: Right.

16 [crosstalk]

17 COMMISSIONER CUMBERBATCH: Citywide...

18 CHAIRPERSON KALLOS: So...

19 [crosstalk]

20 COMMISSIONER CUMBERBATCH: Allocated
21 across agencies.

22 CHAIRPERSON KALLOS: If you don't mind,
23 we may have just found you some money, so let's get
24 our respective staffs together and we'll figure out

25

2 whether that money belongs to you or whether or not
3 it was...

4 [crosstalk]

5 COMMISSIONER CUMBERBATCH: We'll take
6 it.

7 [crosstalk]

8 CHAIRPERSON KALLOS: On the wrong
9 budget.

10 RICHARD BADILLO: Right. Just talk to
11 75 Park Place so that you can do the reallocation
12 according to their approvals.

13 CHAIRPERSON KALLOS: Two years ago, so
14 next... is that the 21st Century Civic Center plan?

15 COMMISSIONER CUMBERBATCH: Uh-huh.

16 RICHARD BADILLO: Mm-hm.

17 COMMISSIONER CUMBERBATCH: [off mic]

18 Yep.

19 JOEY KOCH: Hi, I'm Joey Koch. I am
20 the Chief Asset Management Officer at DCAS. How
21 are you?

22 CHAIRPERSON KALLOS: Great. Thank you
23 all for being here. This... you guys are great.
24 Two years ago, the Bloomberg Administration
25 proposed a 21st Century Civic Center plan in which

2 the City would sell city-owned buildings while
3 consolidating or renovating leased and existing
4 city-owned spaces. Can you give us an update on
5 this plan?

6 JOEY KOCH: So we closed on two of the
7 buildings. We sold 346 Broadway and 49-51
8 Chambers. 346 Broadway closed for \$140 million
9 minus \$15 million for the community space that we
10 negotiated with the Council and with the Borough
11 President and 49-51 Chambers sold for \$125.1
12 million. We are in the process of moving everybody
13 out and we have identified all space. In fact, the
14 vast majority of 346 Broadway is moving out this
15 spring and most of 49-51 is already moved, so we
16 are moving along very nicely. There are provisions
17 in the lease that... it's a leaseback so there are
18 provisions that if we're not out of the lease by a
19 certain time, we're going to be paying charges at
20 very penalties for not getting out and we are right
21 in line with those measures that are in the
22 leaseback.

23 CHAIRPERSON KALLOS: And so in your...
24 so there's a net there of \$265 million from the two
25 buildings... \$214 million from the two buildings.

2 JOEY KOCH: Yes.

3 CHAIRPERSON KALLOS: And then in your
4 testimony, we spent 100... we're spending 160...
5 \$106 million to renovate the new space that we are
6 moving into.

7 COMMISSIONER CUMBERBATCH: For all the
8 different agencies, yeah. Right?

9 JOEY KOCH: Yeah, so we...

10 [crosstalk]

11 CHAIRPERSON KALLOS: And...

12 [crosstalk]

13 JOEY KOCH: Generated...

14 [crosstalk]

15 CHAIRPERSON KALLOS: So it's...

16 [crosstalk]

17 JOEY KOCH: Over \$200 million in
18 revenue. I have a feeling of where this question
19 is...

20 CHAIRPERSON KALLOS: [interposing] Yes.

21 JOEY KOCH: Leading to. We're
22 stating...

23 CHAIRPERSON KALLOS: [interposing] And
24 again, this wasn't your decision. This was an
25 administrative decision, I'd like to understand...

2 JOEY KOCH: [interposing] Well, we're
3 saving \$120 million in operating expenses, so 49-51
4 we spend \$3 million a year just in energy costs in
5 that one building and we are also saving \$300
6 million at minimum of unfunded capital improvements
7 for those buildings. They're very, very old. They
8 were bought in the 1960s to be torn down to build a
9 very, very large Civic Center building that
10 would've eclipsed 1 Centre Street now. That's just
11 the history of the buildings and when the City has
12 just never really taken care of the buildings, so
13 they're incredibly expensive to operate and they
14 would've been beyond expensive to restore and
15 continue operating for City employees. So we don't
16 have the money to actually continue to maintain
17 them and redo everything that had to be done on the
18 buildings.

19 CHAIRPERSON KALLOS: And continuing
20 with the original plan was out of the question.

21 JOEY KOCH: Say that again.

22 CHAIRPERSON KALLOS: And continuing
23 with the original plan of razing the buildings and
24 putting up a larger Civic...

2 JOEY KOCH: [interposing] That was
3 scratched during the financial crisis in the '70s.

4 [crosstalk]

5 COMMISSIONER CUMBERBATCH: In the early
6 '70s.

7 JOEY KOCH: And they're landmark
8 buildings so we couldn't even...

9 CHAIRPERSON KALLOS: Okay.

10 JOEY KOCH: It wouldn't have been...

11 [crosstalk]

12 COMMISSIONER CUMBERBATCH: Things have
13 changed since that time.

14 JOEY KOCH: Yeah, it wouldn't even be
15 considered in this day and age of architecture and
16 what you do and don't forget, these buildings are
17 also blocks away and that was going to be one giant
18 building. It was going to go from Chambers Street
19 all the way essentially to above Worth Street. I
20 mean that's how big that massive speaks...

21 [crosstalk]

22 CHAIRPERSON KALLOS: Would I have had a
23 window in that building? [laughter]

24 JOEY KOCH: I'm sorry?
25

2 CHAIRPERSON KALLOS: I was making a
3 joke. So what is the... in terms of the cost
4 savings, how much is it per year that we're going
5 to be projecting versus had we stayed at 3346
6 Broadway and 49-51?

7 JOEY KOCH: Well, the projection, it's
8 going to be a projection of \$120 million per year
9 that we're going to be saving over 20 years.

10 CHAIRPERSON KALLOS: So that's \$2
11 million plus dollars that we will save or it's \$120
12 million over 10 years?

13 JOEY KOCH: It's \$120 million over the
14 20 years.

15 COMMISSIONER CUMBERBATCH: [off mich]
16 Oh, It's over the 20 years.

17 JOEY KOCH: Yeah, but that's...

18 [crosstalk]

19 CHAIRPERSON KALLOS: Okay, so...

20 [crosstalk]

21 JOEY KOCH: Not including the
22 unfunded...

23 COMMISSIONER CUMBERBATCH:
24 [interposing] Capital.

2 JOEY KOCH: Capital expenses that we
3 would have had to put into the buildings.

4 CHAIRPERSON KALLOS: So it comes out to
5 about \$6 million a year that we're saving.

6 JOEY KOCH: Well, it's actually more
7 than that because again...

8 [crosstalk]

9 CHAIRPERSON KALLOS: The... plus the...

10 [crosstalk]

11 JOEY KOCH: The unfunded...

12 [crosstalk]

13 CHAIRPERSON KALLOS: \$300 and...

14 [crosstalk]

15 JOEY KOCH: Capital...

16 CHAIRPERSON KALLOS: [interposing] Yes.

17 JOEY KOCH: Is not included.

18 COMMISSIONER CUMBERBATCH: Which is not
19 insubstantial, right? I mean so...

20 CHAIRPERSON KALLOS: I didn't...

21 [crosstalk]

22 COMMISSIONER CUMBERBATCH: You know, as
23 you said....

24 [crosstalk]

2 CHAIRPERSON KALLOS: I don't make \$6
3 million a year, so...

4 COMMISSIONER CUMBERBATCH:
5 [interposing] No, but I'm say... I know, but
6 because the buildings are old...

7 CHAIRPERSON KALLOS: [interposing] Yes.

8 COMMISSIONER CUMBERBATCH: The
9 capital... the projected capital investments we
10 would've had to make in those buildings was quite
11 substantial.

12 JOEY KOCH: Right. I mean unfunded and
13 when I say unfunded, we never did a true
14 analysis...

15 COMMISSIONER CUMBERBATCH:
16 [interposing] Right.

17 JOEY KOCH: Because it was going to be
18 hundreds and hundreds of hundreds of millions of
19 dollars that there was no way the City was going to
20 give us to redo the buildings. I mean that's how
21 bad... that's how bad these buildings are and the
22 shape of the buildings. They... you know, these
23 are very old buildings that the City bought 50, 60
24 years ago and there was never any work done on the
25

2 buildings like the façade and they were landmark
3 buildings, so...

4 COMMISSIONER CUMBERBATCH:

5 [interposing] Right.

6 JOEY KOCH: They're... when I say we
7 would have had to spend hundreds and hundreds of
8 millions of dollars and had to issue bonds and all
9 of that sort of thing, we are saving more than \$6
10 million a year.

11 COMMISSIONER CUMBERBATCH: And then
12 also remember we're putting up... those buildings
13 will be back on the tax roll for the City.

14 JOEY KOCH: Yes.

15 CHAIRPERSON KALLOS: Perfect.

16 COMMISSIONER CUMBERBATCH: They've been
17 sold to private...

18 JOEY KOCH: [interposing] Developers...

19 [crosstalk]

20 COMMISSIONER CUMBERBATCH: Entities.

21 [crosstalk]

22 JOEY KOCH: Yes.

23 COMMISSIONER CUMBERBATCH: So.

24 CHAIRPERSON KALLOS: I would love to
25 know the tax revenue we'll be getting, but that's

1
2 amazing, and then are there any additional
3 buildings that DCAs is putting up for sale in the
4 coming year?

