

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

JOINT COMMITTEES ON EDUCATION AND CONTRACTS

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April 1, 2009
Start: 1:10pm
Recess: 4:45pm

HELD AT: Council Chambers
City Hall

B E F O R E:
LETITIA JAMES, ROBERT JACKSON
Chairpersons

COUNCIL MEMBERS:

- Council Member Maria del Carmen Arroyo
- Council Member Bill de Blasio
- Council Member Gale Brewer
- Council Member Simcha Felder
- Council Member Lewis A. Fidler
- Council Member Helen Foster
- Council Member Daniel R. Garodnick
- Council Member Vincent Ignizio
- Council Member Melinda R. Katz
- Council Member G. Oliver Koppell
- Council Member John C. Liu
- Council Member Melissa Mark-Viverito
- Council Member Miguel Martinez
- Council Member Michael C. Nelson
- Council Member Domenic M. Recchia, Jr.
- Council Member Kendall Stewart
- Council Member James Vacca

A P P E A R A N C E S

COUNCIL MEMBERS:

Council Member Peter F. Vallone, Jr.

Council Member Albert Vann

Council Member David Yassky

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

Photeine Anagnostopoulos
Chief Operating Officer
Department of Education

Michael Best
General Counsel
Department of Education

David Ross
Executive Director of Contracts and Procurement
Division
Department of Education

George Sweeting
Assistant Director
Independent Budget Office

Joseph Colletti
Special Representative for Education Programs
United Federation of Teachers

Robert Troeller
President and General Manager
Local 891 of the Operating Engineers

Henry Garrido
Assistant Associate Director
District Council 37

Connie Attanasio
President of Attanasio and Associates
Head of the Ad Hoc Committee of Minority Small
Business and Women Vendors

Desmond Reid
President and Owner
Desmond A. Reid Enterprises

Genaro Bastos
President
Bastos Book Company

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

Kamal Harris
Businessperson
Source International Technology Corporation

CHAIRPERSON JACKSON: Good

afternoon and welcome to today's Joint Oversight Hearing of the Education and Contracts Committee on the Department of Education's contracting and procurement process. And before I begin my opening statement, I'd like to introduce our colleagues that are present here this afternoon. Co-chairing this Joint Committee with me is my, our colleague, Letitia James of Brooklyn, the Chair of the Contracts Committee. And going down towards her right is Dr. Kendall Stewart of Brooklyn, Melinda Katz of Queens, Mike Nelson of Brooklyn, and Simcha Felder of Brooklyn, and to my left, Vincent Ignizio of Staten Island. [off mic "And Council Member Foster - -] Council Member Foster is chairing the Parks Committee downstairs, and Council Member Recchia was here earlier, along with all the appropriate staff of the Education and Contracts Committee are present. The DOE's purchases more good and services than any other City agency. And this year, the Department of Education plans to spend about \$5.3 billion of its \$17.8 billion budget on contracts for goods and services. The DOE's contract budget, which

1 includes all of the Department's contract for
2 services, like bussing, professional development,
3 information technology, consulting and tutoring,
4 has grown from about \$1.3 billion in fiscal year
5 2002, to more than \$3 billion this year. The DOE
6 is not subject to the procurement provisions of
7 the City charter, nor to the purchasing rules of
8 the City procurement policy board, commonly known
9 as PPB. Instead, the State Education Law gives
10 the chancellor the authority to develop a
11 procurement policy for the City's school system.
12 Despite the changes in school governance in 2002,
13 that were intended to increase accountability and
14 transparency of the Department of Education.
15 Limited progress has been made in improving the
16 DOE's contracting process. The mayor may have
17 control of the City's schools, but the Department
18 of Education purchasing decisions are not subject
19 to the same oversight as are other City agencies.
20 Since the introduction of mayoral control in 2002,
21 Department of Education's contracting practices
22 have come under increasing criticism. The DOE's
23 growing reliance on non-competitively awarded
24 contracts, the limited opportunities for public
25

scrutiny of DOE's contracts, and the escalating costs of DOE's contracts, have all been the focus on criticism. For authority to award large, no-bid contracts, the DOE only has to seek DOE's approval. These contracts are reviewed by the Department of Education's internal Committee on Contracts, not the City's chief contracting officer, or the mayor's Office of Contract Services. Public access to contract related information has also become more limited. For instance, the Department of Education does not maintain reading rooms for the public to review documents, including contracts, as required under the Freedom of Information Law, commonly known as FOIL. FOIL requests for documents, even those filed by elected officials, are often not responded to by the Department of Education for extremely long periods; as much as two years, in some cases. This is a violation of State law, and completely unacceptable. Requests by researchers for electronic copies of contracts have also been denied. And it is a hardship to pay 25 cents per page for thousands of pages of contracts. Due to the difficulty in obtaining information about

