

CITY COUNCIL  
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON CONTRACTS

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HELD AT: Committee Room - City Hall

B E F O R E:

HELEN K. ROSENTHAL  
Chairperson

COUNCIL MEMBERS:

CHAIM M. DEUTSCH  
COREY D. JOHNSON  
COSTA G. CONSTANTINIDES  
I. DANEEK MILLER  
PETER A. KOO  
RUBEN WILLS

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

Michael Owh  
Acting Director  
Mayor's Office of Contract Services

Carlyn Cowen  
Policy Analyst  
The Federation of Protestant Welfare Agencies

David Ng  
Representative  
Human Services Council

[gavel]

CHAIRPERSON ROSENTHAL: Welcome to the Committee on Contracts hearing on the fiscal 2017 preliminary budget. My name is Helen Rosenthal and I'm the Chair of the committee. Today we will hear testimony from Michael Owh the city's Chief Procurement Officer and Acting Director of the Mayor's Office of Contracts... Contract Services, MOCS. MOCS plays a critical role in the management of the city's 13 billion dollar, 13-billion-dollar contract budget. Last year MOCS testified that it was reviewing the city's procurement process to identify opportunities for improvement. We're eager to learn the results of your review and get updates on the progress of ongoing projects in particular. We'd like to hear about efforts to level the field for those interested in doing business with the city. The committee would also like to discuss the MOCS budget and what we can expect from its recent expansion for fiscal year '17 next year the MOCS budget totals 10 million which provides for 143 full time positions. Furthermore, we'll examine details of the city's planned spending for contractual services and review findings from the

fiscal year '15 agency procurement indicators report. According to the report in fiscal year 2015 New York City procured 13.8 billion dollars' worth of goods and services with more than 68,000 transactions. With such a substantial investment at stake we must vigorously ensure that the city's procurement policy is both prudent and equitable. We should also consider how to use New York City's procurement as a means to reinvest in our communities. After we hear from MOCS I welcome the general public to testify. Thank you all for being here and I would like Michael Owh from the Mayor's Office of Contract Services to start. And can we pass on that. Okay. ...swear you in.

UNIDENTIFIED MALE: Can you raise your right hand please? Do you affirm to tell the truth, the whole truth, and nothing but the truth in your testimony before the committee today and to respond honestly to council member questions?

MICHAEL OWH: I do.

CHAIRPERSON ROSENTHAL: For the record I just want to say that I protested my council doing that because I believe that the administration is

here on good faith but I understand that that's the policy now of the city council. Please go on.

MICHAEL OWH: Thank you. Good morning Chair Rosenthal and the members of the city council Committee on Contracts. My name is Michael Owh and I'm the Acting Director at the Mayor's Office of Contract Services and the City Chief Procurement Officer. Thank you for the opportunity to testify today regarding the fiscal 2017 preliminary budget. New York City is one of the largest contracting jurisdictions in the nation. In fiscal 2015 city agencies procured 13.8 billion dollars' worth of goods, services, and construction through more than 68,000 transactions. Governing the procurement of those goods, services, and construction are roles promulgated by the procurement policy board whose work MOCS coordinates. The PPB rules ensure that the city's procurements are competitive, fair, and result in contracts with vendors who have the requisite business capacity and integrity. MOCS is charged with overseeing agency compliance with the PPB rules and various local laws that involve procurement. MOCS performs this responsibility through its relationship with the city's agency

chief contracting officers who execute the contract actions in accordance with the PPB rules. One of MOCS' most important duties is to jointly administer the city's minority and women owned business enterprise program with the department of small business services under the leadership of council to the mayor and citywide MWBE Director Maya Wiley. MOCS supports the agencies in their efforts toward Mayor de Blasio's ambitious goal of awarding 16 billion dollars to city certified MWBEs by 2025. This administration is dedicated to ensuring the success of this program and we are off to a good start. Fiscal 2015 saw approximately 1.6 billion dollars awarded to city certified MWBEs putting the city on pace to meet Mayor de Blasio's 16-billion-dollar goal. As part of this unprecedented effort MOCS provides aggregated reports of MWBE contract awards, hands on technical assistance to city agencies regarding goal setting, pre-award waiver request, post award modifications, and coordinates policy changes designed to benefit the MWBE community. In addition to the administration of the MWBE program and procurement reviews MOCS is also responsible for publishing

numerous reports as required by law as well as many other activities related to contracting. For instance, MOCS coordinates public hearings for all applicable contract awards including 16 public hearings for 517 contracts valued at approximately 4.8 billion dollars in fiscal 2015 and assist spenders with enrollment and the payee informational portal. MOCS oversees the franchise and concession review committee process including the administration of public meetings and hearings that resulted in the approvals of 42 concession awards with a projected revenue of 40 million dollars and five franchises with the projected revenue of 546 million dollars in fiscal 2015. MOCS manages the VENDEX database, one of many tools city agencies used to determine the responsibility of vendors. MOCS collects information from vendors that have a value of more than 100,000 dollars in contracts with the city within a 12-month period. MOCS... gathers and enters vendor and principle information and makes it available to city agencies through the VENDEX database. In fiscal 2015 MOCS received 12,360 VENDEX emission packages. Another tool used to determine vendor responsibility is a

city's performance evaluation database which is managed by MOCS. City agencies are required to complete annual performance evaluations for all contracts except for goods procured by competitive seal bids below the small purchase limit. In fiscal 2015 MOCS processed 7,295 performance evaluations. Local Law 34 2007 created the doing business accountability database which includes information on all entities that are doing or seek to do business with the city as well as their principal officers, owners, senior managers, and lobbyists. In compliance with the law MOCS processed 12,300 DBA forms in fiscal 2015 resulting in 8,500 entities and 28,100 people identified to be doing or seeking to do business with the city. To offer specific support to non-profit providers as well as the city's human service agencies MOCS created the capacity building and oversight unit in 2008. MOCS has since provided training in coordination with the council to more than 4,000 nonprofit leaders, council members, and staff and umbrella organizations, responded to more than 10,000 CBL hotline requests for assistance annually, vetted more than 7,000 discretionary awards annually, and



completed 521 nonprofit governance reviews. MOCS also develops and disseminates best practice standards for nonprofits and constantly works with partners of city agencies and HHS accelerator to improve the procurement process for nonprofits. In fiscal 2016 MOCS took over management of the 19 chair service audit contracts and coordinated the assignment of 416 program... program audits with the six human service agencies that utilize task orders to procure third party audit services. Fiscal 2016 was also the first year MOCS managed the city's group purchasing contract with Essensa providing a free service to 817 nonprofit members to reduce the costs for goods and services. Essensa reports 27 million dollars was spent by members since the start of the contract. MOCS works on citywide labor compliance issues such as city agency compliance with prevailing and living wage requirements pursuant to executive order 102 as well as the apprenticeship requirements on contracts. MOCS was involved in the project labor agreement negotiations in fiscal 2015 and works with agencies to ensure proper administration. The new PLAs will cover an estimated eight billion dollars' worth of

1 construction projects throughout the term of the  
2 agreements and are expected to save the city  
3 approximately 347 million dollars. The new PLAs are  
4 also designed to provide open shop contractors,  
5 greater flexibility on PLA contracts, and further  
6 increase construction opportunities for city  
7 certified MWBEs. Finally, simultaneous to our  
8 current work MOCS is undertaking a thorough review  
9 of the city's procurement process in order to find  
10 opportunities for improvement. Our goal is to  
11 provide leadership and technical assistance in the  
12 procurement process and we are committed to working  
13 with all city agencies to ensure compliance with  
14 relevant legal and regulatory requirements so they  
15 can further their respected missions. We look  
16 forward to working together with the council to  
17 achieve that aim. Thank you again for the  
18 opportunity to testify today. I would be happy to  
19 answer any questions that the committee may have.  
20

21 CHAIRPERSON ROSENTHAL: Thank you so  
22 much. And I want to welcome Council Members Koo and  
23 Constantinides from Queens. Thank you so much. And  
24 Council Member Johnson from Manhattan. When I've...  
25 any of you have any questions could you just let us

1 know and I'll stop and let you take care of those.  
2 You know I have two questions from your testimony,  
3 just questions of understanding. I think I don't  
4 know what Essensa. Essensa is the vendor that the  
5 city selected to provide group purchasing  
6 opportunities for nonprofits. So nonprofits have  
7 the ability now to buy off a number... an array of  
8 goods and services that Essensa has. So for  
9 instance office supplies they have like a... a... an  
10 office supply contract that nonprofits now can buy  
11 off of. And the group purchaser, the group  
12 purchasing organization, the GPO actually  
13 aggregates all the purchasing that happens through  
14 the city's nonprofit client base but also their  
15 other clients and enters into contracts with the  
16 actual office supply vendor for instance so that  
17 they get better prices on those items.

18  
19 CHAIRPERSON ROSENTHAL: How about for  
20 insurance or benefits, anything like that, does  
21 Essensa help with those?

22 MICHAEL OWH: So we have talked to  
23 Essensa about providing more opportunities with  
24 regard to insurance. I will double check on the  
25 benefits question.

CHAIRPERSON ROSENTHAL: So sort of as a next steps isn't happening yet.

MICHAEL OWH: Not that I know of.

CHAIRPERSON ROSENTHAL: Okay for insurance and I'm sorry and did you say also benefits or...

MICHAEL OWH: For insurance it's... it... we I know have had exploratory conversations and I'm not sure if those contracts have actually been executed and if the policies are available but that's definitely a conversation that we've had and we're looking into that, benefits I don't know if we've had... even the conversation...

CHAIRPERSON ROSENTHAL: Even raised it.

MICHAEL OWH: Yep.

CHAIRPERSON ROSENTHAL: Okay. Have you heard a ask for that, for benefits to have some sort of you know group purchasing they could benefit from?

MICHAEL OWH: That isn't feedback that I'm aware of but we can go back, I'll go back to my team and ask.

CHAIRPERSON ROSENTHAL: Good. I've heard that from Human Service Contract Agencies. And then

1 in your next paragraph you talk about a variety of..  
2 of things that you're... that you keep an eye on. I  
3 was just wondering specifically that with... and I  
4 remember hearing about those with the fiscal year  
5 '15 new PLAs that will cover as you say  
6 approximately eight billion dollars of construction  
7 projects. And it says it's expected to save the  
8 city 347 million. I'm just wondering over what time  
9 period are those savings expected? And where is  
10 that in the budget? Like what... where would it pop  
11 up?  
12

13 MICHAEL OWH: I believe there are  
14 multiple PLAs.

15 CHAIRPERSON ROSENTHAL: Mm-hmm.

16 MICHAEL OWH: And so I would have to go  
17 back and check the terms of each of those. And  
18 those would be the... the time periods. I will go  
19 back and get you the answer about the budget  
20 questions. I don't know.

21 CHAIRPERSON ROSENTHAL: Yeah. Most  
22 importantly I guess I would care about how MOCS or..  
23 or if MOCS is involved but how that savings is  
24 being tracked so you would know that you you know  
25 have put in the budget for example you know savings

of 34 million dollars for 10 years where is that line item? Are you doing some sort of... would it be your office that would track estimate to actual or does OMB do that?

MICHAEL OWH: It... it's not our office but I'll go back and check. I don't want to guess.