5 COMMISSIONER CUMBERBATCH: At the
6 moment you know, we have nothing planned, but
7 obviously as we look at our portfolio and make
8 decisions and consolidate office space, there
9 possibly could be, but I can't say there's anything
10 right now immediate.

11 JOEY KOCH: We had an auction last year
12 that generated \$17 million that was separate than
13 the giant sale of these two buildings 'cause we
14 have a bunch of random lots and random buildings
15 throughout the city, but we usually work... if
16 there's going to be a giant sale like the Civic
17 Center, we usually will work in partnership with
18 EDC or if HPD comes to us and they have identified
19 sites that might be under DCAS jurisdiction, we
20 usually work in partnership with them and they'll
21 usually be the leader of those projects.

22 CHAIRPERSON KALLOS: There is empty
23 lots that we sold for \$17 million?

24

25

2 JOEY KOCH: This was a combination of
3 various building and due to fleet consolidation,
4 there was a garage that we sold for \$13 million.

5 COMMISSIONER CUMBERBATCH: We can give
6 you the list of the properties that...

7 CHAIRPERSON KALLOS: [interposing]
8 Absolutely.

9 COMMISSIONER CUMBERBATCH: Were part of
10 that auction.

11 [crosstalk]

12 CHAIRPERSON KALLOS: If there's like
13 vacant lots or things like that, we're desperate
14 for parks in certain places...

15 COMMISSIONER CUMBERBATCH:
16 [interposing] Yeah.

17 [crosstalk]

18 CHAIRPERSON KALLOS: Or schools.

19 [crosstalk]

20 COMMISSIONER CUMBERBATCH: Our vacant
21 lots you know, we had a City Council hearing on
22 this a couple... probably a month ago now. Most of
23 our... the lots that we have left in our portfolio
24 what we call little, irregular slivers of lots that
25 are really not developable; not developed type land

1 and usually it's a program where it's an adjacent
2 property owner can purchase it. You know, whether
3 any of them could be suitable for parks is
4 probably... it's not in our portfolio. Our
5 portfolio had really been shrunk down to you know,
6 in terms of vacant lots, the things that nobody
7 wants; unmapped streets, easements, little types of
8 different types of lots and we have a listing of
9 all of those and...

10 [crosstalk]

11 CHAIRPERSON KALLOS: I'd...

12 [crosstalk]

13 COMMISSIONER CUMBERBATCH: What that
14 program is.

15 CHAIRPERSON KALLOS: Love to go over
16 that with you and...

17 [crosstalk]

18 COMMISSIONER CUMBERBATCH: Mm-hm.

19 CHAIRPERSON KALLOS: If we can...

20 [crosstalk]

21 JOEY KOCH: We can certainly send the
22 list of what's in your district, but having grown
23 up in your district, I can tell you there is...

2 COMMISSIONER CUMBERBATCH:

3 [interposing] It's very small.

4 JOEY KOCH: Going to be... it's going
5 to be very, very small.

6 COMMISSIONER CUMBERBATCH: What street?

7 JOEY KOCH: 57th Street.

8 CHAIRPERSON KALLOS: Thank you. Family
9 still there?

10 JOEY KOCH: Yes.

11 CHAIRPERRSON KALLOS: I will do my best
12 to represent them. Thank you. Thank you very much
13 for your testimony and enlightening me about what
14 was going on with that. I'm glad we get to have
15 these hearings so we can talk about everything.
16 DCAS is responsible for procuring... so
17 procurement...

18 COMMISSIONER CUMBERBATCH: Yes.

19 CHAIRPERSON KALLOS: Okay, DCAS is
20 responsible for procuring a wide range of goods and
21 services as part of many City agencies. In total,
22 how much does DCAS spend in a Citywide procurement
23 and can you talk about some large scale purchases
24 DCAS makes?

25

2 COMMISSIONER CUMBERBATCH: [off mic]

3 Make sure you introduce yourself.

4 ROBERT CLEARY: Yes, I'm Robert Cleary.

5 I'm the acting Chief Acquisition Officer here.

6 DCAS spends about \$1.2 billion a year and the

7 largest purchases that we make typically are

8 vehicles, fuel, security guards and some energy

9 related projects.

10 CHAIRPERSON KALLOS: And so what

11 efforts are in place to ensure that the City is

12 leveraging its purchasing power to ensure it's

13 getting the best deals possible in regard to

14 Citywide procurement? And I feel that with a \$70

15 billion budget, we are a market actor and we can

16 make... sorry, market maker, not just an actor.

17 ROBERT CLEARY: Citywide procurement

18 focuses on consolidating contracts, as mentioned in

19 the testimony, aggregating Citywide demand wherever

20 possible, identifying those common shared service

21 contracts so they can be consolidated across

22 agencies, unifying the specifications and achieving

23 the best service levels; the best cost; best unit

24 cost by aggregating the demand for those services.

25 So some examples of that are security guards,

2 language services, a broad variety of standard
3 services that we've been consolidating. Over the
4 last three years we've been really working on this
5 service. Before that, we were focused on goods
6 purchasing. We still do a lot of goods purchasing.
7 We also consolidate demand there as well and so we
8 aggressively seek to negotiate lower prices where
9 possible. We work with our client agencies and
10 work with the Mayor's Office of Contract Services
11 to identify opportunities to do additional
12 consolidation.

13 CHAIRPERSON KALLOS: What about local
14 purchasing and supporting city businesses?

15 ROBERT CLEARY: We do everything we can
16 to do outreach for... with Small Business Services.
17 We work closely with them. We target MWBEs
18 whenever possible, following the rules. We are...
19 we work with SBS, particularly to identify certain
20 contracts that perhaps they can find a market for
21 that don't traditionally have MWBE or their local
22 services providing those services and they work
23 with them to develop their skills and be able to
24 respond to the... we... and one of the things that
25 was mentioned in the testimony was the local food

2 preferences. We did extensive outreach with the
3 Cornell Extension and the State Agriculture
4 Department and implemented those food preferences
5 during the beginning of Fiscal '14, end of Fiscal
6 '13 for this year's contracts and that
7 significantly increased. We identified nearly \$1
8 million worth of locally sourced foods and food
9 products, producers and processors that we now
10 procure for our City agencies.

11 COMMISSIONER CUMBERBATCH: [off mic]
12 And what percentage does that represent? Did that
13 represent...

14 ROBERT CLEARY: [interposing] Well, for
15 dairy products it was about 87 percent.

16 COMMISSIONER CUMBERBATCH:
17 [interposing] [off mic] Right.

18 ROBERT CLEARY: And for fruits and
19 vegetables it was something less than that.

20 COMMISSIONER CUMBERBATCH: [off mic] 47
21 maybe?

22 ROBERT CLEARY: I think I have it here,
23 27 percent.

24 COMMISSIONER CUMBERBATCH: [off mic]
25 Oh, okay.

1 CHAIRPERSON KALLOS: Can you lower the
2
3 cost of milk?

4 ROBERT CLEARY: We... in some cases
5 yes. In some cases, the local sources were
6 identified. They were the low bid in absolute
7 terms. Food markets are highly volatile, so you
8 know, taking a single point is probably not the
9 most effective way to determine whether there's a
10 trend there or not, but I think that we aggregate
11 the food purchasing for Corrections, HRA and ACS
12 and I think there are instances where clearly we're
13 getting the best price because of that aggregate
14 demand.

15 CHAIRPERSON KALLOS: Speaking of
16 contracting, what opportunities do we have when New
17 York City needs something that Los Angeles needs
18 and that Austin needs and that Boston needs for us
19 to start doing joint purchasing and there's another
20 market actor that's bigger than we are, which is
21 the federal government? Are there opportunities
22 for us to engage in joint purchasing and
23 procurement so that we can split the cost between
24 cities instead of us just footing the whole bill?

1 ROBERT CLEARY: Well, there's a number
2 of different things going on in procurement; public
3 procurement. For a long time we've had the right
4 to access other governmental contracts, so if
5 somebody else has already done the solicitation;
6 GSA, OGS or another municipality or state and they
7 have a good deal and we have the ability to go
8 through processes to register a contract with those
9 terms and access that pricing. We... also
10 cooperative purchasing is now allowed to be used.
11 Cooperative purchasing is a particular type of
12 effectively intergovernmental purchasing. It was
13 not allowed by state law until recently, but the
14 law has changed and that allows you to work with a
15 national cooperative to solicit for your products
16 in a way that other municipalities and state
17 entities and public entities are anticipated to use
18 and so by aggregating that demand on a national
19 scale, you can do what you can to leverage that
20 pricing. We do use GSA pricing in some instances.
21 We do use OGS pricing in some instances and there
22 are several different avenues there. This is not
23 specifically working with other entities. Now, if
24 you're actually working with Los Angeles or
25

2 Chicago, we have written some of their contracts
3 and they have the ability to write ours. There are
4 significant procedural hurdles to putting together
5 a contract that includes both municipalities; for
6 instance, in a solicitation as the co-issuers, but
7 we did recently issue a solicitation that included
8 the specifications for paper for Long Island,
9 Nassau and Suffolk and that's on a small scale, so
10 we are inching our way into regional procurement.
11 As far as nationally, you have to find products
12 that... the delivery terms in New York City are
13 significantly different than the delivery terms in
14 Los Angeles. The transportation costs are
15 different. There are a lot of logistical issues,
16 so you have to be very careful about how you
17 structure that. It doesn't mean it can't be done
18 though.