contracts that have been awarded, critics argue that DOE contracts and agreements should be subject to the same procurement rules as contracts and agreements made by the City or its agencies, now that the DOE is under the direct control of the mayor, and that this would improve accountability and transparency. Several DOE contracting decisions have been singled out for particular criticism. These have included the Department of Education's deals with the Snapple Beveraging Group, Beverage Group, the consulting firm of Alvarez and Marcel, the \$80 million ARIS contract with IBM, the perpetually renewed student bussing contracts, and the DOE's tutoring contracts. For example, a recent column by Juan Gonzalez of the Daily News, revealed that a tutoring firm, Champion Learning Center, received \$79 an hour to tutor each student, but paid an average of only \$17 an hour to tutors, yielding an astonishing \$62 in overhead for every hour its employees spent tutoring a child. A recent publishing policy shift that led the DOE to consolidate its contracts with booksellers, into two mega contracts in order to save money, will be

2 a focus here today. The Department of Education
3 issued the new contract to two large, out-of-state
4 book vendors. As a result, many of the DOE's long
5 term vendors, many of which are locally based,
6 locally owned, and minority and women owned
7 business enterprises, commonly known as MWBEs, are
8 at risk of going out of business. The contracts
9 cited above are just several examples of contracts
10 let by the DOE, that have raised major concerns.
11 Today, we want to get greater clarity regarding
12 the Department of Education's contracting and
13 procurement procedures, particularly as they're
14 compared to the PPB rules. We will also hear
15 testimony from service providers, unions,
16 advocates, and others regarding issues and
17 concerns, as well as recommendations for improving
18 Department of Education's contracting and
19 procurement process. I would like to turn now to
20 our colleague, Letitia James of Brooklyn, the
21 chairperson of the Contracts Committee, for her
22 opening statement. Council Member James.

23 CHAIRPERSON JAMES: Good afternoon,
24 and thank all of you for coming here today for
25 this very important Joint Oversight Hearing with

2 the Committees on Education and Contracts,
3 regarding the Department of Education's
4 contracting and procurement process. In addition,
5 the Committee on Contracts is considering
6 Resolution Number 1831, introduced by Council
7 Member Katz, who you will hear from shortly,
8 calling upon the State legislature to require the
9 Department of Education to adhere, adhere to the
10 standards typically followed by other City
11 agencies, as specified in the procurement
12 provisions of the City charter when awarding
13 contracts, concessions and franchises. I'd like
14 to thank Council Member Jackson for allowing the
15 Contracts Committee to join them today. I'd also
16 like to thank the staff of all of the committees
17 for all their hard work in preparing this hearing
18 today. The DOE is the largest purchaser of goods
19 and services in the City. Though the DOE spends
20 billions of dollars each year, the agency's
21 procurement and contracting system lacks
22 transparency, as many contracting decisions are
23 made by the agency's Committee on Contracts, a
24 committee entirely made up of Department of
25 Education employees. There are no public hearings

on these contracts, and there is no other external body to effect a check and balance to ensure that the decisions to enter into certain contracts is the best value for the City. Unlike the Department of Education, procurement at mayoral agencies is more transparent, and has an effective system of oversight. As was mentioned earlier by the Chair, in 2006, the Department of Education came under intense criticism for awarding \$15.7 million no-bid, let me repeat that, a no-bid contract to Alvarez and Marshall, public sector services, a consulting firm, hired to furnish financial and restructuring advisory services. The second contract, more recently in 2007, the Chancellor announced a contract with IBM, for a data and information system known as ARIS, for Achievement Reporting and Innovation System, at a cost of \$880 million. ARIS has increasingly come under fire for programmatic delays and accessibility issues by principals, teachers and parents. In the spring of 2008, Department of Education published and RFP for trade books and related materials. Small companies, many of them are minority and women owned business and local

2 businesses, that previously did regular business
3 with the Department of Education, have complained
4 that the RFP was structured in a manner to give
5 preference to larger, larger, and might I add, out
6 of state non-WMBEs. I came upon this recently,
7 when I visited my local bookstore, and was
8 informed by the owner that the bookstore formally
9 was in contract with DOE, and in the, and that in
10 light of the RFP, and in the fact that it might be
11 losing services from DOE, would be closing. I was
12 immediately alarmed and contacted the Chair of
13 Education, so that we might have this hearing here
14 today. Unlike, aside from agency contracting
15 personnel, the mayor's Office of Contract Services
16 oversees agency procurement to ensure that they
17 follow the procurement rules set out by the
18 Procurement Policy Board. Furthermore, unlike
19 DOE, all contracts are required to be registered
20 by the City controller, who we will hear from
21 today shortly. Finally, the Council has oversight
22 not only on each of the mayoral agencies which can
23 inquire into specific contracts, but the Contract
24 Committee has oversight over the mayor's Office of
25 Contract Services. Oversight of mayoral agency