CHAIRPERSON ROSENTHAL: Sure. Sure sure. I mean maybe... I... whoever...

MICHAEL OWH: Sure.

CHAIRPERSON ROSENTHAL: Thank you so much. Okay so now I just have a variety of... of other questions that I think we sent over to you. So I'm hoping none of them are a surprise. I'm going to start with the procurement process. Last year MOCS testified it was reviewing the procurement process to identify opportunities for improvement. And I think the budget director alluded to that as well. So I'm just wondering are you in the process of this review? And can we expect more information once it's complete?

MICHAEL OWH: To the second question, yes definitely. And we are in the process of the review. I can share some things that we found in the past year. One of the things that I think we

found that's very important is that the process itself has really clear opportunities for improvement meaning we can do things like doing more tasks in parallel instead of doing them in serial.

CHAIRPERSON ROSENTHAL: Okay.

MICHAEL OWH: We can... we also did a lot of research and we found that... that we are unique in... in some of the ways that we do things but also very similar to other jurisdictions. You know they all have similar problems like we do. And they've implemented certain jurisdictions like Virginia for instance and Arizona have implemented some novel procedures and processes as well as technology. And so we... we looked into that. And as soon as we can aggregate all of that information and formulate a plan we'd love to share that with you.

CHAIRPERSON ROSENTHAL: Okay that's great. You know I think here's a time for me to ask I think you've heard me say this before that the Parks Department has something like 70 steps to get through from you know the council member putting money in the budget to the ribbon cutting. Is that one of the areas you're looking at.

MICHAEL OWH: Yes, definitely. And we're... we're looking at all of those tasks, those individual tasks, not just at Parks...

CHAIRPERSON ROSENTHAL: Oh okay.

MICHAEL OWH: ...but just throughout the process. And trying to see if... if some of those again could be done in parallel or maybe we don't need to do all of those tasks. Those are the kind of questions that we're asking right now.

CHAIRPERSON ROSENTHAL: Great. I'd love to have a follow-up hearing. Particularly Commissioner Silver said he would be interested in talking about that. So at some point following up maybe using them as an example of what it is you're doing.

MICHAEL OWH: Great.

CHAIRPERSON ROSENTHAL: Thank you. I want to recognize Council Member Daneek Miller from Queens. Thank you so much for joining us. Can I talk a minute about the DOE's procurement process? I've been quite vocal about a contract they were about to... about to issue and approve for computer service specialist last year. And you know eventually they... they ended up pulling the contract



1 and eventually did issue the contract and  
2 acknowledged that it... the cost of that service  
3 which was significantly less than what they  
4 originally proposed. Now I know they're a non-  
5 mayoral agency to some degree. Have you been  
6 involved at all in helping them fix their  
7 procurement process? So not only can the public  
8 know more about what's going on but... so that you  
9 feel their internal controls are better.  
10

11 MICHAEL OWH: So I was not involved and  
12 we were not involved in that particular contract.

13 CHAIRPERSON ROSENTHAL: Okay.

14 MICHAEL OWH: But I think you know based  
15 on feedback from you and also we have a very  
16 healthy partnership with DOE we've been working  
17 very closely together to see if there are also  
18 opportunities for improvement there. And they've  
19 been great partners and I believe there have been  
20 some efforts already around changes made at DOE.  
21 And we are also working very closely with them to  
22 review just procurements and procurement process so  
23 that they mirror some of the best practices that we  
24 see at other city agencies but I... I also want to  
25 stress that there are some things at DOE that we

think are done very well. And so we're trying to learn from each other throughout this process.

CHAIRPERSON ROSENTHAL: Did you notice when you looked in... I'm going to press one more time only because it was so much money, the difference. And so I think the public has a right to know why... how that could have happened in terms of the internal procurement practices and what exact steps DOE has taken to change. And if you don't have an answer today that's fine but that is something that I think the public deserves to know. Like it used to be the case that you know when we got the bids back we first put them on desk A, then desk B, then desk C. Now we first give them to desk E. I don't know. But really the specific changes... Do you think...

MICHAEL OWH: Sure we would love to talk...

CHAIRPERSON ROSENTHAL: Are you aware of those and do you think that's something you could find out?

MICHAEL OWH: So we are... we are definitely aware of their process. And we're

working through sort of more deeper level tasks. So we know the high level tasks...

CHAIRPERSON ROSENTHAL: Sure.

MICHAEL OWH: ...you said which desk it goes to. And we want to work through exactly what that means and how that could work better. We're working very closely with DOE on all of those things. And we would love to follow up with you on... on...

CHAIRPERSON ROSENTHAL: Okay.

MICHAEL OWH: ...what we find. Just on... you know the fair and reasonableness of the contracts are something that the agency contracting officers and the agencies themselves should be working on. So we are a very... you know that's something that we share a concern with...

CHAIRPERSON ROSENTHAL: Do you think in your review of it and really completely unfair question. But do you feel there was any malfeasance involved?

MICHAEL OWH: I am not familiar with all of the details around that procurement. So I can't comment...

CHAIRPERSON ROSENTHAL: Okay.

MICHAEL OWH: ...on that. Again I'd be happy to come back to you with some of the process steps that we're...

CHAIRPERSON ROSENTHAL: Great.

MICHAEL OWH: ...working on.

CHAIRPERSON ROSENTHAL: Great. Do you have a sense of timing on that?

MICHAEL OWH: I... I think we're going to be able to share something pretty soon. I don't know what soon means but I think more... more like weeks, not months.

CHAIRPERSON ROSENTHAL: Okay great. Thank you very much. I'm going to move on now to the citywide procurement funding sources. So of the 13.8 billion total do you have a sense of when you think of the source of funds for those expenses how... how many revenue... how much comes in from the federal government, the state, and then ultimately how much the city pays?

MICHAEL OWH: We can right now currently... I believe we can break down the dollar values between city and non-city.

CHAIRPERSON ROSENTHAL: Okay what you got?

1  
2           MICHAEL OWH: And so we can try to... we  
3 can work on that for you. The... some of the  
4 information is not complete. And so it would  
5 probably take a little bit of time but we'll get  
6 back to you on that. Do you... state and federal  
7 allocations are things that it's not always easy  
8 for us to get that information but we can also work  
9 on that as well.

10           CHAIRPERSON ROSENTHAL: Would OMB have  
11 that?

12           MICHAEL OWH: I...

13           CHAIRPERSON ROSENTHAL: Do you think?

14           MICHAEL OWH: ...would have to talk to OMB  
15 to confirm.

16           CHAIRPERSON ROSENTHAL: Okay. And then I  
17 think... so just to be clear the 13.8 billion in  
18 citywide procurement is that... I'm always confused  
19 about this. I know I'm the chair. Is that capital  
20 or expense or both?

21           MICHAEL OWH: Both.

22           CHAIRPERSON ROSENTHAL: So could you  
23 also then... could I ask that you break it out into...  
24 of the 14 billion roughly break it out into expense  
25 and capital and then in each category what the

totals are for each and then within each which is city and non-city. And then within non-city...

MICHAEL OWH: We can work with that.

CHAIRPERSON ROSENTHAL: ...state and federal. Is there percentage wise off the top of your head do you have a sense of how much is expense or capital?

MICHAEL OWH: I... you know off the top of my head I couldn't tell you. [cross-talk]

CHAIRPERSON ROSENTHAL: Is it...

MICHAEL OWH: ...have to come back...

CHAIRPERSON ROSENTHAL: 50/50? Does it lean one way toward more capital, more expense?

MICHAEL OWH: I don't...

CHAIRPERSON ROSENTHAL: Okay.

MICHAEL OWH: Yeah.

CHAIRPERSON ROSENTHAL: I'll be...

MICHAEL OWH: Don't want to guess on that.

CHAIRPERSON ROSENTHAL: ...interested in follow up.

MICHAEL OWH: But I will follow up with you.

CHAIRPERSON ROSENTHAL: Yeah. If that's something like a contracts person at OMB would know readily?

MICHAEL OWH: Possibly. I can go check with them as well.

CHAIRPERSON ROSENTHAL: Okay thanks. I just want to know if I'm not asking the right person about which is fine.

MICHAEL OWH: Okay.

CHAIRPERSON ROSENTHAL: Okay. Next is the federal grants compliance. Again this is a DOE thing. I don't know to what extent you guys have oversight on this now or how much you'll have oversight when... start talking about it in a couple weeks. But the Department of Education reached a settlement resolving in FCC investigation into whether or not the school system violated the competitive bidding rules of the FCCs e-rate program. And under the settlement the DOE repays three million dollars and withdraws funding requests for a four-year period valued at roughly 123 million dollars. Does MOCS now or will MOCS play a role regarding entering compliance with whether it be e-rate or Medicaid reimbursement.

Those are two wildly different things. But with the requirements of contracts.

MICHAEL OWH: So each contracting agency is required for the compliance of its own programs and its funding streams. We don't generally get involved with those requirements.

CHAIRPERSON ROSENTHAL: Going forward do you think that might change?

MICHAEL OWH: That's something we can definitely look into.

CHAIRPERSON ROSENTHAL: Okay it's not high on the radar right now?

MICHAEL OWH: I... not right now.

CHAIRPERSON ROSENTHAL: Okay.

MICHAEL OWH: But we can go back.

CHAIRPERSON ROSENTHAL: Great. I appreciate that. I mean one way to think about it... be interested in following up with you. Because one way... I don't know I'll be interested in following up with you. I mean I'm wondering if there's... there could be an indicator on VENDEX. I don't know how you would do it. But okay great. Thank you. Could you give us a sense of significant trends that are occurring in terms of the city's procurement



1  
2 practices? And by that I mean are we spending more  
3 or less for IT services? And could you see a  
4 pattern in that increasing or decreasing, staying  
5 the same? And then along with that the role of the  
6 technology development corporation sort of having a  
7 role in the IT spending practices.

8           MICHAEL OWH: In terms of the trends one  
9 of the things that I think that we did... I don't  
10 want to pat ourselves on the back too much but well  
11 last year on the indicator report is we tried to  
12 show some of that by comparing previous fiscal  
13 years and fiscal '15 numbers. The... the thing that  
14 we ended up seeing just generally is that the  
15 procurement cycle is very cyclical.

16           CHAIRPERSON ROSENTHAL: Okay.

17           MICHAEL OWH: So because there... the  
18 contracts tend to be you know within the five year,  
19 10 year, or how... whatever the term limits are in...  
20 in terms of the contracts you'll see the awards  
21 happen within those cycles. And so one year you may  
22 have a lot of you know X industry spending or... or...  
23 or awards. But the next year you'll see a... a  
24 different type of spending. Even... even our overall  
25 numbers ... even our overall numbers last year I

1 think in FY '14 we were at 17 billion. And... and  
2 last year we were at 13.8 and so that sort of shows  
3 you how cyclical things can be.

4  
5 CHAIRPERSON ROSENTHAL: Billion or  
6 million.

7 MICHAEL OWH: Billion, sorry.

8 CHAIRPERSON ROSENTHAL: Yeah.

9 MICHAEL OWH: 17 billion. With regards...

10 CHAIRPERSON ROSENTHAL: But within that  
11 body... within that... like I totally get that because  
12 procurement is that way but within that is IT  
13 particularly... here's when... the hypothesis I'm  
14 wondering about is whether or not you know at the  
15 beginning of time as we know it from a technology  
16 point of view perhaps technology was more expensive  
17 than where it is now.