19 CHAIRPERSON KALLOS: If there's
20 anything we can do to enable that, please let us
21 know. In your testimony, you mentioned Minority
22 and Women Owned Business Enterprises. I am a...
23 I'm the sole male member of the Women's Issues
24 Committee. Can you tell us about overall
25 performance and what percentage of your current

2 contracts are being issued to MWBEs, as well as any
3 plans to improve that?

4 COMMISSIONER CUMBERBATCH: So remember,
5 we're reporting on DCAS's WMBE...

6 CHAIRPERSON KALLOS: [interposing] Mm-
7 hm.

8 COMMISSIONER CUMBERBATCH: Because it's
9 Small Business Services and MOCS that oversee and
10 report on the Citywide...

11 CHAIRPERSON KALLOS: [interposing] Yes.

12 COMMISSIONER CUMBERBATCH: WMBE, you
13 know, numbers.

14 ROBERT CLEARY: So our year-to-date
15 number through the second quarter was 53 percent
16 awarded to MWBE for categories tracked by the laws.
17 We're striving to meet the goals, of course, or
18 surpass the goals of Local Law 129 and Local Law 1.
19 Last year, our performance was about 47 percent for
20 the year as an entirety.

21 COMMISSIONER CUMBERBATCH: Yeah, that's
22 for DCAS.

23 ROBERT CLEARY: For DCAS.

24 COMMISSIONER CUMBERBATCH: Right.
25

2 ROBERT CLEARY: Yes. And as far as
3 outreach, we do extensive outreach. We visit
4 vendor fairs. We work very closely with SBS, as I
5 had mentioned. We're building application that
6 will enhance our ability to access vendors in the
7 SBS database. There are apparently 16,000 vendors
8 there and sometimes it's difficult to identify
9 those at the moment that you need a product for a
10 relatively small purchase, so we're building an
11 application that feeds that data so that we can try
12 to track down that information and bring those
13 vendors into the process with SBS. We've been
14 working with them on that.

15 CHAIRPERSON KALLOS: I'd like to
16 move... thank you for all the great answers.
17 You're doing great work and I look forward... if
18 there's anything we can do to enable joint
19 contracting with other municipalities or regional
20 or whatnot, it's my job to enable any cost savings
21 that you can find. So thank you. On civil service
22 exams, I wanted to just ask why take... in an
23 effort to ensure timely administration of civil
24 service exams, DCAS reports that last year the
25 median time for an exam administration to hiring

2 list distribution was 344 days. Why does it take
3 so long to establish those hiring lists and how can
4 we make that process quicker?

5 COMMISSIONER CUMBERBATCH: Go ahead and
6 introduce yourself.

7 MARIA DIPAOLA: My name is Maria
8 DiPaola. I'm the City's Chief Human Capital
9 Officer. We have a process for exams that
10 basically covers a number of steps. On a
11 relatively simple open competitive exam, it takes
12 about eight months to get from the point of giving
13 the exam to having the list ready. At that point,
14 we have been giving agencies an additional 60 days
15 in what we call list publication to give agencies a
16 chance to look at what the list will be for them
17 and to plan the replacement of provisionals and the
18 use of that list to fill vacancies. About half of
19 the time for multiple choice open competitive
20 exams; exams open to the public; is devoted to
21 giving people the opportunity to protest the
22 answers that we've released as tentative answers
23 for our written questions and the other part of it
24 on E&E exams, we give candidates a couple of months
25 to basically apply... to tell us what we've

2 misinterpreted, if we have, to protest their score
3 on the E&E exams. So there's a lot of protections
4 build in for the candidates in that process.
5 Promotion exams are a little faster, but again, it
6 depends on the complexity of the test and the size
7 of the population. We...

8 CHAIRPERSON KALLOS: [interposing]

9 But...

10 MARIA DIPAOLA: Mm-hm.

11 CHAIRPERSON KALLOS: So I've been
12 unemployed and one of the things that I've always
13 recommended to people is the civil service exams...

14 MARIA DIPAOLA: Mm-hm.

15 CHAIRPERSON KALLOS: What we're talking
16 about here from somebody becoming unemployed and
17 taking the civil service exam, having their
18 unemployment benefits...

19 [crosstalk]

20 MARIA DIPAOLA: Mm-hm.

21 CHAIRPERSON KALLOS: Before they can
22 even get onto a hiring list and then be considered;
23 how can we...

24 COMMISSIONER CUMBERBATCH : So...

25 [crosstalk]

2 CHAIRPERSON KALLOS: What can we do to
3 fix this so that it's... things are happening as
4 quickly as possible and people can get jobs now?

5 COMMISSIONER CUMBERBATCH: Right. So
6 as the Chief Human Capital Officer you know,
7 explained, there are certain time constraints built
8 into the process, right, that we have to... the 60
9 days for people to protest the exam results, et
10 cetera, so there's a certain fixed time. Having
11 said that, yes, there should be ways that we can
12 establish a list quicker and some of the things
13 we've looked at and that have been implemented is
14 the walk-in centers...

15 MARIA DIPAOLA: [interposing] Right.

16 COMMISSIONER CUMBERBATCH: That we have
17 one located here in Downtown Manhattan at 2
18 Lafayette, there's one in Brooklyn at 210
19 Joralemon. We have two in the pipeline to be open
20 in Queens and Staten Island and what these walk-in
21 centers do is it's a computer-based exam system
22 where one comes in you know, obviously registers
23 for the exam and they do the exam... an automated
24 version of the exam and they get their results
25 almost instantaneously...

[crosstalk]

MARIA DIPAOLA: Yes.

[crosstalk]

COMMISSIONER CUMBERBATCH: I believe.

MARIA DIPAOLA: Mm-hm.

COMMISSIONER CUMBERBATCH: And those

are the instances in which we can obviously produce

a list very quicker because we have it automated.

So the goal is to increase the use of that type of

tool to automate exams and have them easily you

know, administered so that people can come into

these walk-in centers and we don't have to reserve

a school on a certain date. It's quite a

production to give a civil service exam, so the

more that we use these new types of tools, the

faster it will allow us to administer the exam;

grade it; establish the list. That takes a little

time. We give... how many test do we give in a

year?

MARIA DIPAOLA: About 120 a year.

COMMISSIONER CUMBERBATCH: We give 120

a year. You know, it's a complicated process. You

know, there are you know, things that we have to do

to develop those tests to make sure they're valid,

2 et cetera, so yes, the answer is we're doing...
3 we're going to look at all kinds of ways to lessen
4 the time from the time someone takes the test to
5 the time a list is established, obviously
6 understanding that you know, people when they take
7 a test they have the expectation of it's not going
8 to take a long time for a list to come out and for
9 it to then go through the whole agency hiring
10 process.

11 CHAIRPERSON KALLOS: Whatever I can do
12 to help fix this problem. If there's
13 overregulation...

14 COMMISSIONER CUMBERBATCH:
15 [interposing] Mm-hm.

16 CHAIRPERSON KALLOS: I can't change the
17 constitution.

18 COMMISSIONER CUMBERBATCH: Mm-hm.

19 CHAIRPERSON KALLOS: I can't change
20 federal laws; can't do much on the State
21 Constitution or the State laws, but if it's a City
22 issue and it's not really the City Charter, but a
23 City...

24 COMMISSIONER CUMBERBATCH:
25 [interposing] You got it.

2 CHAIRPERSON KALLOS: Law where somebody
3 was trying to protect somebody, when we get to a
4 point where it's taking so long to do the test just
5 because we're trying to give everyone their due
6 process and whatnot, we're actually harming more
7 than we're helping, so I am committed to working
8 with you on that, so if you have any program bills
9 and changes...

10 COMMISSIONER CUMBERBATCH:

11 [interposing] Okay.

12 CHAIRPERSON KALLOS: I'm happy to
13 work...

14 [crosstalk]

15 COMMISSIONER CUMBERBATCH: Mm-hm. Yes.

16 CHAIRPERSON KALLOS: With you...

17 COMMISSIONER CUMBERBATCH:

18 [interposing] Right, we appreciate it.

19 [crosstalk]

20 CHAIRPERSON KALLOS: And the... and
21 labor advocates and whomever I need to to make sure
22 that everyone understands the concessions that are
23 being made so that people can get jobs as soon as
24 possible. I know the hour is late and I know that
25 we're running long. I'm going to have three more

2 questions and then we will... John Russell will be
3 in touch to follow up with any additional questions
4 just so that everyone can get back to their jobs,
5 and thank you all for coming out in such force.

6 COMMISSIONER CUMBERBATCH: Mm-hm.

7 Thank you.

8 CHAIRPERSON KALLOS: With regard to
9 Citywide procurements and goods and services, DCAS
10 has an average number of bidders per bid as part of
11 the performance report and it's declined from 4.6
12 in 2011 to 3.1 in 2013. With the assumption that
13 competition is good and helpful...

14 COMMISSIONER CUMBERBATCH:

15 [interposing] Mm-hm.

16 CHAIRPERSON KALLOS: What efforts is
17 DCAS taking to maximize competition in the
18 procurement process and is, in fact, that
19 competition a good thing?

20 ROBERT CLEARY: This is Robert Cleary
21 again. We made a change in our process at that
22 time. we went to advertising exclusively on City
23 Record Online and through the City Record.
24 Previously, we had sent out postcards notifying
25 vendors of bids for a long time. It's an expensive

1 process, so it was intended to be more efficient.
2
3 A lot of vendors are actually starting to work more
4 online, of course, and we've done what we can to
5 increase our outreach as a result because we did
6 see that drop in the number of bidders per bid for
7 solicitation and we make sure that we identify all
8 the vendors that we possibly can through the City's
9 vendor lists; through our own internal list. We do
10 additional outreach. It is coming back up and
11 vendors also are starting to get used to using City
12 Record Online. They can download our bids there.
13 It's a very convenient process and in the long run,
14 I think that it'll climb back to where it was, but
15 we're... it's a manual process to make sure that we
16 reach out to vendors and get them involved.

17 COMMISSIONER CUMBERBATCH: Mm-hm.

18 ROBERT CLEARY: In some instances.

19 CHAIRPERSON KALLOS: Thank you. On the
20 City office space... I'm sorry for jumping around.
21 I know I mean other people have to get up and down.
22 The PPMR indicates that the average office space
23 per employee is 280 square feet, which is actually
24 larger than my studio apartment on the Upper East
25 Side was a couple of years back and actually,

2 larger than even I think my office at 250 Broadway.
3 How is the square footage per employee calculated
4 and why is this number so high? What is being done
5 to use the City's office space more efficiently and
6 what is being done to fill the city's 15 percent
7 vacancy rate at desks?

8 JOEY KOCH: So you know, one of the
9 reasons why we did the Civic Center in the first
10 place is that we did a massive desk audit and there
11 were teams of people who literally went to every
12 single agency and counted every single desk to see
13 how many were...

14 [crosstalk]

15 CHAIRPERSON KALLOS: Thank you.

16 [crosstalk]

17 JOEY KOCH: Vacant and whatnot. We are
18 planning on doing something like that again 'cause
19 I think it's important to constantly measure how
20 much space people are taking and certainly now with
21 the new administration, who may have a different
22 view of office space and whether people should be
23 working in an open plan or a non-open plan, to take
24 a look to see how people are going to be thinking
25 about office space and this new administration it's

2 important to get a sense of what those numbers are
3 going to be like now, so we are going to be looking
4 at that again. All the moves that have been going
5 on in the past two or three years are open plan, so
6 you know, it's going to be interesting to see what
7 the difference is going to be.

8 CHAIRPERSON KALLOS: Thank you very
9 much. with regard to procurement, will you be open
10 to legislation that... you're good... that will
11 remove the obligation for publishing the City
12 Record and replace that with just an electronic
13 publishing requirement?

14 COMMISSIONER CUMBERBATCH: I mean
15 certainly, as long as there is always a provision
16 upon request if people want a hard copy version you
17 know, but you know, but the default should be
18 online, but I guess I'm saying as long as you know,
19 we're open for people that need to have a print
20 version for doing it upon request.

21 CHAIRPERSON KALLOS: As long as it's
22 revenue generating, then I just wouldn't want to
23 continue it at a cost.

24 [crosstalk]

2 COMMISSIONER CUMBERBATCH: Right. No,
3 right, right, but you know I just... we want to be
4 mindful that everyone is not online and we need to
5 understand that there is a divide, a digital divide
6 that still exists and...

7 [crosstalk]

8 CHAIRPERSON KALLOS: Yes.

9 [crosstalk]

10 COMMISSIONER CUMBERBATCH: We want to
11 make sure that in trying to be efficient on one
12 hand, we're not you know, closing off access on the
13 other. That's the only thing that I would say, but
14 certainly we are open.

15 CHAIRPERSON KALLOS: Look forward to
16 working closely with all of you.

17 [crosstalk]

18 COMMISSIONER CUMBERBATCH: Thank you.

19 [crosstalk]

20 CHAIRPERSON KALLOS: Thank you all for
21 coming out. John Russell will be following up
22 by...

23 COMMISSIONER CUMBERBATCH:

24 [interposing] Thank you very much.

25 [crosstalk]

2 CHAIRPERSON KALLOS: Later on
3 everything else. Thank you for coming out and
4 sorry for the wait. So much to do. See you guys
5 back for the final budget.

6 [Pause]

7 CHAIRPERSON KALLOS: We're going to
8 recess for about two minutes. [gavel] I hereby
9 call the Governmental Operations Committee back to
10 order. I'd like to welcome the newly appointed
11 Commissioner of the Department of Records and
12 Information Services, affectionately known as
13 DORIS, and our new Commissioner, Pauline Toole.
14 Congratulations on your appointment. We look
15 forward to working with you.

16 The Commissioner of the Department of
17 Records and Information Services serves as the
18 Chief Archivist, Librarian and Records Officer for
19 the Mayor, Borough Presidents and the City Council,
20 people like me. Today, we will discuss the
21 Department's 2015 Preliminary proposed budget,
22 operational performance and ideas you may have to
23 improve the Department's efforts to fulfill its
24 mission. Please proceed with your prepared remarks
25 whenever you're ready and just by way of

1 background, I... we have so many documents that we
2 produce as a government and it provides such a
3 challenge and I know how much of a challenge it is
4 and how much it costs because in 2007, I noticed
5 that the voting records for the legislature weren't
6 online and that bothered me, so I started going
7 through the task of putting them online. So I got
8 all the floor votes online and all the committee
9 votes for the Senate online. To this day, I have
10 not gotten the Assembly Committee voting records
11 online because they actually write all the votes on
12 slips of paper this large on carbon paper, which is
13 almost illegible, and I think I went as far as
14 scanning 8,000 committee votes into the record
15 before I gave up because I couldn't... I didn't
16 have the manpower to digitize things beyond that
17 and it was me on my part doing it, but you have
18 tremendous responsibility. These documents matter.
19 They have historical significance and ultimately,
20 when the Fourth Estate is trying to hold people
21 like me and the Mayor and the Borough Presidents
22 accountable, you're the only one who's going to
23 have many of those records, so thank you for your
24 hard work, and without further ado.
25

1 COMMISSIONER TOOLE: Thank you, Council
2
3 Member. I appreciate that opening and I'm going to
4 start just by saying my name is Pauline Toole. I
5 am truly the new Commissioner at the Department of
6 Records and Information Services, having been there
7 just a few days, and I am joined today by some key
8 staff: Ken Cobb, who's to my right who's the
9 Assistant Commissioner who's been at the agency for
10 a long time and knows everything about our
11 holdings; Eileen Flannelly, who is our Deputy
12 Commissioner; Naomi Pacheco, who's our Director of
13 Personnel; Joe Mathis at the end, our Director of
14 Budget and Pearl Boatswain, who oversees Record
15 Management.

16 I think we are very clear that we don't
17 have all the answers today. We're... DORIS is kind
18 of emerging from sort of a little bit of a sleepy
19 period over the past several years, and we're
20 looking forward to refocusing on our mission of
21 maintaining records and actually providing
22 information services to the City, public and
23 electeds. So just I'm going to give a little
24 background on the agency. It was established in
25 1977 and it is a Charter agency. It has three

2 primary functions: retaining and evaluating
3 record, archiving historically significant records
4 and making materials available to the elected
5 officials and the public. So the Municipal
6 Archives preserves and maintains accessible a
7 collection consisting of 221,000 cubic feet of
8 historical records. This includes official
9 correspondence; maps; drawings; film; more than two
10 million photographs of all sorts of things
11 throughout the city. You will see, we've passed
12 around some exhibits I think attached to our
13 testimony that show the kind of records that DORIS
14 maintains, and just as an aside, there are like
15 original documents copied there from 16...

16 ASSISTANT COMMISSIONER COBB: 1640.

17 COMMISSIONER TOOLE: 16... the 1640s
18 that deed property to Dutch settlers. There's a
19 picture of Paul Robeson speaking at a Union Square
20 rally. There's a picture that would look very
21 current to you if you leaf through those photos,
22 which I trust the Council staff has circulated, and
23 one at the outset is of a terrible explosion that
24 happened on Prince Street that looks very much like
25 a recent event we saw in East Harlem, so these

2 kinds of photographs illustrate so much that's gone
3 on in the City past that is relevant to today.

4 We serve about 50,000 customers
5 annually and we operate a search service and a copy
6 service for vital records. Just starting in
7 January, DORIS teamed up with ancestry.com in a
8 pilot program to make our records available to
9 people. They have a link and that has driven
10 traffic to our website and the preliminary results
11 show that revenue has increased over the same
12 period from last year.

13 In addition, the City archivists survey
14 and appraise agency records to determine their
15 archival value. Those that are designated as
16 archival are catalogued and housed and sometimes
17 restored following preservation standards. We
18 manage a research room open to the public and a
19 conservation lab that is really quite amazing and
20 we have both microfilm and digital studios.

21 The City Hall Library, which I hope you
22 have visited, is the official repository for City
23 reports and provides public access to an extensive
24 collection of government publications, as well as
25 providing an online presence for an ever expanding

2 collection of City agency publications. The hard
3 copies in the library provide the public both
4 contemporary and historical information about the
5 City government, dating back to the 1600s. We are
6 converting several of these holdings to digital
7 formats to protect them and improve public access.

8 Finally, our Records Management
9 Division operates two storage facilities with a
10 combined capacity of 869,000 cubic feet. That's a
11 lot of documents, as you can imagine. We provide
12 Records Management services to 50 City agencies, 10
13 courts and the five District Attorneys. The
14 services include scheduling disposal and retrieval
15 and overall guidance on managing the records.