18 MICHAEL OWH: Mm-hmm.

19 CHAIRPERSON ROSENTHAL: So is it  
20 possible to see that as we move away from say  
21 customized packages that early on were incredibly  
22 expensive because we were creating the wheel, we're  
23 now at a point where we can buy off the shelf  
24 stuff. It's less expensive. Do you see that type  
25 of pattern?

1  
2           MICHAEL OWH: Nothing jumped off from my  
3 memory but we can go back and see if there's  
4 anything like that. Because that's actually a very  
5 interesting question. And those are the types of  
6 trends that we would definitely want to see if they  
7 existed. So we can go back and get back to you on  
8 that.

9           CHAIRPERSON ROSENTHAL: And similarly  
10 whether or not the technology development  
11 corporation had an impact... the work that they've  
12 done has an impact on the purchasing.

13           MICHAEL OWH: We can go back and check  
14 that as well.

15           CHAIRPERSON ROSENTHAL: Oh great. Okay  
16 thanks. Do you know... have a sense if we're spending  
17 more or less on human service contracts?

18           MICHAEL OWH: We... again I think other  
19 than the cyclical nature of the spending on human  
20 services I didn't see any trends that showed that  
21 we had more. But I can double check that.

22           CHAIRPERSON ROSENTHAL: Yeah I'd be  
23 curious to know what the mayor's emphasis on UPK  
24 for example. Although that might not come in for  
25 you because it's...

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MICHAEL OWH: So yes.

CHAIRPERSON ROSENTHAL: ...Department of  
Education.

MICHAEL OWH: Right. So...

CHAIRPERSON ROSENTHAL: Got ya.

MICHAEL OWH: ...we wouldn't see that  
spending when we report out on our indicator  
report.

CHAIRPERSON ROSENTHAL: Okay great.  
Thank you. council Member Miller do you have some  
questions.

COUNCIL MEMBER MILLER: A few brief.  
Thank you Madam Chair and thank you... for coming  
out. ...next door racing in. So could we talk a  
little bit about the process of the MWBEs  
contracting and its assistance that'll... that'll be...  
being given to those perspective contractors. And  
if so how that is being done. Do... do... is that  
responsibility solely the responsibility of... of... of  
small businesses and other agencies or what role  
does MOCS play.

MICHAEL OWH: So MOCS we provide  
reporting and technical assistance to agencies on  
the compliance. On the overall program SBS is

1 responsible for certification and they provide an  
2 array of services to MWBEs for capacity building  
3 and other types of... of... of support. We are also  
4 working very closely with SBS on the new 10-  
5 million-dollar loan fund as well as the bond fund  
6 SBS and EDC. So they're a variety of partners that  
7 we are working with and a variety of services that  
8 are... that are available and are going to be  
9 available.  
10

11 COUNCIL MEMBER MILLER: Are... are the  
12 agencies departments that... that perform better than  
13 others or are they a form... are they agencies...  
14 departments that are not performing up to par in  
15 terms of compliance. And if so what are we doing to  
16 rectify that and have you identified them?

17 MICHAEL OWH: So we have... I... I believe  
18 that under this administration we've made an  
19 unprecedented effort to drive compliance but also  
20 opportunities for MWBEs. And one of this... one of  
21 the things that the mayor did last year in July is  
22 to issue a mayoral directive so that commissioners  
23 and agencies would be required to attend to  
24 quarterly meetings with regard to MWBE performance  
25 and compliance. Are... there are definitely agencies

1 who are doing great and I think you know one agency  
2 that I've seen is DDC, one of their recent  
3 procurements that they release had a... a varied  
4 threshold for awards with the idea that having a... a  
5 one to five-million-dollar category would open up  
6 opportunities for MWBEs and other small businesses.  
7 So those type of efforts, those creative efforts  
8 are... are out there. There are other agencies that I  
9 think just because of the nature of the type of  
10 services that they offer and the type of purchases  
11 that they make, especially human service agencies  
12 where it's a little bit harder to drive up the... the  
13 actual utilization but they've been working...

14 [cross-talk]

15  
16 COUNCIL MEMBER MILLER: Do you... do you  
17 know off hand what those agencies are? Could you  
18 provide the committees with... with that information  
19 so that we could take a look at it and see if we  
20 can be helpful or the... some kind of input as to how  
21 we could have them participate at a higher level in  
22 the program?

23 MICHAEL OWH: Sure definitely. We can  
24 come back to you with that information.

COUNCIL MEMBER MILLER: And what... what... what are the total numbers... so what was your total number of... of MWBE allocations last year.

MICHAEL OWH: So...

COUNCIL MEMBER MILLER: Contracts.

MICHAEL OWH: So for...

COUNCIL MEMBER MILLER: Mm-hmm.

MICHAEL OWH: ...the 1NYC program that the mayor implemented we were able to award 1.6 billion dollars in FY '16. And we've been... we're going to be reporting on that again at the end of the year for FY '16.

COUNCIL MEMBER MILLER: And... and... and the... the more ambitious goal is to... to increase that by what 2025?

MICHAEL OWH: That's right. We... we hope to get to 16 billion... [cross-talk]

COUNCIL MEMBER MILLER: 16.

MICHAEL OWH: ...dollars.

COUNCIL MEMBER MILLER: Yes. What is the plan and how do you expect to do that?

MICHAEL OWH: So the plan is to again drive compliance to give more technical assistance to agencies to do more outreach to MWBEs, open up

1  
2 opportunities. There's also... you know one of the  
3 things that we always talk about that would be  
4 great is if we had the ability to directly contract  
5 with certain vendors above a certain threshold. So  
6 right now we have... our micro purchase limit is  
7 \$20,000. That means that those are contracts that  
8 as long as the price is fair and reasonable we have  
9 the ability to go directly to... [cross-talk] with  
10 them. That's the level of control that we have. The  
11 state for instance has \$200,000 and... and I know  
12 that's one of our big pillars in terms of strategic  
13 plan. We want to make... drive some legislative and...  
14 and regulatory change if possible. And that would...  
15 [cross-talk]

16 COUNCIL MEMBER MILLER: Excellent. Yeah  
17 that's on the council statewide agenda... [cross-  
18 talk] that was delivered to the state on Monday.

19 MICHAEL OWH: That would be... [cross-  
20 talk]

21 COUNCIL MEMBER MILLER: In... in terms of  
22 construction contract and there are certain  
23 agreements and provisions attached whether they  
24 have union involvement, fair or prevailing wages,  
25



1 training and so forth. There's... what... what would be  
2 MOCS' role in that?  
3

4 MICHAEL OWH: Are you referring to the...  
5 the PLAs that we have?

6 COUNCIL MEMBER MILLER: That is correct.

7 MICHAEL OWH: Yeah. So we were involved  
8 in negotiations. We provide against technical  
9 assistance, the agencies to comply with the PLA  
10 provisions and... and to offer advice and guidance.  
11 We also meet regularly with unions... [cross-talk]

12 COUNCIL MEMBER MILLER: Who do you have  
13 to ensure that these provisions are being adhered  
14 to? Would you have inspectors on the ground or are  
15 you obviously... how is that done?

16 MICHAEL OWH: So the PLA is actually  
17 executed by each agency. And so the agencies are  
18 responsible for specific compliance and they have  
19 inspectors.

20 COUNCIL MEMBER MILLER: And MOCS is  
21 responsible for monitoring those agencies and make  
22 sure they're in compliance.

23 MICHAEL OWH: Exactly.

24 COUNCIL MEMBER MILLER: And so how do we  
25 drop the ball on that? How do we have so many folks

1  
2 that... that there are industries with obviously the  
3 construction that that it is often a lot of wage  
4 theft and safety concerns and all the provisions  
5 that should be written in some of those contracts.  
6 I'm not so sure that in fact we know that there has  
7 been instances, there have been hearings here that  
8 indicate that they weren't being complied with. So  
9 where do we drop the ball in those instances?

10 MICHAEL OWH: So I'm not aware of the  
11 specific instances that you're referring to but I  
12 would love to have a conversation with you about  
13 how... what we can do better because you know I...

14 COUNCIL MEMBER MILLER: Okay.

15 MICHAEL OWH: ...that's exactly what we're  
16 here for, continuous improvement.

17 COUNCIL MEMBER MILLER: Okay and then...  
18 then finally I want to talk about some of our not  
19 for profits and... and those vendors... and the support  
20 I believe that in the past the there were 40 kind  
21 of mentors in certain instances to be helpful. And  
22 does... is there any such program that exists now?

23 MICHAEL OWH: Mentors for the  
24 nonprofits?  
25

COUNCIL MEMBER MILLER: For... and to kind of help them along in... in... in managing finances and programming and so forth.

MICHAEL OWH: So the mayor is very interested and has prioritized leveling the playing field for especially smaller nonprofits and our community based organizations. And so we are working very closely with our agencies to roll out more support systems like the one that you're talking about.

COUNCIL MEMBER MILLER: Specifically, is MOCS doing anything to... to assist these not for profits and some... [cross-talk]

MICHAEL OWH: We... we actually have a unit dedicated to nonprofits and I believe... I forget exactly what I said in my testimony now but we... we hand... we have a hotline where we assist with contracting issues. We... we do numerous trainings every year. We actually work very closely with the council to do that. And we're... anytime if you have specific nonprofits that you would like us to work with.

COUNCIL MEMBER MILLER: ...very specifics.

MICHAEL OWH: We would love to... [cross-talk]

COUNCIL MEMBER MILLER: And I'd... I'd love to... who heads that unit?

MICHAEL OWH: MOCS does. And so we can... [cross-talk]

COUNCIL MEMBER MILLER: Who... who's the person in charge?

MICHAEL OWH: Well you can come to me or we can talk to Jenny Way who is our associate director.

COUNCIL MEMBER MILLER: Oh... Jenny Way.

MICHAEL OWH: Yeah.

COUNCIL MEMBER MILLER: Okay thank you.

MICHAEL OWH: Alright.

COUNCIL MEMBER MILLER: Alright thank you Madam Chair.

CHAIRPERSON ROSENTHAL: Sure. I actually just want to follow up on one of Council Member Miller's questions which I had never thought about before which is this notion of in the construction contracts DDC is very successful in breaking them down into smaller projects so MWBEs can have a higher success in winning those contracts. But it

1 is an interesting idea to think about it for human  
2 service contracts. You know I would... I'm going to  
3 make a generalization that... at least it's true in  
4 my community, some of the smaller daycare programs  
5 have been shut out of contracting because the city  
6 is moving toward contracting with bigger agencies.  
7 And so some of the smaller groups that are MWBEs  
8 are getting shut out. And I wonder if we couldn't  
9 think about the human service contracts the same  
10 way as we do the bigger construction ones.

12 MICHAEL OWH: We would love to talk to  
13 you about that.

14 CHAIRPERSON ROSENTHAL: Does that make  
15 sense?

16 MICHAEL OWH: Yes, completely. And  
17 that's actually some of the feedback that we've  
18 received.

19 CHAIRPERSON ROSENTHAL: Okay.

20 MICHAEL OWH: In terms of the programs  
21 that are being designed for instance. And so we  
22 would love to talk to you more about that because  
23 we think that that's a... that's a great opportunity  
24 for increasing opportunities for smaller nonprofits  
25 and locally based nonprofits.