16 DORIS also administers approximately \$1
17 million annually in grant funds from New York State
18 for records programs managed by other City
19 agencies, and we also received \$301,872 in direct
20 grants during Fiscal 2014, broken down as follows:
21 from the Local Government Records Management
22 Improvement Fund, which is known as LGRMIF, we
23 receive a little over \$74,000 to continue re-
24 housing the New York City Police Department's crime
25 scene photographs and another LGRMIF grant for

2 records management is about \$200,000 and that funds
3 our Grant Management Administration Unit that
4 oversees the other funding that comes from the
5 state. Finally, we have a National Endowment for
6 the Humanities Grant of \$27,000 to index and re-
7 house the New York County District Attorney's
8 closed case files from 1916 to 1925.

9 The Preliminary Budget provides a total
10 allotment of \$5,073,506, which includes Personal
11 Service funding for approximately \$2,042,000 to
12 maintain our full-time 37 full-time equivalent head
13 count and the proposed OTPS funding of \$3,031,000
14 is largely for storage costs.

15 The agency is mindful of our mission to
16 make City records available to the public and we
17 are intent on finding ways to inform the public and
18 City officials of available information. One giant
19 leap in attaining that goal was the creation in
20 2012 of a Visitor Center, located adjacent to the
21 City Hall Library at 31 Chambers Street. It's open
22 to the public and has mounted 16 exhibits over the
23 last couple of years including one titled "*How'm I*
24 *Doin' A Look back at the Mayoralty of Ed Koch,*" and
25 our current exhibit, which focuses on "*African*

1 COMMITTEE ON GOVERNMENTAL OPERATIONS 236
2 *American Women and the Military from World War II*
3 *and Beyond.*"

4 We also are exploring opportunities for
5 expanded community engagement. We understand that
6 the records... as records don't mean much if you
7 can't get them out to people and make them sort of
8 interactive. So the archives contains records that
9 show the evolution of every City neighborhood and
10 we look forward to working with schools and
11 libraries to put together mini exhibits that form
12 the basis for oral histories and other kinds of
13 community engagements.

14 In terms of accessibility, we've been
15 very successful with our online digitized photo
16 collection. We have the largest online collection
17 of City pictures; New York City pictures with over
18 870,000 images, and every day our photo director
19 posts interesting shots on Tumblr to help increase
20 public interest and drive more traffic to the photo
21 site.

22 These exhibits; this information can
23 help New Yorkers explore links to the past that may
24 have impacts today, but we also know that most New
25 Yorkers who want to delve into agency information

1 and records want to go online to get that
2 information and to that end, the agency is focused
3 on improving online access. The City passed Local
4 Law 11 in 2003, which, in part, mandated agencies
5 to provide electronic copies of reports to DORIS
6 for online publication within days of issuance.
7 The law also required consultants' reports to be
8 made available in this same manner. DORIS posts
9 all reports within the 10-day timeframe and most of
10 them are up within three days. We have received
11 and posted 7,287 reports since the law took effect
12 and are now undertaking a review of agency
13 compliance with this Local Law. We will provide
14 you with the results of the review. This
15 administration takes the responsibility of
16 accessing and posting the reports of agencies very
17 seriously and we will be working with all of our
18 colleagues to ensure compliance.

19
20 We also plan to work with the Law
21 Department and City agencies to evaluate the
22 current record retention policy and processes.
23 With today's technology, it should be possible to
24 digitize routine records at the point of issuance,
25

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index them appropriately, store them in the cloud and make them readily available.

Finally, we have a little bit of a challenge in that the passage of another landmark piece of Council legislation in 2012, the Open Data Law, requires the City to make available relevant data online. The huge datasets, the data sharing and application development is creating numerous opportunities to link information from different agencies within the City and people are developing all sorts of applications, so eventually, which might even be right now, the applications that are developed, like so many other kinds of electronic records, need to be indexed and archived so that in 50 years or in just a few years, people can go back and find them easily and use them for their own purposes at that time. Given the volume of data and the number of resulting applications that are expected, we would like to be involved with determining and following the best practices to index this material going forward. We think we're the ideal agency for this task and we're going to work collaboratively with our colleagues at the Mayor's office, the Department of Information

2 Technology and Telecommunications, Department of
3 Citywide Administrative Services and the Office of
4 Operations on this endeavor.

5 In closing, I welcome you and your
6 colleagues and your staff to visit us across the
7 street at 31 Chambers, and we look forward to
8 answering any questions you may have.

9 CHAIRPERSON KALLOS: I am very
10 impressed with your presentation. Thank you for
11 the pictures, as well as the picture of our
12 previous Mayor Koch with a celebrity, and also just
13 placing the context of some of the things that
14 history does repeat itself. So thank you for the
15 presentation. Thank you for the work that you're
16 doing. Are there any plans for DORIS or can I help
17 facilitate a meeting between DORIS and Google so
18 that we can make sure that our vast repository of
19 information becomes search engine accessible? The
20 nycma.lunaimaging.com site is an incredible
21 resource, but in a world where unless you're
22 testifying unless it's being found on Google, it's
23 not as useful. I would be... how can I help
24 facilitate that?

1
2 COMMISSIONER TOOLE: Well, as you know,
3 I'm just going to repeat what I've learned recently
4 is that that site that hosts our records; our
5 photos, the traffic was so extensive that it
6 crashed the City government servers when people
7 first began accessing those photos. So there is a
8 lot of interest and we've been very responsive, but
9 I take your point. We'd love to work with Google.
10 We'd appreciate your assistance in making
11 connections. I think I know someone there from way
12 back when in my younger days, William Floyd, and
13 look forward to working with him and figuring out
14 some areas of partnership as well, so we'd totally
15 love to work with you.

16 CHAIRPERSON KALLOS: You may actually
17 have more access than I, so I'd just love to ride
18 along with that meeting and making sure that we're
19 search engine optimized. Are there any cost
20 savings that we're finding in digitizing records?
21 When we digitize a record do we have to keep the
22 original and are we able to sell the original?
23 What do we do with all these mountains and
24 mountains of documents?

1 COMMISSIONER TOOLE: Well, I think that
2
3 I'm going to just take a flier on this and if I get
4 it wrong, Pearl's going to jump up and help me out,
5 okay? A lot of the records that are stored are
6 stored for a variety of purposes and they don't
7 necessarily have historic significance. They may
8 be needed in case there was eventual litigation.
9 They may be needed because the City's record
10 retention schedule was developed some decades ago
11 and preserved records in a different way. So if
12 you look at our OTPS, the bulk of it is for storing
13 paper documents. Going forward, if those documents
14 are stored electronically and can then be made
15 available, that would certainly reduce storage
16 costs, right? And there are those records that are
17 of significance that people want to touch. They
18 want to at least come close to touching or see and
19 have... they want a tangible picture and they want
20 a tangible record, not necessarily an image, and
21 those would have to be preserved both ways. So
22 there's probably some cost savings to be achieved
23 over time, but at the moment, we're just taking
24 baby steps forward there.

2 CHAIRPERSON KALLOS: Fair enough and
3 we're talking about paper. You're not responsible
4 for paintings like those, right?

5 COMMISSIONER TOOLE: Well, not like
6 those, but we have some enormous maps and other
7 like schematic drawings and such that are quite
8 large. Ken, you want to describe our... any of our
9 fabulous holdings?

10 ASSISTANT COMMISSIONER COBB: Yes, if
11 you do get a chance to visit us in our new Visitor
12 Center at Chambers Street, you'll see on the wall;
13 it's probably 12 feet wide; it's a map of Central
14 Park before the park and it shows all of the little
15 villages and the buildings that were there before
16 they constructed in the 1850s. It's really quite
17 extraordinary, and that's just you know, one of
18 thousands like that.

19 CHAIRPERSON KALLOS: How can we raise
20 awareness around the Visitor Center so that we can
21 increase tourism and revenue?

22 COMMISSIONER TOOLE: We will welcome...
23 you know, put it in your newsletter that you know,
24 we'll have little handouts you can distribute in
25 your office; put it on your website. We're going

1
2 to do those things. We're going to explore
3 partnerships with the...

4 CHAIRPERSON KALLOS: We can facilitate
5 a partnership with New York City and Company, which
6 is responsible for our City's tourism.

7 COMMISSIONER TOOLE: That would be
8 perfect. That would be great. Yeah, that's
9 some... an area where we can... where we can
10 definitely work, and I know part of it is that it's
11 sort of... it's in this great historic building and
12 one limitation has been signage and we're going to
13 look at creative ways to deal with signage that
14 directs some of the tourists that come down over
15 across the Brooklyn Bridge to the site. So there's
16 a bunch of things to explore to sort of drive the
17 numbers up, but anything... we would welcome all of
18 your ideas.

19 CHAIRPERSON KALLOS: Fair enough. Is
20 there any... have you had partnerships with the
21 City Museum or is there an interest in doing shows
22 with them to raise awareness around DORIS?

23 ASSISTANT COMMISSIONER COBB: We
24 frequently loan items from our collections to the
25 Museum of the City New York. In fact, this morning

2 I met with curators who are working on a 2015
3 exhibition commemorating the 50th Anniversary of
4 the Landmarks Legislation and so over the years,
5 yes, we have collaborated with them. But we now
6 have our own Visitor Center where we can exhibit
7 our own holdings and try to get some interest from
8 the public to come down to Chamber Street.

9 CHAIRPERSON KALLOS: Right.

10 COMMISSIONER TOOLE: And some of the
11 things the Visitor Center has done is there was a
12 book signing with Sam Roberts of *The New York*
13 *Times*; Columbia University had an event there, so
14 there is interest and it's just an amazing space,
15 but we just have to get it out there and create a
16 buzz.

17 CHAIRPERSON KALLOS: During the
18 Bloomberg Administration, there was a proposal to
19 merge DORIS into the Department of Citywide
20 Administrative Services. Do you think it's a good
21 idea to merge DORIS into DCAS? Are there any
22 potential budget savings attributed to that sort of
23 merger and do you believe DCAS would be equipped to
24 assist DORIS with the conservation and archival
25 functioning?

1
2 COMMISSIONER TOOLE: Mm-hm. We think
3 that DORIS has a unique mission that was recognized
4 by the City Council when the agency was founded and
5 this holds true to this day. You've just heard
6 from the DCAS Commissioner about her extensive work
7 managing buildings and a fleet of the City and you
8 know, so much else and this little mission of
9 archiving records and making them available doesn't
10 fit so neatly into that bigger portfolio. It
11 really needs to be a separate entity, in part, for
12 the reason you said earlier, that this is where you
13 go to hold people accountable; find the documents
14 to hold people accountable. But we will work
15 closely with the Commissioner on transporting
16 records and doing some digitization because there
17 may be an economy of scale in acquiring of
18 equipment that way.

19 CHAIRPERSON KALLOS: With regard to
20 revenue sources, I see in your testimony you
21 indicated different grants that you've been able to
22 get. Are there additional grants that you think
23 you could get? Could I be helpful in securing
24 those and are there any opportunities from revenue
25 from private partnerships?

1
2 COMMISSIONER TOOLE: I think there are
3 lots of opportunities to create revenue that
4 haven't been explored over the last several years.
5 I will say that the staff at DORIS has worked
6 extensively with the New York State Library and
7 Archives and has both worked with other agencies to
8 obtain grants to help them in their record
9 retention and also to bring grants into DORIS for
10 the archiving of our work. So they I think have...
11 and they are constantly going to the NEH and the
12 sort of traditional government funding
13 organizations, but there is an opportunity to make
14 history relevant to private funders potentially and
15 you know, we look forward to work with the Mayor's
16 fund on that project. And I tell you, Council
17 Member, anything you can do to help us increase
18 funding from private sources for record retention
19 and archiving and making things digitized, we're
20 open for it.

21 CHAIRPERSON KALLOS: Sounds like you
22 know how you'd spend the money, but it sounds like
23 it would be on digitization and improving the
24 system. One piece is just a lot of the records
25 that we're now creating are digital. One of the

2 things that the Mayor did differently is usually
3 when you have a Public Advocate leave, all the
4 data, everything they reported, all, everything
5 from their websites disappears with them and the
6 only way to find them is on the internet archive at
7 archive.org and then you have to gamble on whether
8 or not the crawler was able to permeate the
9 website. Are there any efforts that you have to
10 currently make sure that the previous nyc.gov and
11 the upcoming nyc.gov is properly archived? Can I
12 introduce you to my colleagues at Internet Archive
13 and how can we create a policy or can I create a
14 law to make sure that as council members, borough
15 presidents, public advocates, mayors come and go
16 that our internet assets remain available?

17 COMMISSIONER TOOLE: Right. It's a
18 great question and in our testimony, we did refer
19 to making other electronic records available and
20 that is one of the things that that referenced.
21 And it's not... I mean it is... it happens most
22 frequently when elected officials come and go, but
23 it happens often when agencies change their
24 interface and they get rid of something from the
25 past and you lose that, but we need that. We need

2 to retain that electronically, so yes, once again,
3 we look forward to collaborating with you on
4 figuring that out and working with various of the
5 City's Library Science programs to figure out how
6 to catalogue those materials so that you're getting
7 the most relevant information and it's easy to
8 access and you're not just going from place to
9 place.

10 CHAIRPERSON KALLOS: Thank you for
11 everything. Thank you for your calling and for
12 what your organization will be doing and I look
13 forward to working very closely with you over the
14 coming years. Thank...

15 [crosstalk]

16 COMMISSIONER TOOLE: Thank...

17 [crosstalk]

18 CHAIRPERSON KALLOS: You all and have a
19 great day.

20 COMMISSIONER TOOLE: Thank you and I
21 assure you we'll be in touch.

22 CHAIRPERSON KALLOS: Absolutely.

23 COMMISSIONER TOOLE: Okay.

24

25

CHAIRPERSON KALLOS: We'd like to welcome the President of the Office of Administrative Tax Appeals, Glenn Newman.

The Office of Administrative Tax Appeals, OATA, or the Tax Commission, as many refer to it, consists of two divisions: the Tax Commission and the Tax Appeals Tribunal. The Tax Commission is responsible for conducting hearings on appeals of real property tax assessments, determined and released by the Department of Finance each year. Its proposed Fiscal 2015 Budget totals \$4.3 million including \$4 million in Personal Services funding to support 41 full-time positions.

Today, we would like to examine the Office's budgetary needs and discuss ways we can improve or enhance your operations. Thank you for all that you do and for defending our city's property tax rolls and without further ado, we look forward to your testimony.

GLENN NEWMAN: Thank you for inviting me and giving me the opportunity to speak about tax appeals in New York City. The Office of Administrative Tax Appeals was established by Local

2 Law 57 of 2007 and it brought together the City's
3 two agencies to hear tax appeals, the Tax Appeals
4 Tribunal and the Tax Commission. I am the first
5 person to head the two agencies and to be in charge
6 of the consolidated Office of Administrative Tax
7 Appeals.

8 The Tax Appeals Tribunal hears appeals
9 of Finance Department determinations relating to
10 the City's business taxes: general corporation
11 tax; bank tax; unincorporated business tax;
12 commercial rent tax; real property transfer tax and
13 others. The Tribunal itself consists of three
14 Commissioners appointed by the Mayor to hear
15 appeals from the Administrative Law Judge unit,
16 where the trials of these tax matters take place.
17 After a determination by one of the three
18 Administrative Law Judges that we have, either the
19 taxpayer or the Department of Finance that's
20 represented by the Corporation Counsel's Office may
21 appeal to the Tribunal. Only the taxpayer may
22 appeal the Tribunal's decision and that appeal goes
23 directly to the Appellate Division of the New York
24 Supreme Court for review. These cases at the
25 taxpayers Tribunal can involve many issues,

2 including whether a taxpayer has nexus to the City
3 sufficient to be subject to tax, what income is
4 taxable, what deductions are proper and
5 apportionment of income to the City. There are
6 about 70 cases pending and these cases can proceed
7 for months or years, as trials and briefing of
8 complicated issues are presented.

9 It's been described that the Tax
10 Appeals Tribunal cases or these types of tax
11 appeals are an inch thick and a mile deep because
12 they only affect one taxpayer, but you can have
13 multiple layers of issues regarding a corporate tax
14 return and that compares and contrasts to the Tax
15 Commission, where the issues are an inch wide and
16 an inch deep 'cause it's one issue of valuation,
17 but a mile wide because they apply to 53,000 or so
18 applicants every year.

19 The Tax Commission is the New York City
20 independent forum for administrative review of real
21 property tax assessments. Pursuant to the City
22 Charter and Administrative Code, the Tax
23 Commission's mission is to ensure determinations of
24 real property tax assessment protests are fair and
25 efficient in order to provide an effective

2 administrative review of property tax assessments
3 within the City.

4 Annual assessments are the basis for
5 the real property tax levy, the City's largest
6 source of revenue, forecast this coming year to be
7 almost \$20 billion. An assessment encompasses a
8 tax lot's tax class, its market value and its
9 eligibility for a full or partial exemption. The
10 amount of a tax lot assessments or its assessed
11 value where tax lots for which... for properties
12 where the assessment increases are not limited by
13 law, is based on the property's market value, to
14 which the assessment ratio for the tax class is
15 applied. The tax imposed on a tax lot for the
16 fiscal year is the product of its taxable assessed
17 value and the overall tax rate applicable to its
18 designated tax class, as adopted by the City
19 Council.

20 Each January, the Department of Finance
21 publishes tentative assessments for the more than
22 1.1 million tax lots in the city. The Finance
23 Department sends a notice of value to the owner or
24 designee of each tax lot in connection with the
25 property taxes to be levied for the City's fiscal

2 year beginning July 1. In addition, the Finance
3 Department publishes the assessment ratios for the
4 four property tax classes. Each year, the
5 Department of Finance calculates individual
6 assessments and the assessment ratio for each of
7 the four tax classes, considering fluctuations in
8 the real estate market, physical alterations and/or
9 changes in taxable status and issues of final
10 assessment roll on May 25th.

11 State and local laws provide the right
12 and the means for taxpayers to obtain
13 administrative review of individual real property
14 tax assessments. Tax rates are not subject to a
15 property specific challenge. The claims in an
16 application for correction that the Tax Commission
17 may review are misclassification; that is, the
18 property is assessed in the wrong tax class for its
19 type and use under the four class system;
20 excessiveness, principally that the property fails
21 to receive all or a portion of a partial tax
22 exemption, inequality; that is, that is the
23 property's assessed value is set at a higher
24 proportion of market value than that applied to
25 other properties in the same class and

2 unlawfulness, principally where the property fails
3 to receive a complete tax exemptions.