CHAIRPERSON ROSENTHAL: Right. I mean I can think of an exact example for an after school program where the city decided to only pick two larger vendors. And because of that in my district the two larger vendors that were picked, one was actually outside my district on the northern side. One was on the far southern tip and meanwhile this small... smaller group that could never have met the requirements that were put out there for the contracts... they're just not big enough of course was not awarded a contract. They couldn't even play. They couldn't even submit one. And that small group is critical to that small neighborhood and given some... and just to get very specific given some gang violence between two different housing projects. Even though the one a little bit north was big and lovely there's no way the kids from that area would be going north to that after school program. Their parents would never allow that to happen because it wouldn't be safe for them. So I would ask that we really do follow up on this notion because it would mean rethinking the administration's point of view on after school programs and who wins awards.

1  
2           MICHAEL OWH: I think that's a great  
3 point. And that example is exactly why we want to...  
4 we think the program design, and think about like  
5 what does it mean to have an after school program  
6 and what communities who we should be targeting.

7           CHAIRPERSON ROSENTHAL: I'm going to  
8 hold you to that conversation. Great. One second. I  
9 know three other people are taking notes and it's  
10 videotaped but somehow... I'd like to talk a little  
11 bit about local law 18, capital cost overruns. As  
12 you know local law 18 requires MOCS to provide a  
13 quarterly report of capital contracts valued at  
14 over 10 million with a contract modification or  
15 extension that exceeds the original contract  
16 maximum expenditure by 20 percent or more. First of  
17 all, how does MOCS use the cost overruns report?  
18 This was a question I asked last year at this  
19 hearing. Are there projects identified in the cost  
20 overrun report that end up being subject to  
21 increased oversight? And what do... role do you play  
22 in ensuring that that increased oversight happens?

23           MICHAEL OWH: So first of all we share  
24 your desire to ensure proper stewardship of the  
25 public funds right? And I think we all do. And so

one of the things that this law has been great for us is sort of compiling the information actually allows us to ask the questions that we need to ask about... about the overruns. Sometimes the... actually most of the time the answers are reasonable. Occasionally, we have to dig a little bit deeper in terms... to get more facts because we're not always experts at the business that the agency is running.

CHAIRPERSON ROSENTHAL: Mm-hmm.

MICHAEL OWH: And so that's also helpful just to get a little bit more context. In terms of... of what we do if we... if we find problematic... I think that's sort of your question right? Like what... [cross-talk]

CHAIRPERSON ROSENTHAL: Mm-hmm.

MICHAEL OWH: ...do we do when we find problematic increases. And I think that's really a discussion with the agency to... because at that point by the time we have the report it's a little late.

CHAIRPERSON ROSENTHAL: Yeah.

MICHAEL OWH: But we... if that... even having that discussion with the agency thinking through best practices, thinking through like what...



1  
2 what did go wrong, what went right, what are the  
3 things that we could not have anticipated even  
4 those conversations have been really helpful for  
5 us.

6 CHAIRPERSON ROSENTHAL: When would be...  
7 if local law 18 hits... captures the information when  
8 it's a little bit too late what would be... when  
9 would be the earlier time that we should be trying  
10 to capture this information?

11 MICHAEL OWH: I... you know that's  
12 something that I would have to go and think about  
13 because the process is such that we wouldn't have  
14 the information available to us until it's  
15 registered. And we can capture that information.  
16 There are definitely throughout the amendment and  
17 changeover process reviews that are occurring. And  
18 so I don't want to give the impression that... that  
19 most of these increases are problematic. I actually  
20 think that...

21 CHAIRPERSON ROSENTHAL: No I think it's  
22 a small number. [cross-talk] That's why I think it  
23 should be a sort of... it'd be useful to think about  
24 that.

25 MICHAEL OWH: Yeah definitely.

CHAIRPERSON ROSENTHAL: Because it is such a tiny number I wonder if it isn't easier to construct affects...

MICHAEL OWH: I'll go back and think about that and we'll continue that conversation.

CHAIRPERSON ROSENTHAL: And then just to line that up would you be willing as you... it's MOCS that you must have a division, some people that put together that local law 18 report.

MICHAEL OWH: Yes.

CHAIRPERSON ROSENTHAL: Would it be...

MICHAEL OWH: Plus, all of the other reports that we have, yes.

CHAIRPERSON ROSENTHAL: Yeah. Would it be possible to separate it into two sections? One section is the expectable overruns that you don't have a problem with. And those would be below the ones at top. Could you put the... the ones that raise eyebrows for you, that you're going back to the agencies about... I mean there are lots of ways to do that report. You could put an asterisk next to the ones that you're following up on. You could order them to... I don't know. [cross-talk]

MICHAEL OWH: Yeah. We... [cross-talk]

CHAIRPERSON ROSENTHAL: Is that something...

MICHAEL OWH: ...can go back and think about that.

CHAIRPERSON ROSENTHAL: Okay. ...would be interesting to do that and sort of do a retrospect, a retro look for the last couple of years and change the way it's done. Okay. Also... oh first I'm going to welcome my colleagues Chaim Deutsch from Brooklyn who always gives me good ideas on the contract process and it's a good question to ask there so watch out. I wanted to ask... do you know if the technology steering community is looking at cost overruns of current IT contracts.

MICHAEL OWH: I know that they're looking at an array of issues around IT contracts. I do not know this answer specifically but I can go back... and come back to you later.

CHAIRPERSON ROSENTHAL: And do you attend... does MOCS attend those meetings of the technology steering committee?

MICHAEL OWH: I do not attend the meetings. We provide support. We provide reports of

contracting information as needed. But I do not attend.

CHAIRPERSON ROSENTHAL: And have they to date asked you for information or support around cost overruns?

MICHAEL OWH: I do not remember if the... if the reports that they've asked for specific to cost overruns but we have provided a number of reports around IT contracts.

CHAIRPERSON ROSENTHAL: Okay. Would love to follow-up on that with you. Let's talk about local law 63 of 2011 which is the outsourcing accountability law pursuant to local law 63, agencies are required to produce a cost benefit analysis when they opt to outsource under certain circumstances since the implementation of the law the council has received just a few such analysis. Maybe seven. So a couple questions with regards to the outsourcing can you talk about what triggers agencies used to perform the cost benefit analysis and how often these reports are conducted.

MICHAEL OWH: So every time an agency makes a finding of displacement a cost benefit analysis has to be done and it has been done.

CHAIRPERSON ROSENTHAL: They issue a filing of displacement?

MICHAEL OWH: They make a finding of displacement.

CHAIRPERSON ROSENTHAL: Oh finding, sorry.

MICHAEL OWH: And to date every time an agency has made a finding they have done a cost benefit analysis.

CHAIRPERSON ROSENTHAL: How many times? Is that... is seven right?

MICHAEL OWH: I'm sorry.

CHAIRPERSON ROSENTHAL: Yeah I'm wondering how many times... [cross-talk] I had the right number.

MICHAEL OWH: I believe in fiscal '13 we had five. In fiscal '14 we have 2. In fiscal '15 we had one.

CHAIRPERSON ROSENTHAL: Off by one. I think then we're short one at our office. And we ask to work with you to find out which one it is and... and make sure we have them. And are you satisfied that all of the agencies are in compliance with local law 63.

1  
2           MICHAEL OWH: Yes, I am. I think that  
3 they work very hard to do that. I think one of the  
4 reasons that you might be seeing the low numbers  
5 are that a lot of the contracts are reoccurring  
6 like we talked about in terms of the... the cyclical  
7 nature. And so if these are contracts that happen  
8 year by year then they wouldn't result in  
9 displacement.

10           CHAIRPERSON ROSENTHAL: Hmm. Are there  
11 accos [phonetic] trained and retrained about  
12 checking the box that says finding of displacement?

13           MICHAEL OWH: Yes, they are and we  
14 provide constant technical assistance on that.

15           CHAIRPERSON ROSENTHAL: Okay great. Then  
16 I'd like to talk about local law 118 of 2005 which  
17 has to do with environmentally preferable  
18 standards. City agencies are required to meet these  
19 standards when purchasing particular categories of  
20 goods and services. I'm wondering how MOCS works  
21 with DCAS and other agencies to ensure that these  
22 standards are complied with and if you have a sense  
23 of how agencies are doing to meet those standards.

24           MICHAEL OWH: So city agencies are  
25 required to include these standards in all of their

contracts and procurements. And we... when we do our reviews we ensure that those are included before a procurement goes out.

CHAIRPERSON ROSENTHAL: Can you give me an example of a time when because of this law the agency might have changed what it purchased?

MICHAEL OWH: I do not have a specific example off the top of my head. But we can go back and see if we can get some examples for you.

CHAIRPERSON ROSENTHAL: I'd like to see one. One that's come to my attention recently is the idea of the parks department purchasing soil. And there are products out there now that have two percent of the soil being compost material. And it strikes me that would be something that would meet local law 118's requirement. I mean I'm wondering if parks has looked into that and similarly with the compostables and forks for the Department of Education and trays... whether or not that has affect their purchasing. I know DOE a little bit outside. Do you have staff that actually reviews compliance with this law?

MICHAEL OWH: Yes so our procurement review unit handles that process in terms of the

1 compliance. And we also provide technical  
2 assistance from... from our legal team as well.

3 CHAIRPERSON ROSENTHAL: Okay. But you  
4 can't think of one time when it was used...

5 MICHAEL OWH: I... I do not have an  
6 example for you off the top of my head but I will...

7 CHAIRPERSON ROSENTHAL: Okay great.  
8 We'll get them. Talking about the contract review  
9 process. So all contracts valued at more than  
10 \$100,000 must be reviewed by OMB in the law  
11 department and DOI... the vendors must be reviewed by  
12 DOI. How many of those contracts were flagged for  
13 concern in 2015? And of those how many were not  
14 registered as a result?

15 MICHAEL OWH: So I just want to go back  
16 and describe a little bit of the process. So for  
17 those contracts at that threshold level do you get  
18 MOCS review at the beginning of the process and at  
19 the award selection OMB as well as law for the... as  
20 the charter mandated for law in terms of the  
21 certification of the... the contract. When we find an  
22 issue hopefull... you know within... within a... a say  
23 solicitation we would work with the agency to make  
24 sure that the solicitation complies with what we  
25



1 think it should look like. And so I actually don't  
2 have any examples off the top of my head of... of  
3 contracts that we quote unquote rejected or we  
4 flagged and... and held back. But you know we do  
5 constantly work with agencies to make sure that for  
6 example solicitations are... are in line with what we  
7 think the best practice of the solicitation should  
8 be. And then also in the selection process that  
9 the... that the selection process went according to  
10 what we believe should have been. So...

12 CHAIRPERSON ROSENTHAL: So the way...

13 MICHAEL OWH: ...you're not going to see  
14 like sort of a pull back but you're going to see a  
15 process working through the challenges.

16 CHAIRPERSON ROSENTHAL: So the answer...  
17 Can I say it in my words to make sure I understand  
18 what you're saying that in a way the work that you  
19 do is preventative?

20 MICHAEL OWH: Exactly.

21 CHAIRPERSON ROSENTHAL: By work... your  
22 focus is on the solicitation pieces and if you... you  
23 feel that if you can get that right then the  
24 vendors who are a little more unsavory don't even  
25 get selected.

MICHAEL OWH: I... I think that's a great way to put it, that we are preventative.

CHAIRPERSON ROSENTHAL: And you think there are none that were flagged for concern. Maybe... let's ask it a different way. How many does DOI flag for concern?

MICHAEL OWH: So... the DOI... the DOI reviews are vendor specific.

CHAIRPERSON ROSENTHAL: Yeah.

MICHAEL OWH: And they look at the history of the... of the vendor and provide information to the agency...

CHAIRPERSON ROSENTHAL: Mm-hmm.

MICHAEL OWH: ...for... Then the agency takes that information and... and... and develops responsibility determination. So I... I would say... [cross-talk]

CHAIRPERSON ROSENTHAL: ...information from DOI?

MICHAEL OWH: I'm sorry.

CHAIRPERSON ROSENTHAL: Do you get that information from DOI as well to put into your procurement system or VENDEX?

1  
2           MICHAEL OWH: Yes. So DOI provides that  
3 information to the agencies through... through the  
4 system. I wouldn't say that DOI stops. They don't...  
5 they don't you know like flag it and say you  
6 shouldn't you know work with this vendor. There's  
7 no debarment in the city. However, information like  
8 that and as well as information that we you know  
9 collect from other sources like Lexus Nexus or  
10 other background check sources we use to determine  
11 the responsible vendor. And then... and there are  
12 instances... I don't have the number exactly off the  
13 top of my head but there have been instances where  
14 we have found vendors not responsible.

15           CHAIRPERSON ROSENTHAL: And then do you  
16 know how many that are identified as not  
17 responsible or below fair, I guess poor in your  
18 rating system, how many still get the contract  
19 anyway?

20           MICHAEL OWH: If they are found non-  
21 responsible they would not get that... for that  
22 particular contract they would not get that  
23 contract.

24           CHAIRPERSON ROSENTHAL: Okay.  
25

1  
2           MICHAEL OWH: I think there's a... another  
3 question about performance evaluations. And so if  
4 you get a performance evaluation of unsatisfactory,  
5 if you're an organization that gets that that will  
6 show up in your organization profile. And so that  
7 information could also be used to find the business  
8 or the organization non-responsible.

9           CHAIRPERSON ROSENTHAL: I see. And it  
10 gets tracked by MOCS because all that gets entered  
11 into the VENDEX system?

12           MICHAEL OWH: The performance evaluation  
13 database, yes.

14           CHAIRPERSON ROSENTHAL: Okay. And so you  
15 could give the same answer from the law  
16 department's point of view and OMB's point of view.

17           MICHAEL OWH: So there... OMB and law I  
18 would defer to them but they look at separate... I  
19 mean they're involved in the whole process but I  
20 think they're looking at different pieces of the  
21 process.

22           CHAIRPERSON ROSENTHAL: Mm-hmm.

23           MICHAEL OWH: So I would defer to them  
24 on exactly what they're looking at but... But it  
25

would be similar to... in terms of the process I think it would be similar to how we handle things.

CHAIRPERSON ROSENTHAL: And I mean my point just being... would something get flagged at that juncture? If OMB flags a vendor... or a law department flags a vendor. How does that get into VENDEX?

MICHAEL OWH: So I think it would work similar to how we were talking about the preventive... MOCS' role on the preventive side. I think OMB and law sort of work... that way. If there... I can see a situation where if there was litigation let's say or some other legal action that occurred that we got recorded back we would enter that into the vendor profile. That's sort of separate from the normal...

CHAIRPERSON ROSENTHAL: How many times does that happen?

MICHAEL OWH: How many times does something get entered into a vendor profile?

CHAIRPERSON ROSENTHAL: Because there's a lawsuit against that company.

MICHAEL OWH: I would have to go back and check but it... it's... it's pretty routine. Like

information that we find that we consider to be you know cautionary information we would put into the system.

CHAIRPERSON ROSENTHAL: Be interested...

MICHAEL OWH: And the agencies would also use that information even if it's not in our system. Let's say it doesn't meet that threshold of cautionary information and agencies should be doing a background check and... and... and finding certain information and addressing it in the memo or the contract documentation.

CHAIRPERSON ROSENTHAL: I would be interested in knowing how you guys track that, how it gets into your system, how often some... a flag goes in? Thank you. Can you talk about the MOCS recent expansion and what you expect to achieve with additional resources?

MICHAEL OWH: So we are portfolio and responsibilities have expanded in the past year. One of the... I think I talked a little bit about our MWBE responsibilities, some of our non-profit responsibilities as well as the over our chain procurement review that we're doing and the studies and the research and hopefully the plan that we're

CHAIRPERSON ROSENTHAL: Great. Thank you. I'm looking forward to that. And then I sort of asked this before but I'm going to come back to it a little bit for... when there are cost savings in procurement and you know it gets into the budget at \$1 value but with help from you guys there's some sort of savings in that contract so the dollar value is less. Does that get tracked in any way?

CHAIRPERSON ROSENTHAL: Yep.

CHAIRPERSON ROSENTHAL: Yep.

MICHAEL OWH: ...quickly. So that's...  
that's sort of the difficulty in terms of reporting

on that and... and making sure that the data is actually reliable.

CHAIRPERSON ROSENTHAL: Yeah although it is... [cross-talk]

MICHAEL OWH: But we would love to talk to you about how to do that.

CHAIRPERSON ROSENTHAL: Yeah it would be interesting... I mean much in the same way we've talked about MWBE is doing plan versus actual. As difficult as that is you know agencies know what their contracting cycle is. I'm not looking at percentages but just sort of we plan to do one, we did do one, you know. IT would be interesting to work with OMB to track estimate versus actual and get a sense of which agencies are good at estimating costs true, estimating well and which agencies you know not so much. And then I would wrap into it all the CPs or cost overruns, what are they called... sorry you just told me it, the change orders.

MICHAEL OWH: Change orders.

CHAIRPERSON ROSENTHAL: If there were a way to include change orders in that valuation as well. You know I think a lot of times... underbid



1 things. And then remarkably coming with a change  
2 order. The next year that gets it up to the cost of  
3 the bid that... you know the cost that they really  
4 always knew that it was going to be. I don't know  
5 if there's a way to track that.

6  
7 MICHAEL OWH: We can look into that.

8 CHAIRPERSON ROSENTHAL: Okay I just want  
9 to look... talk a little bit about your procurement  
10 indicators. The cycle time to complete the  
11 procurement process actually increased by 11 days  
12 from 100... overall from 161 to 172 I think from FY  
13 '14 to 15. Do you have a sense of which agencies  
14 are the biggest perpetrators of that increase?

15 MICHAEL OWH: I... I think we listed out a  
16 number of agencies and... and sort of their... their  
17 two... 2014 cycle times versus their 2015. So I can  
18 go back and... and check exactly what the numbers  
19 look like. The cycle time is also one of those  
20 things that I think is a great indicator to track  
21 just... just generally when you dig deeper into the  
22 numbers it's also hard to use that as the soul  
23 indicator right? And so...

24 CHAIRPERSON ROSENTHAL: Mm-hmm.  
25

1  
2 MICHAEL OWH: In terms of performance  
3 because there are so many... there are a variety of  
4 factors. One of the things that we just talked  
5 about is you know the responsibility of the vendor  
6 or... or negotiations let's say with the vendor. You  
7 don't want to put arbitrary time limits on... on  
8 things like that because it could actually limit  
9 the city's ability and position. But... but we use it  
10 and we actually... you know we actually publish it  
11 because we think it's... it's more of an aggregate,  
12 like a macro view. We should be trying to strive  
13 for faster, easier, more efficient process.

14 CHAIRPERSON ROSENTHAL: Do you track by  
15 agency? Do... do you look for patterns in the  
16 agencies? So one agency over a five year period  
17 what's the cycle time?

18 MICHAEL OWH: We can go back and... and  
19 look at that. We've... the... the data is also  
20 something that we... we've been working to refine.  
21 And so we've been concentrating on the more recent  
22 years.

23 CHAIRPERSON ROSENTHAL: Mm-hmm.

24 MICHAEL OWH: But we can... we can see if  
25 we can go back.

CHAIRPERSON ROSENTHAL: Sure. Well no... I mean three years is fine. It doesn't have to be ten but you know just start tracking that as a pattern by agency you know with the changes year to year. And then I wonder if by looking at those patterns for different agencies you could come up with a trigger that's meaningful. So at what point does an increase in the number of days perhaps as a percentage of total that it actually is a reflection of a problem.

MICHAEL OWH: Right.

CHAIRPERSON ROSENTHAL: So if there is a 10 percent increase in cycle of time you know it's not such much. But once it hits 20 or 30 percent there's actually a story going on there. I'd be interested in knowing what that trigger is and what that percentage is. Where it should raise alarm... Does it ever raise alarm?

MICHAEL OWH: On cycle times?

CHAIRPERSON ROSENTHAL: Yes.

MICHAEL OWH: I think... you know I... I can't' remember where we use that as the sole trigger but there have been things that... where people have did things that took a long time and...

and asked about you know exactly why it took that long. But I don't remember the exact... but we can talk to you about that.

CHAIRPERSON ROSENTHAL: Okay.

MICHAEL OWH: I like the idea of looking at trends and figuring out what is meaningful in the data. That is... that is something that we talk about all the time.

CHAIRPERSON ROSENTHAL: Mm-hmm.

MICHAEL OWH: And we'd love to get your thoughts on that.

CHAIRPERSON ROSENTHAL: Great. Great thank you. We also noticed that ACS and Department of Homeless Services have reduced their cycle time significantly. Do you have a sense of why that might be and how you might learn from that? Although it... also... part of that answer could be they just didn't have it... you know there in three year cycles and they didn't have as many contracts this year.

MICHAEL OWH: Right. And you know that's... those are the kind... kind of questions that we would ask agencies when we seen that kind of jump. We're continuously working with agencies. We

1 want to... we want to figure out what's happening and  
2 also what the best practices are and we want to be  
3 able to learn from a... where agencies are learning  
4 from each other so we'd be happy... we're happy to do  
5 that.

7 CHAIRPERSON ROSENTHAL: Okay. Want to  
8 talk about the council discretionary funding. And  
9 with your predecessor actually she very kindly  
10 allowed me to come to one of your monthly acco-  
11 meetings [phonetic] and stress with the accos the  
12 importance of the discretionary contracts even  
13 though they're fairly de minimis compared to what  
14 the agencies generally register. They're important  
15 to us because it's some of the smaller groups in  
16 our communities. I'm wondering... it strikes me that  
17 as we look at the... how long it takes to go through  
18 the system in my two years in office the amount of  
19 time it takes to get through the council and the  
20 amount of time it takes to get through MOCS has  
21 significantly improved and shortened. But we still  
22 have a lot of bumps when it hits the agencies.  
23 That's when it feels like it... not for everyone but  
24 for some. I mean I would say 90 percent go very  
25 well so I'm thinking about the remaining 10

1 percent, that it feels like something of a black  
2 hole. And it strikes me that if we change the  
3 process so that the contract was written before the  
4 money even went in the budget or if there was some  
5 sort of boiler plate contract that the nonprofits  
6 could use that things would go much faster for them  
7 when they hit the agencies. Is that something  
8 you've contemplated?