4 The accepted methodologies for valuing
5 real estate use sale of comparable properties,
6 income generated by the property or the cost of
7 reproducing the property... reproducing the
8 structure and disputes over individual assessments
9 are an inevitable feature of ad valorem property
10 taxation.

11 The Tax Commission is an accessible
12 forum that expeditiously resolves assessment
13 disputes, orders remedial action where appropriate
14 in accordance with applicable law and appraisal
15 concepts. The existence, mission and authority of
16 the Tax Commission as an administrative agency of
17 the City New York are required pursuant to the New
18 York State Real Property Tax Law and the New York
19 City Charter and Administrative Code. And the fair
20 and effective operation of the Tax Commission in
21 discharging its functions is an integral part of
22 tax administration.

23 Another feature of the Tax Commission's
24 operations... a feature of it is our long standing
25 practice of employing an acceptance agreement,

2 which requires discontinuance of all judicial
3 proceedings with respect to prior years when
4 accepting an offer of reduction by the Tax
5 Commission, and this benefits the City by
6 eliminating thousands of pending Article 7
7 proceedings in court.

8 In sum, though a small agency in the
9 context of staffing and expense budget allotments,
10 the Tax Commission is an integral component of the
11 New York Tax Administration system. Pursuant to
12 the City Charter, the Tax Commission proper
13 consists of a President; that's me and six
14 Commissioners appointed by the Mayor with the
15 advice and consent of the Council. These part-
16 time Commissioners are appointed to six year terms.
17 The President, as the head of the agency, serves
18 full-time, while the six Commissioners are part-
19 time. Each member of the Commission must have at
20 least three years business experience in real
21 estate or real estate law. Additionally, the
22 Commission must include at least one resident from
23 each borough. Currently, we have 24 people who
24 hear cases: myself; we have three part-time
25 Commissioners that are sitting; we have three

2 vacancies; we have 11 people in the appraisal and
3 hearings group with one vacancy; we have the three
4 Tribunal Commissioners that hear tax commission
5 cases, as well as the three Administrative Law
6 Judges; the General Counsel at the Tribunal and two
7 Special Counsels, attorneys who are familiar and
8 been thoroughly experienced in hearing property tax
9 cases.

10 The Tax Commission strives to meet the
11 challenge to provide a fair and efficient hearing
12 on protest to property tax assessments and maintain
13 the essential features of the agency's operations.
14 In the 2013-14 tax year, the fifth full budget year
15 integrating the Tax Commission and the Tax Appeals
16 Tribunal within the Office of Administrative Tax
17 Appeals, we had a staff of 39 full-time employees
18 and five part-time Commissioners at the time and an
19 operating budget of \$4.272, \$4,272,000.

20 The Tax Commission's core function of
21 ruling on annual applications for correction is a
22 great responsibility and part of the tax system.
23 The application forms, along with associated
24 instructions and informational summaries issued by
25 the Tax Commission for use of administrating the

2 formal process are revised annually. The number
3 and variety of applications filed each year require
4 a multitude of functions to be performed. These
5 functions include outreach to the public;
6 information session on how to apply; intake and
7 stratified sorting of forms and documents; creating
8 and maintaining case files and records;
9 calendaring; allocating internal assignments;
10 scheduling, preparing for and conducting hearings;
11 performing legal appraisal and factual research and
12 analysis; rendering determinations and generating
13 and mailing disposition notices; processing
14 remedial relief and communications with the
15 Department of Finance and the Law Department. We
16 audit, compile and analyze performance statistics;
17 computer programming; clerical tasks and responding
18 to Freedom of Information Law requests.

19 In 2013, the Department of Finance
20 issued its tentative assessment roll in January and
21 many properties that had been affected by Hurricane
22 Sandy did not have their assessments reflect the
23 storm damage. Finance undertook a review of the
24 neighborhoods where the storm had major impact and
25 revised assessments through the issuance of the

2 final roll on May 25th. After consulting with the
3 Law Department, the Tax Commission accepted
4 applications from property owners who had received
5 a revised notice of value if the application was
6 filed within 20 days after the revision. More than
7 300 property owners filed applications after these
8 revisions were made.

9 The Tax Commission staff together with
10 Finance staff held outreach sessions in the
11 communities affected by the storm. We had sessions
12 during the day and the evening in Staten Island,
13 Howard Beach and the Rockaways, at which several
14 hundred homeowners were able to get information on
15 their property tax assessments and help in filing
16 protests.

17 After the borough hearings... bless
18 you. after borough hearings were held in June;
19 they were scheduled before the revised notices were
20 issued; the Tax Commission provided in person
21 hearings to those whose properties were affected by
22 Hurricane Sandy in the fall of 2013. Offers of
23 reduction were made to reflect the damage to the
24 properties.

1 As in 2012 and 2013, the Finance
2 Department sent renewals of property tax exemption
3 forms to not-for-profit organizations, requiring
4 them to provide updated information to establish
5 their exemption from property tax. This resulted
6 in 185 applications protesting the denial or
7 reduction of their exemptions, as compared to 185
8 last year and compared to 189 the year before.
9 These matters required additional outreach for in
10 person hearings and extensive documentation of the
11 exempt status of the organization in use of the
12 properties. Many of these organizations did not
13 have professional staff and so the Tax Commission
14 spent a considerable amount of time explaining the
15 requirements for exemption and how to present the
16 facts needed to prove their claim. We also
17 reviewed denials of personal exemptions including
18 the STAR exemption, the Veterans exemption,
19 disabled and senior citizen homeowners' exemptions.
20

21 So in 2013, the Tax Commission received
22 52,989 applications covering 192,000 separately
23 assessed tax lots and valued at \$166 billion of
24 assessed value. Just to give you a context, there
25 are 1.1 million properties in the city. There are

2 about 30,000 that are exempt. We take those
3 separately with the exemptions. There are about
4 700,000 Class 1 properties; that's one, two and
5 three-family homes. So of the 370,000 commercial
6 properties in the City of New York, 190,000 of them
7 protest their assessments.

8 Last year, the Tax Commission conducted
9 23,618 substantive hearings. In exercising our
10 two-year jurisdiction; we have the right to review
11 the current year's assessment and one year back; we
12 took remedial action that in aggregate granted \$6.5
13 billion in assessment reductions, yielding about
14 \$573 million in tax relief to aggrieved taxpayers.
15 In conjunction with its disposition of these
16 applications, the Tax Commission brought to closure
17 15,297 pending judicial review proceedings; those
18 are Article 7 proceedings; closing matters that
19 protested \$70 billion in tax assessments and
20 assessed value.

21 In the same year, the Law Department
22 disposed of approximately 684 judicial proceeding,
23 claiming errors of about \$2.8 billion. Presumably,
24 these are the more difficult, the more intractable
25 matters and they closed those by settlement. In

2 recent years, the courts, after trial, have issued
3 judgments disposing of a few proceedings. In 2013,
4 there were 54 Article 7 petitions taken to trial
5 and decided by the courts. Now, the Tax
6 Commission's administrative view has been and
7 continues to be the most effective means of
8 resolving pending judicial proceedings, contesting
9 hundreds of billions of dollars in assessments. So
10 at this point, I'd be glad to take questions.
11 Anything I can tell you about the Tax Commission;
12 our processes, I'll be glad to answer.

13 CHAIRPERON KALLOS: Mr. President,
14 thank you very much for your testimony and thank
15 you for coming before the Governmental Operations
16 Committee. I understand that this something new
17 with the new administration, but as Chairman of
18 Governmental Operations, I have oversight over 11
19 agencies and Commissions according to the rules and
20 13 in practice and it is our goal to do our jobs to
21 the best of our ability. I apologize for running a
22 little bit late. You mentioned that there are
23 three vacancies for Commissioners of the Tax
24 Commission.

25 GLENN NEWMAN: Yes.

1 CHAIRPERSON KALLOS: How... and prior
2
3 to you I had the Board of Elections in where I was
4 asking them to publicly notice their job postings.
5 What is the Tax Commission doing to publicly notice
6 these three vacancies as well as other vacancies?

7 GLENN NEWMAN: Yeah, we are in touch
8 with City Hall about making appointments to
9 vacancies. I will be glad to reach out to various
10 organizations; Bar Association, CPA Society,
11 Appraisal organizations to seek out candidates, but
12 they do have to be nominated by the Mayor's office
13 and they usually go through the appointments
14 process.

15 CHAIRPERSON KALLOS: So with that being
16 said, if our committee can be and if I can be
17 copied on those advertisements so that we can see
18 that they... well, ultimately is up to the Mayor,
19 of course, I would like to make sure that we have
20 an open application process and we're doing
21 everything in our power to publicly notice that
22 these positions are available so that we can find
23 people of merit and not just other types of
24 appointments. So thank you very much for that.
25 Your agency deals with \$166.75 billion...

[crosstalk]

GLENN NEWMAN: I've assessed that.

CHAIRPERSON KALLOS: And you've managed to keep that down to only \$6.5 billion in assessed reductions, which is incredibly amazing, so thank you for your hard work there. How can we get you more resources? Do you need more resources? What can we do so that we can protect even within that \$6.5 billion?