10 MICHAEL OWH: I think it's... it's a  
11 really good idea. And I believe that agencies have  
12 template contracts that they do work off of. I  
13 think it... it gets a little difficult in terms of  
14 the scoping of each of the projects right?

15 CHAIRPERSON ROSENTHAL: Mm-hmm.

16 MICHAEL OWH: Because they're going to  
17 be very different and depending on what the...  
18 purpose of funds is.

19 CHAIRPERSON ROSENTHAL: Do all agencies  
20 have them?

21 MICHAEL OWH: I believe so. I will go  
22 back and... and confirm... and then the... but in terms  
23 of looking for opportunities for improvement and...  
24 and trying to shorten that timeframe for those  
25 contracts I would... I think we would love to

1  
2 brainstorm with you on those. Because I think  
3 that's a great opportunity. When I... Actually I used  
4 to be in acco.

5 CHAIRPERSON ROSENTHAL: Mm-hmm.

6 MICHAEL OWH: And one of the things... one  
7 of the challenges that we had was that a lot of the  
8 groups that get the money from the council are very  
9 important community based local groups with tons of  
10 volunteers who are doing great program work but  
11 don't necessarily have the time to do all the  
12 administrative work. And one of the things that  
13 we've been thinking through is providing more  
14 support in that area for those groups. And we'd  
15 love to think through how we can do more of that.

16 CHAIRPERSON ROSENTHAL: Okay. Do you  
17 agree. Is that a fair assessment that the black  
18 hole is generally at the agencies or do you think  
19 that the council could be doing better, MOCS, or... I  
20 mean I feel like when it goes to the controller  
21 that's regulated. They have to get it out and back  
22 to the agency within 30 days. But do you think it's  
23 the agencies where it's slipping through the  
24 cracks? I mean could the agencies... here's another  
25 idea. Could they right when the contract is

1  
2 registered with the controller could the agencies  
3 send a reminder to the nonprofits to start  
4 invoicing?

5           MICHAEL OWH: That's... I believe agencies  
6 do give notices of registration to all contractors  
7 when that happens.

8           CHAIRPERSON ROSENTHAL: Or when it's  
9 sent out for registration.

10           MICHAEL OWH: We can look into that in  
11 terms of those... those notices. I would say that I  
12 agree with you that I think we've improved the  
13 council... we worked very closely with the council...

14           CHAIRPERSON ROSENTHAL: Yeah.

15           MICHAEL OWH: ...on the clearance process.  
16 And I think we've improved that tremendously.

17           CHAIRPERSON ROSENTHAL: So do I.

18           MICHAEL OWH: We've worked very closely.  
19 This year we... we've incorporated the HHS  
20 accelerator prequalification process which again I  
21 think has speed things up and actually has  
22 improved... actually allows some of those groups now  
23 to compete in bigger RFPs too which is actually a  
24 great opportunity. At the agencies I think I agree  
25 with what you said. I think 90 percent of the time



1 things go really well and relatively quickly. I  
2 think they do a great job. I think that there is a  
3 percentage that it hit bumps and we would love to  
4 spend a lot... spend time sort of figuring out what  
5 those bumps are helping that... helping smooth those  
6 out.

8 CHAIRPERSON ROSENTHAL: Would you be  
9 able to... when they come into your office would you  
10 be able to eyeball or someone in your office who  
11 regularly takes care of these... these 90 percent are  
12 going to be fine. It's these 10 percent that... that  
13 are going to have problems. And we should start  
14 handholding now or alerting the council member to  
15 start handholding or you know could you have a  
16 division of non-profits that need handholding. That  
17 would be the official title.

18 MICHAEL OWH: Right.

19 CHAIRPERSON ROSENTHAL: It's be NPHH.

20 MICHAEL OWH: We... I... I love acronyms...

21 CHAIRPERSON ROSENTHAL: Yeah.

22 MICHAEL OWH: ...so that's going to work  
23 out great.

24 CHAIRPERSON ROSENTHAL: Mm-hmm.

25 MICHAEL OWH: I...

CHAIRPERSON ROSENTHAL: That would make it seem very critical, the NPHH.

MICHAEL OWH: I don't know how easy it would be to eyeball it but we can go back and... and... [cross-talk]

CHAIRPERSON ROSENTHAL: Yeah.

MICHAEL OWH: ...figure out strategies.

CHAIRPERSON ROSENTHAL: I would hazard a guess. As I've seen in my two years it's the same agencies... the same nonprofits... struggle.

MICHAEL OWH: And we should talk about that.

CHAIRPERSON ROSENTHAL: To send them to your...

MICHAEL OWH: That would be great.

CHAIRPERSON ROSENTHAL: It'll be the first things that your NPHH works on. Two more sections of questions and then I'm down the vendor performance evaluations. And I spoke about this a little bit earlier. So in 2015 as you say MOCS processed over 7,000 performance evaluations of vendors and gave 98 percent a rating of fair or better. Two things; could you give me the

1  
2 difference between what percent got fair and what  
3 percent got better?

4 MICHAEL OWH: I don't have that on me  
5 but we can...

6 CHAIRPERSON ROSENTHAL: Or what percent  
7 got fair?

8 MICHAEL OWH: I think 98 percent... oh you  
9 mean what... within the... within the...

10 CHAIRPERSON ROSENTHAL: Within the 98  
11 percent.

12 MICHAEL OWH: ...categories we'd have to  
13 go back and... and break that up for you.

14 CHAIRPERSON ROSENTHAL: Oh okay.

15 MICHAEL OWH: But 98 percent got fair or  
16 above. We...

17 CHAIRPERSON ROSENTHAL: I guess I'm  
18 wondering if fair is good enough.

19 MICHAEL OWH: Oh fair is what we... fair  
20 is the same as like satisfactorily. So it's...

21 CHAIRPERSON ROSENTHAL: Mm-hmm.

22 MICHAEL OWH: ...you know I guess we  
23 would... to your question about... about the actual  
24 performance evaluations themselves MOCS actually  
25

doesn't complete the performance evaluations, the contracting agencies...

CHAIRPERSON ROSENTHAL: Yes.

MICHAEL OWH: ...do so.

CHAIRPERSON ROSENTHAL: Yeah.

MICHAEL OWH: We collect the information, we aggregate it and report on it but we don't do the actual monitoring... [cross-talk]

CHAIRPERSON ROSENTHAL: Right.

MICHAEL OWH: ...of the specific contracts.

CHAIRPERSON ROSENTHAL: So you were talking about this a little bit before. Just want to ask you to confirm. So if somebody gets below fair you work... you remind the accos and work with them to think about what to do and how to also get that in your system so it's flagged for next time?

MICHAEL OWH: Yeah if they get an unsatisfactory which is the lowest rating...

CHAIRPERSON ROSENTHAL: Oh right.

MICHAEL OWH: ...then that would actually be an automatic report on their profile, on the vendor's profile. So for you know contract A, vendor X, got an unsatisfactory and the reasons for

1  
2 that and some ascription would be available for  
3 agencies to check.

4 CHAIRPERSON ROSENTHAL: And how long  
5 does that unsatisfactory last on the file?

6 MICHAEL OWH: I believe it's five years.

7 CHAIRPERSON ROSENTHAL: Okay. Can the  
8 group come in using a different name or registering  
9 in a somewhat altered way? Have you ever seen  
10 groups do that?

11 MICHAEL OWH: I haven't... not on the  
12 nonprofit side because I think it would be more  
13 difficult to do so. I think VENDEX also prevents  
14 groups from trying to do that because if you share  
15 principals we would be able to see that information  
16 through the database.

17 CHAIRPERSON ROSENTHAL: Mm-hmm. Do you  
18 have a... a trigger system to capture that?

19 MICHAEL OWH: I... I wouldn't describe it  
20 as a trigger system but when you're doing the  
21 search of names you would be able to see the  
22 previous information on those names. So if like a  
23 principal was involved in something with a...

24

25

CHAIRPERSON ROSENTHAL: But if... what if the company has three principals; one of whom is in jail and you don't put in that principal's name?

MICHAEL OWH: If the... if the organization did not self-disclose that principal's... principal's name?

CHAIRPERSON ROSENTHAL: Right. So computer service specialist for example David or Ross Lapam [sp?] went to jail for his misdeeds but the company continued. And one of the problems in the DOE scandal is that that company was awarded a ginormous contract at a time limit FCC had ruled...

MICHAEL OWH: Mm-hmm.

CHAIRPERSON ROSENTHAL: ...that that individual who was in jail could not receive any DOE contracts. And one of the wrinkles was that... one of the things that happened was that company was about to be awarded the 1.1-billion-dollar contract. How would that be captured? How would that... how could the city have preempted that from happening setting aside the fact that it was DOE, although DOE is in VENDEX.

MICHAEL OWH: Yes.

CHAIRPERSON ROSENTHAL: How could the city not have been jumping up and down and spitting nickels before that vendor was selected given that the FCC had already ruled that the city could not issue a contract to that individual. That individual was gone, not on the letterhead anymore, but the company was about to get a 1.1-billion-dollar contract.

MICHAEL OWH: So again I'm not as familiar with the facts of this case as... as you are.

CHAIRPERSON ROSENTHAL: Let's pretend it's another case but the same type of situation.

MICHAEL OWH: And would the individual be a principal of the company?

CHAIRPERSON ROSENTHAL: No because they're in jail.

MICHAEL OWH: But the... the case or the information about the past performance of the company should be connected to that company. And in that hypothetical I think the agency would... If... if the vendor was... was up for the award the agency would review that information, speak to the

company, do its due diligence, do other background checks and... and... [cross-talk]

CHAIRPERSON ROSENTHAL: But MOCS would hypothetically never know about that because you guys don't have a trigger for that. It's in the verbiage, in the paragraph. It's not like it's you know red flag because a member of this company who's no longer with them went to jail.

MICHAEL OWH: Oh you mean if... if... if that vendor was getting a contract award do we get like a... a notice...

CHAIRPERSON ROSENTHAL: Yeah.

MICHAEL OWH: ...saying that that... [cross-talk]

CHAIRPERSON ROSENTHAL: Yeah because I understand the agency might talk to the company and say you're not affiliated anymore with this guy are you and they say no and they get the contract anyway but MOCS has never had a chance to know that conversation just happened.

MICHAEL OWH: That type of trigger doesn't exist right now but we are in close communication with the agencies constantly on issues like this. And so it's...



CHAIRPERSON ROSENTHAL: Over the last year how many times has that situation arose to your knowledge?

MICHAEL OWH: Where there's a... a question about the vendor's integrity?

CHAIRPERSON ROSENTHAL: Yeah.

MICHAEL OWH: I don't know the number but I know we get frequent questions on it and we do discuss it with the agencies.

CHAIRPERSON ROSENTHAL: Over a dozen?

MICHAEL OWH: I... I don't want to speculate on the number but I... it... it happens relatively... I mean I don't want to say it happens often but it happens enough that we... we work with... the agencies know that they can come to us with questions like that.

CHAIRPERSON ROSENTHAL: Right no DOE never came to you because they're non-mayoral I guess.

MICHAEL OWH: That's right.

CHAIRPERSON ROSENTHAL: So do you... I'm... I'm sorry to go back to this. I'm like a dog with a bone. But do you know if in the new DOE procurement system if that were to happen again they would have

1  
2 to come to you to discuss hey what do we do about  
3 the fact that we're about to issue a contract to a  
4 company where...

5 MICHAEL OWH: Yes and... and DOE you know  
6 has been working very closely with us on developing  
7 that dialogue and the process to bring... to bubble  
8 up some of these issues and we've been talking with  
9 them... [cross-talk]

10 CHAIRPERSON ROSENTHAL: What... could you  
11 envision in your new procurement system that you're  
12 developing something that would be more  
13 transparent? So for example that should anything  
14 like that happen where one of the principals goes  
15 to jail is no longer listed as a principal. That  
16 instead of that being described in the verbiage  
17 there would be some sort of red flag. And then you  
18 could off the top of your head know oh yeah we have  
19 10 vendors right now who have a red flag. So we  
20 know whenever an agency is... is contracting with  
21 that vendor we reach out to them.

22 MICHAEL OWH: So we... we are definitely  
23 looking into more opportunities for transparency  
24 and visibility within the process. I do want to be  
25

careful with the red flag designation because I think there might be some legal barriers there.

CHAIRPERSON ROSENTHAL: Uh-huh.

MICHAEL OWH: Because we do not do debarments. And so we don't want to have...

CHAIRPERSON ROSENTHAL: Right.

MICHAEL OWH: ...situations that could be interpreted as such.

CHAIRPERSON ROSENTHAL: Uh-huh. So I'm less interested in... although this doesn't answer your question. I get it but it strikes me there has to be a legal way around it. And I'm less interested given the fact that it automatically some cases automatically become an unsatisfactory right? How could it have been possible for the CFS situation to have become unsatisfactory in your system. And if not a red flag I would ask your legal division to go back and think hard about that because I don't care so much as transparency to the public. But I would want to know it's transparent to you.

MICHAEL OWH: ...contracting office...

[cross-talk]

CHAIRPERSON ROSENTHAL: Because you have so many contracts. And I don't know how you can even with your increased staff capture that.

MICHAEL OWH: I... I... and I... I also want to just clarify that the unsatisfactorily again is the performance evaluation on the contract itself that's determined by the agency.

CHAIRPERSON ROSENTHAL: Sure but I would imagine...

MICHAEL OWH: But there are... Oh sorry go ahead.

CHAIRPERSON ROSENTHAL: What? No you go, I'm sorry, Michael.

MICHAEL OWH: Oh no the... the... the information that we were describing in terms of the cautionary information that does show up on the vendor profile. That should be there. I believe that we... I'll go back and... and take a look at it because I think you're... you're suggestions and your... and your recommendations are actually things that we do talk about.

CHAIRPERSON ROSENTHAL: If you have them in a cautionary category does that mean that you

could pull out all the... all the vendors that are in the cautionary category?

MICHAEL OWH: And... and report on those.

CHAIRPERSON ROSENTHAL: And so we won't talk about a red flag. We'll talk about cautionary which is yellow so that it's a yellow flag so that you would know... because in this situation given that the guy went to prison I would hope that in the write up it said hey we had a great experience with this company. They provided what we needed. By the way they stole 200 million dollars from the city and the guys in prison. We're going to give them a fair review. How do you preempt... how do you make that not happen? And I don't know it just strikes me... we're always thinking about how to stay one step ahead of these people who always figure out ways to rip off money.

MICHAEL OWH: No I think it's a very good discussion to have. We'd be... definitely be open to talking through some of... some of these ideas with you. And... and you know I agree that having that transparency to not just MOCS but also the contract agencies like in an aggregate way so everyone has access to that information, all the

contracting agencies regardless of whether or not you're... you have that contract. I... we share that goal too.

CHAIRPERSON ROSENTHAL: So a year ago when I was getting a VENDEX training I asked to see the page for the computer software specialists. And on that page there was no indication in terms of a red flag. But in the verbiage it did say this firm was problematic. But the DOE contracted with them anyway and to this day in their most recent contract about this particular system. They do have a contract with that company. If I were MOCS I would want to know what makes that company so unique in what they do so that there's not a low cost responsible counterbid. Just given the magnitude of the history on this one... yeah I'm still I think traumatized by that whole event. And I think the city should be too. I mean it was a hundred... eventually it was 165 million. I always forget the exact number. But it was... it was a lot of after school programs that aren't being funded now by the city that was the value of that possible cost overrun. And had it gone through in the first instance it would have been a 1.1-billion-dollar

1  
2 budget that no one would have ever looked at again  
3 contract.

4           MICHAEL OWH: And I would... I'm going to  
5 go back and look more closely at that one because  
6 again I wasn't involved.

7           CHAIRPERSON ROSENTHAL: You're... you're  
8 very kind to let me babble on. Since I guess  
9 because it's my committee I get to just ramble on  
10 it refutably. So sorry about that. Last set of  
11 questions. On the VENDEX questionnaires review time  
12 in FY '15 there were over 12,000 VENDEX  
13 questionnaires submitted with an average review  
14 time of 23 days. For those submissions where an  
15 agency informed MOCS of an imminent award what was  
16 the average review time in FY '14. And do you have  
17 a sense of this review time or if you're working on  
18 this review time to go faster, slower, or whatever.

19           MICHAEL OWH: So last year was the first  
20 time that we reported on this indicator because  
21 again we thought that there was value in being  
22 transparent about the work that we're doing and...  
23 and... and figuring out how we could do better.

24           CHAIRPERSON ROSENTHAL: Mm-hmm.  
25

1  
2           MICHAEL OWH: We... it actually did take a  
3 lot of work to get to... to do the... to do the cycle  
4 time last year and so we are definitely open to  
5 doing previous years and then we're also planning  
6 on doing it again this year in terms of showing our  
7 cycle time for FY '16. And so hopefully that'll  
8 show us some trends... Again exactly what you're...  
9 you're talking about looking for either improvement  
10 or maybe you know what is the data telling us,  
11 that's sort of the big question.

12           CHAIRPERSON ROSENTHAL: Yeah. I mean I  
13 guess at the end of the day given how much time it  
14 would take to figure it out I'm more interested in  
15 going forward. Like just sort of hearing what you  
16 think the number is, do you have a sense of what  
17 the number will be this year? [cross-talk]

18           MICHAEL OWH: Or if I could see...

19           CHAIRPERSON ROSENTHAL: Nine months into  
20 it.

21           MICHAEL OWH: I do not. I do not have a  
22 sense yet. But...

23           CHAIRPERSON ROSENTHAL: Okay.

24           MICHAEL OWH: ...we... we have already  
25 started working on a lot of these things to be



published soon. And so hopefully when you see the next indicator report it'll be side by side FY '15 FY '16.

CHAIRPERSON ROSENTHAL: Terrific. Thank you so much. Do you have any additional questions for me?

MICHAEL OWH: ...thank you so much for inviting me. I appreciate the opportunity.

CHAIRPERSON ROSENTHAL: Terrific. I really appreciate your help. I appreciate your hard work at MOCS.

MICHAEL OWH: Thank you.

CHAIRPERSON ROSENTHAL: Thank you. Bye. So I have two more. A next panel is Carlyn Cowen from the Federation of Protestant Welfare Agencies and David Ng from the Human Services Council. Looking forward to your testimony. And Director Owh are you leaving some staff to hear what these nonprofits have to... okay thank you very much. So whoever wants to start first.

DAVID NG: Good afternoon Council Member Rosenthal. My name is David Ng and I'm here to testify on behalf of... Executive Director of the Human Services Council. I want to start off with

you HSC recently published a report on the examining the closure of nonprofit organizations in New York City. And you know one of the things that we really analyze in this report is our relationship with governments right... you know nonprofits organizations are in... in fact an extension of government in providing human services to the public. And we work heavily with government but unfortunately there... there is much in the relationship that we can improve on. I know that you know the... the committee is looking to do a hearing at a later date on... on examining you know nonprofit organizations and there're challenges in contracting with this city. So I'm not going to go too much into detail on it... on it. But I do want to speak a little bit about some of the recommendations that we came up with including cross sector program collaboration. You know as providers of human services we really do understand some of the important facts about the community. And it's very important that when government designed programs or create value based payment analysis that they really do consult with nonprofit organizations in doing so. And... but unfortunately

there's not enough of that. We also want to make sure government appropriate funds... the payments of contracts and that there are on time. You know a lot of times agency contracts don't cover all... do... do not include indirect costs. And lastly we do want to emphasize the streamlining of mandates. We know there are many bad actors out there. But unfortunately you know with all these extra regulations it doesn't seem to be helping with the situation. I mean we kind of... you know why we acknowledge... bad actors by putting on more regulations and unnecessary oversight over them isn't... if it's not necessarily you know cleaning up the system then we might have to approach in a different way. There are other parts in this budget for fiscal year '17 that we also wanted to talk about in terms of contracting the city. As you know last year I actually came up before the council in advocating for a 10 percent cost of living adjustment for human service sector workers. We got a... you know... five percent... for this fiscal year and five percent for the next fiscal year. We ultimately got a 2.5 percent increase and a 11.50 wage floor and... you know while we're very thankful

1 for that it was far from what we were advocating  
2 for. But we are very grateful for... for that 2.5  
3 percent. It's the first increase in over five  
4 years. And you know what... some of the things that  
5 we're working now on is the you know making sure  
6 that nonprofit organizations are able to you know  
7 get that 2.5 percent increase as you know as  
8 expressed to the council before as expressed to the  
9 council before that process wasn't exactly smooth  
10 and... and easy for nonprofit organizations. We... we  
11 didn't know of the implementation details until  
12 much later on after the budget was enacted. Even  
13 then the process in which we had to provide  
14 information to OMB was you know very laborious and  
15 we only eight day... while it took many months for  
16 the city to come back with implementation  
17 guidelines. It... we've only given eight days to  
18 provide you know all... information on all workers  
19 and all our contracts you know. We have many  
20 organizations that have you know many contracts  
21 with... with the city and... eight days is just simply  
22 not enough. So we do want to work with the city on  
23 making sure that the implementation of COLA and you  
24 know of the minimum wage that the mayor just

1 enacted this year is done smoothly right, you know  
2 we've experienced a lot of hiccups with the COLA  
3 and we're hoping to avoid those hiccups with  
4 minimum wage. And while I'm speaking on minimum  
5 wage I do also want to talk a little bit about wage  
6 compression and spillover. We're very grateful for  
7 the mayor for putting in a minimum... a funded  
8 minimum wage for the human services sector. It's  
9 wonderful but we really didn't talk about you know  
10 the wage compression, the spillover you know for  
11 those who are making... at... you know at or close to  
12 minimum wage. It's very important that we address  
13 that because if we don't you have a huge you know  
14 issue with many of our organizations in terms of  
15 morale, in terms of career latter. So while we're  
16 grateful for the minimum wage we really hope to  
17 work with the council and the administration in  
18 looking at spillover for... for the... and forward. So  
19 you know we really do appreciate all that the  
20 council and... and the mayor has done in terms of  
21 this budget. It's a very progressive budget and a  
22 very good point to help lead the state on. But  
23 unfortunately there's also much to work on. And we  
24 hope to work closely with you on it. So thank you.  
25

CHAIRPERSON ROSENTHAL: Good afternoon.