GLENN NEWMAN: There will always be errors in an assessment roll. There will always be differences of opinion as to what the value of property is. That's inherent in our system. We strive to be as fair and efficient as we can. We do get through all 52,989 applications or however many more we get this year we will finish them by the end of the year and we have some processes in place that make it... enable us to do that. What we are looking for in terms of additional efficiency, and I think it will also promote fairness, is an online system to have online filing of Tax Commission applications, tracking a better handle on the calculations that go into arriving at an assessed value and we've been... we've had some

2 difficulties; some struggling getting with DoITT
3 and with others to try to get a system in place.
4 We've had a couple of efforts to bring in
5 consultants and build a system. We were
6 disappointed by the proposals that came in, but I
7 think that would be the way to go to try to make
8 the system more efficient. Also, give us an
9 ability to communicate in real time with the
10 Finance Department and the Law Department for those
11 things where we have issues or differences of
12 opinion. So that's what we're looking at.

13 CHAIRPERSON KALLOS: You had me at
14 transparency. Whatever our committee can do to
15 ensure compliance from DoITT and that you receive
16 adequate resources to make your process more
17 transparent is literally music to my ears.
18 Currently the Office of Administrative Tax Appeals
19 does not have a section in the Mayor's Management
20 Report. Do you think it would be a good idea for
21 your office to have a section in the MMR and would
22 the Office of Administrative Tax Appeals provide
23 performance data for this report including numbers
24 of appeals, types of appeals and very similar
25 numbers to what you already provided in your

1 testimony either voluntarily or part of a suggested
2 MMR?
3

4 GLENN NEWMAN: We had been part of the
5 MMR for a while, then got dropped 'cause we're a
6 small agency and by the way, because we're on this
7 annual cycle you know, there's a quarter where
8 we're just taking in applications you know, from
9 January 1 until March 31. We haven't decided
10 anything; we're just taking in applications. Then
11 from March 31 to October 1, we hear some of the
12 appeals, but not all of them, so there have been
13 issues with it. We'll be... I'll be happy to talk
14 to the people in Operations or your committee or
15 anyone else about what statistics or what
16 information would be helpful to the public and how
17 to get it into that report.

18 CHAIRPERSON KALLOS: Is the cycle that
19 you just described helpful to you? Is it mandated
20 by Charter, law or policy and if you could change
21 it, how would you change it?

22 GLENN NEWMAN: It is mandated by the
23 Charter and the Administrative Code. It is an
24 annual cycle. We feed off the Finance Department
25 because they issue the assessment; then people have

2 time to protest; then we have our hearings. So it
3 is very calendar driven and it's what we live with.
4 That's what we have to do. I don't know that any
5 changes... Finance just made a major change in
6 getting their income and expense statements to be
7 filed by June 1. They had been filed September 1,
8 so they'll have a better handle on things, but our
9 schedule is pretty much dictated by the calendar
10 and the statutes.

11 CHAIRPERSON KALLOS: So is there any
12 question that I should've asked or that you'd like
13 to share?

14 GLENN NEWMAN: Yes, you should ask me
15 if we have any quotas; if we're fair and I can tell
16 you no hesitation, there are no quotas; we have no
17 enemies list; I have no friends. All we do
18 [laughter] is try to reach a fair result and get
19 the results to the taxpayers; communicate with them
20 as best we can. We have... it's the only
21 opportunity for people to actually come in and sit
22 across from a professional who is reviewing their
23 assessment, knows about their property; not as much
24 as the taxpayer knows, but can actually interact
25

2 because we do a smaller volume than what Finance
3 does, but we are a personal service.

4 CHAIRPERSON KALLOS: Well, you have a
5 friend in this committee and its chair. I would
6 like to be copied on your solicitations to the Bar
7 Associations and other organizations and if you can
8 just provide some sort of plan of action to our
9 committee so we can see that and make sure that we
10 are supporting you and calling upon you and working
11 with you to make sure that whether it is ALJs that
12 you have a vacancy for or others that we are
13 getting people the jobs that they need because we
14 have pretty high unemployment in our city. Thank
15 you so very much for coming in and I look forward
16 to working with you.

17 GLENN NEWMAN: Thank you very much.

18 CHAIRPERSON KALLOS: We will now hear
19 from representatives of various Community Boards
20 who will let us know if their budget and needs are
21 being met and what ideas they may have to better
22 perform the critical function that they serve for
23 this city. We are eager to work with the Community
24 Boards. I am... we have oversight over Community
25 Boards. We actually had a hearing on March 3rd.

2 That was the first hearing this month. This is the
3 second hearing of the month and apparently that's
4 quite rare, so again, thank you to our Committee
5 Counsel, David Seitzer and our analyst, Tim
6 Matchesov and for helping us take on this feat, as
7 well as my staff; my Policy Director, Paul Westrick
8 and Chief of Staff, Jessie Towson [phonetic] and
9 Communications Director, Sarah Anders [phonetic].
10 We had a best practices hearing. We had the
11 Comptroller, four Borough Presidents and Community
12 Board District Managers or Chairs from all five
13 boroughs. We'll be releasing a report in the next
14 24 to 48 hours on best practices.

15 That being said, we can talk now about
16 budget and so I'd like to call Bob Gormley from
17 Community Board 2 to testify on Community Boards.
18 Thank you very... thank you very much for coming to
19 testify and we look forward to working with you to
20 make sure that Community Boards have adequate
21 resources. During the best practices, we heard a
22 lot about the need for urban planners, a lot about
23 the need for adequate staffing and a lot about the
24 need for infrastructure support.

25 [Pause]

[background voices]

BOB GORMLEY: I'll say it all again.

My name is Bob Gormely. I'm a DM at Community Board 2 in Manhattan. I've been a DM there for almost eight years and as I said, I have to start my testimony a minute ago. Boy, what a difference a year makes. We... it is the first time in my memory that we haven't come here to testify to save our budgets; to fight against a budget cut and frankly, based on telephone conversations and emails with other District Managers in Manhattan... I didn't prepare any testimony. I didn't intend to testify, but I'm here really to say thank you. Thank you for not putting us under the gun again this year. I know you're well versed...

[crosstalk]

CHAIRPERSON KALLOS: I take full credit. It had nothing to do with the Mayor's Executive Budget. It was all me. [laughter]

BOB GORMLEY: Fair enough.

CHAIRPERSON KALLOS: No, that's a joke. Thank you.

BOB GORMLEY: Well, at the end day, it's always been the Council that came to our aid.

2 I won't belabor it. I mean you know a lot about
3 Community Boards, but I'll give you... since I'm
4 the only one... a short summary of Community Board
5 2 to try to demonstrate how important every penny
6 that we get from the City is to us. In my office
7 it's me and three staff people. We have an
8 incredibly busy Community Board at Community Board
9 2. In fact, I could argue it may be the busiest
10 Board in the city. We... and I don't have that
11 much for 2013, but in 2012, we passed I think it
12 was 608 resolutions. We had I think it was 112
13 public hearings. We have nine standing committees
14 and three task forces or working groups that meet
15 regularly. All this generates a tremendous amount
16 of paperwork. Among those standing committees, we
17 have a Sidewalks and Street Activities Committee,
18 which, as the name might imply, covers sidewalk
19 cafes. For example, Community Board 2 has more
20 sidewalk cafes than the other four boroughs
21 combined. We have about 20 percent of all the
22 sidewalk cafes in the city. We have the most
23 landmark applications. About two-thirds of our
24 district is landmarked. Liquor licenses I'd say us
25 and maybe Community Boards 3, maybe 7 and 8 in

1
2 Manhattan probably vie for the most liquor
3 licenses. My point is that all this creates an
4 avalanche of work and paperwork that's funneled
5 through our office, which requires staff. In past
6 years, even the smallest proposed cut in my Board
7 would've endangered me; would've endangered one of
8 my staff people. And for what I... as I've said
9 many times before in past years, even having to lay
10 off one staff person, for me, that's one-third of
11 my staff. There's not a city agency that could
12 function if they had to lay off one-third of their
13 staff. So that's pretty much all I have to say
14 going... looking backwards, but going forward, you
15 know, Community Boards are mini City Halls. You
16 know, often they're the place of first resort for
17 citizens, whether it's in the Community Board
18 office or at Community Board Committee hearing. So
19 if going... again, going forward, if there's any
20 way to provide additional support, whether it's in
21 future years even adding a small bit to our budget
22 to hire, as you said a minute ago, hire a planner
23 or... as I was listening to Commissioner Toole
24 speak, she mentioned records retention. Probably
25 any Community Board office you walk into probably

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has filing cabinets that are bursting at the seams.
If we could get support from an agency like DORIS
to help us you know, maybe scan or save
electronically a lot of the paper files we have,
that would be helpful as well. That's pretty much
my testimony since I didn't prepare anything, but
I'd be glad to answer any questions you might have
if I can.

CHAIRPERSON KALLOS: Thank you very
much. First thing is that if there's any
additional members of the public who would like to
provide testimony or members from the Community
Boards, please make sure to sign a witness slip,
but thank you for coming. If you and the other
Community Boards or perhaps if the Borough Board
would like to put together a proposal for the final
budget of additional increases you'd like to see, I
believe there's overwhelming call for urban
planners and I think that would be incredibly
helpful in just making sure that they were
designated for that purpose. Thank you so much for
coming and thank you for waiting through a very
long day.

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BOB GORMLEY: Thank you, Council Member.

CHAIRPERSON KALLOS: No worries. Do e have any members of the public who would like to testify? Hearing none, I hereby adjourn the Governmental Operations Committee.

[gavel]

C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.



Date: 05/02/2014