My name is Carlyn Cowen and I'm a policy analyst at the Federation of Protestant Welfare Agencies. I'd like to thank Council Chair Rosenthal and the committee for hearing my testimony today and for your leadership on issues that deeply affect New Yorkers. In order to support Federation of Protestant Welfare agencies nearly 200 human service member agencies as well as other nonprofit and human service organizations throughout the city so that they can successfully provide the variety of critical services they deliver we urge the city council to invest in strengthening the nonprofit and human service sector with the following recommendations. Establishing a working group to implement the OMB guidance and to use this avenue as an opportunity to take up the greater issue of the real cost of providing human services in the city and continuing to work to implement the \$15.00 an hour wage floor for nonprofit workers. Nonprofit human service organizations suffered greatly from the underfunding of indirect costs. The OMB guidance issued in 2013 required state and local governments to reimburse the reasonable indirect

costs on nonprofit contracts. However thus far New York City and state have not yet implemented this guidance and their contracts are still plagued by low indirect payment rates. According to the nonprofit finance fund over half of non-profits reported indirect cost rates of nine percent or less on city contracts although federal rates range from 17 to 23 percent. Low indirect costs mean that organizations cannot successfully perform key functions such as acquiring or maintaining facilities and equipment, providing training for staff, paying living wages and providing career latter opportunities, investing in strategic planning or innovation. In order for nonprofit human service providers to deliver high quality critical services changes to the way that they contract and get paid by the city and state must reflect the true cost of human services. The OMB guidance should be seen as an attempt to right side the funding of indirect costs. FPWA urges the city to establish a working group to implement the guidance and to use this avenue as an opportunity to take up the greater issue of the real cost of providing human services throughout the city. In

order to successfully implement the OMB guidance the city should work closely with a nonprofit human services sector to determine the true cost of running a successful program and adopt a more accurate and just way of determining reasonable and realistic indirect cost rates programs. FPWA applauds the mayor for the commitment to... phase \$15.00 an hour wage floor for the city's contracted social service workforce by 2018 and thanks the city council for their support in this. This \$15.00 an hour wage floor will result in a raise for 30,000 nonprofit employees and is an important first step in ensuring a living wage for this essential workforce. FPWA works closely with the administration to implement this wage floor and we look forward to continued progress on this over the coming months. Thank you for your... for the opportunity to testify today. We hope you'll consider our priorities during this year's budget negotiation process and look forward to continuing working closely with you to ensure that nonprofits and human service organizations receive sufficient support to help them achieve meaningful results.



CHAIRPERSON ROSENTHAL: Great. Well thank you both for coming to testify today. I actually have a question that I'd like both agencies to answer. In each of your testimonies you talk about a working group to try to fix something right. FPWA talks about how a working group to figure out... if I have this right, how to implement the wage increases because OMB is stuttering a little bit. It was supposed to be implemented many moons ago when it's still not which is sort of remarkable. So that... is that what you're asking for in your working group?

CARLYN COWEN: To figure out how to implement the... the OMB guidance on the indirect rates...

CHAIRPERSON ROSENTHAL: Mm-hmm.

CARLYN COWEN: ...throughout the city and state.

CHAIRPERSON ROSENTHAL: On the indirect rates. Oh. So not for the increase in wages?

CARLYN COWEN: Those...

CHAIRPERSON ROSENTHAL: No?

CARLYN COWEN: ...those could definitely be useful as well. [cross-talk]

CHAIRPERSON ROSENTHAL: Has that been done yet? [cross-talk]

CARLYN COWEN: I think there's absolutely... I think there's absolutely room for that.

CHAIRPERSON ROSENTHAL: Has... has that bend one yet? Has... has OMB started giving agencies the money to hand out to the non-profits that should be getting the COLAS, the wage increases, career latter, not happened?

CARLYN COWEN: Not that I'm aware of.

DAVID NG: Mm-mm.

CHAIRPERSON ROSENTHAL: And what's the hiccup still that you've heard from the OMB? But you're not asking for that so you... you think that's fine. Maybe I should be asking you... [cross-talk]

DAVID NG: Yeah so the... the... the OMB stuff was... is on indirect costs and... and making sure that it's a federal guideline, making sure that you know when groups contract with different agencies that they... they pay that minimal...

CHAIRPERSON ROSENTHAL: Sure.

DAVID NG: ...cost. So that's a little bit... with in terms of the... the minimum wage and...

1  
2 and the cost of living adjustments that's with the  
3 city and with OMB and... and... and you know trying to  
4 get that carried out. In terms of that process what  
5 had happened was you know after the implementation  
6 details came out for the 11.50 wage floor and for  
7 the... for COLA you know providers were given eight  
8 days to complete the... spreadsheet outlining...

9 [cross-talk]

10 CHAIRPERSON ROSENTHAL: Yeah.

11 DAVID NG: ...all their... all their workers  
12 and programs that... and contracts that they had with  
13 other city agencies so that the city can collect  
14 that information and then therefore then begin that  
15 process in trying to allocate the 2.5 percent and...  
16 and 11.50 wage floor to each of the organizations.  
17 Through... some of our providers have... have actually  
18 been interacting back and forth with some of the  
19 agencies. And... and we've been able to move on but  
20 some have not heard since submitting that  
21 information over to OMB have not heard back at all.  
22 And... and in particular I can just point that to  
23 DYCD. You know those who have contracts with DYCD  
24 have not gotten any information what's so ever you  
25 know following... [cross-talk]

CHAIRPERSON ROSENTHAL: Wow.

DAVID NG: ...the submission of data.

CHAIRPERSON ROSENTHAL: So let me... can I say this back to you to make sure I understood what you just said? Some nonprofits have already started seeing the money, the additional funds trickle into their budget?

DAVID NG: No. We haven't seen any money...

CHAIRPERSON ROSENTHAL: Oh.

DAVID NG: ...come in.

CHAIRPERSON ROSENTHAL: No one has?

DAVID NG: But At least... No, not to my knowledge. But at...

CHAIRPERSON ROSENTHAL: But at least there's been communication.

DAVID NG: Right and... and trying to get... get...

CHAIRPERSON ROSENTHAL: Ah.

DAVID NG: ...to that point. But... but there are also organizations that have... although they've submitted information into the system have not heard back any information, not no follow-up,

no request for additional documentation. And... and we're still trying to get answers as to why.

CHAIRPERSON ROSENTHAL: Great. Could you... could I trouble you to send me a letter about that.

DAVID NG: Okay.

CHAIRPERSON ROSENTHAL: Feel free to see... see the administration.

DAVID NG: Mm-hmm.

CHAIRPERSON ROSENTHAL: But it sounds like you have some anecdotal evidence but if you have any numbers... if you could say you know from the small sample we've talked to we think that X percent are in communication with OMB and Y percent are not.

DAVID NG: Mm-hmm.

CHAIRPERSON ROSENTHAL: You know haven't even gotten to first base with them. That would be very helpful.

DAVID NG: Great we'll... we'll be happy to... [cross-talk] ...your office on that.

CHAIRPERSON ROSENTHAL: Because I would then use that letter and send it to the administration and let them know that that's the

question I'll be asking OMB at the next OMB hearing.

DAVID NG: That would... that would be very helpful to have a little more information on that. So thank you.

CHAIRPERSON ROSENTHAL: So let me get back to my question though. And that is human... so FPWA is looking for a working group to talk and learn about indirect costs. Got it. And... but HSC is talking about an initiative that would look at the risks of nonprofits doing business with the city. So two different...

DAVID NG: Mm-hmm. Those are...

CHAIRPERSON ROSENTHAL: ...working groups.

DAVID NG: That working group is on the OMB guidance and this is a different commission to examine you know... [cross-talk]

CHAIRPERSON ROSENTHAL: Okay.

DAVID NG: ...the relationship with... [cross-talk]

CHAIRPERSON ROSENTHAL: I would be interested in more information about that initiative. I don't think I've seen it.

DAVID NG: Okay.

CHAIRPERSON ROSENTHAL: And similarly I would be very interested. I... I thought I read through your report but probably not in enough detail. But in the... the notion of streamlining of the mandates I would be very interested in seeing any examples you have. I guess that feeds right into your initiative that you have.

DAVID NG: Mm-hmm.

CHAIRPERSON ROSENTHAL: But it... as a piece of it do you list examples of mandates that are silly?

DAVID NG: Not in the report itself but you know I've spoken to your office about possible... when... during when we do do the hearing to examine the relationship between nonprofits and... and city contracting that we might have the opportunity to organize... in which we can possibly bring those examples...

CHAIRPERSON ROSENTHAL: Okay.

DAVID NG: ...to the council's attention.

CHAIRPERSON ROSENTHAL: Okay.

DAVID NG: Mm-hmm.

CHAIRPERSON ROSENTHAL: Alright so from what I've said back to you I already understand the

1 cost of living adjustments that need to happen. I  
2 understand the minimum wage issues. I was  
3 interested actually in the FPWA testimony. You  
4 didn't mention the career latter. The money... the  
5 city had put money in the budget for the 11.50 per  
6 hour wage floor but they also put money in for the  
7 career latter. I haven't heard back from them about  
8 anything they've done in regards to that. Have you?

9  
10 CARLYN COWEN: We haven't either.

11 CHAIRPERSON ROSENTHAL: So that was  
12 money put in for this fiscal year. And you haven't  
13 heard that it's been allocated to anyone or...

14 CARLYN COWEN: We haven't.

15 CHAIRPERSON ROSENTHAL: ...what's  
16 happening with it? Okay. Hang on I'm writing down  
17 notes again. Okay so in my follow-up letter to the  
18 administration my thought... I think my takeaway from  
19 what both of you are saying... tell me if I've got  
20 everything is I'm going to ask about the career  
21 latter. I'm definitely going to ask about the 11.50  
22 and then obviously going up to the 15.00 sort of  
23 where they are and you're going to send me a letter  
24 to help me figure that out. It's two things. Third  
25 is setting up a working group on the indirect costs



1  
2 which I think is great. And fourth is a working  
3 group to look at the streamlining of the mandates  
4 not... initiative... Have I heard everything you guys  
5 have said are... as to what my marching orders are?

6 DAVID NG: Yes, thank you.

7 CARLYN COWEN: Correct. Yes, thank you  
8 very much.

9 CHAIRPERSON ROSENTHAL: Okay I just...  
10 I'm... I was serious. I didn't want to miss anything.  
11 Alright thank you so much for your testimony. I'm  
12 really excited to be working with you over the next  
13 few months in particular. But as always you guys...  
14 both your organizations are so helpful and so  
15 informative I really enjoy working with you. So I  
16 thank you for that. And with that I'm going to  
17 thank John Russel... [off mic] Eric Braverman  
18 [phonetic] Bernstein who I always want to say  
19 Braverman, I don't know why, Casey Addison, [on  
20 mic] Sarah Malory who helped prep for this hearing.  
21 And I would like to recognize Council Member Rory  
22 Lancman who I came to... I know came here to ask the  
23 last and most pressing interesting question at this  
24 time before... this is the last moment. Yeah.

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COMMITTEE ON CONTRACTS

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COUNCIL MEMBER LAN COUNCIL MEMBER AN:

Yeah. Are you now or have you ever been a member of  
the communist party?

[laughter]

CHAIRPERSON ROSENTHAL: And with that  
I'll this hearing to a close. Thank you so much.

[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. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date April 15, 2016