2 procurement has been thoroughly developed; though
3 there could be ways to improve upon the City's
4 procurement system, it is far more comprehensive
5 than that of the Department of Education. As a
6 result, today we consider Resolution Number 1831,
7 introduced by Council Member Melinda Katz, calling
8 on the State Legislature to require the Department
9 of Education to adhere to the standards typically
10 followed by other City agencies, as specified in
11 the procurement provisions of the City Charter,
12 when awarding contracts. I want to point out,
13 however, that we will not be voting on the
14 Resolution today, as this is the first hearing.

15 In a moment, I will call upon Council Member Katz
16 to say a few words in support of her Resolution.
17 As Chair of the Contracts Committee, one of the
18 areas that I have worked diligently on is to
19 ensure that minority and women owned businesses
20 and local businesses have access to as many
21 contracting opportunities as possible in the City
22 of New York. In the spring of last year, DOE
23 issued an RFP, which I mentioned earlier, which
24 changed the way in which they purchase textbooks.
25 They consolidated the sale of all textbooks into

2 one RFP. The manner in which the RFP was
3 constructed had the effect of shutting out all of
4 the smaller, locally based, and minority and women
5 owned businesses, in the City of New York. This
6 has had a devastating effect on small businesses,
7 with many companies, as I mentioned earlier, my
8 own bookstore, and book supplier, fearful of going
9 out of business. For years, these companies have
10 provided New York City students culturally
11 sensitive books and materials that focus on
12 special needs students, such as English language
13 learners. It is unacceptable that these companies
14 will no longer be able to provide these books to
15 the children of New York City. I thank you all,
16 again, for coming. In order to take care of some
17 housekeeping, I just want to remind everyone to
18 turn off their cell phone, put it on vibrate.
19 That everyone who wishes to testify today must
20 fill out a witness slip, which is located on the
21 desk of the Sergeant-at-Arms in the front of, in
22 the front of the room by the door. Please
23 indicate on the witness slip whether you're here
24 to testify about DOE contracting and procurement,
25 or Resolution Number 1831. To allow as many

2 people as possible to testify, testimony will be
3 limited to three minutes per person. And now at
4 this time, we've just been joined by Council
5 Member Maria Carmen del Arroyo, from The Bronx.

6 At this time, I'd like to turn it over to Council
7 Member Katz, who'd like to say a few words about
8 the Resolution that she has introduced. Council
9 Member Katz.

10 COUNCIL MEMBER KATZ: Madam Chair,
11 Mr. Chair, I thank you for this hearing, and I
12 thank you for all that you do to shed light on
13 such an important topic here in the City of New
14 York. We are facing, as everyone knows in this
15 room, extremely difficult times in our City. We
16 are asking almost every agency in the City of New
17 York, and--Madam Chair, can I--we are a--hold on.
18 We are asking every agency in the City of New
19 York, and we are asking the men and women who live
20 in this City, and our school system, our teachers,
21 our parents, to all take difficult times and try
22 to help the City get through them. And I don't
23 understand why the Department of Education should
24 be any different in these difficult times, to ask
25 for an exception on the procurement process and

2 the contracting process of this City, seems to me
3 to be something that no one should allow. Billy
4 Thompson, the Controller of the City of New York,
5 was just here. By his records alone, the
6 contracting has ballooned over the last year, one
7 in five contracts have ballooned, past costs--one
8 contract, 6,700 percent. It is amazing to me that
9 there will be allowed any exceptions to following
10 what every City agency in this City must do.

11 Madam Chair, I will tell you what I would like to
12 not hear from the Department of Education today.
13 One of the things I keep hearing is, "Well, you
14 know what? Department of Education is not truly a
15 City agency, crated by the State, so therefore it
16 doesn't have to follow the same rules." In fact,
17 in response to one of Controller Thompson's
18 audits, the Department of Education was said not
19 to adequately advertise solicitation, not to
20 adequately maintain a record of discussions with
21 potential vendors, and not to have standards for
22 evaluations. And in response, the Department of
23 Education says it basically does not have to
24 follow the guidelines that can be modified; they
25 can modify it, and they're not required to file

2 its contracts with the City Controller's Office.

3 So what I would like to hear from DOE today, Madam

4 Chair, is not why it doesn't have to follow the

5 process. What I would like to hear is why the

6 Department doesn't feel it should follow the

7 process. Whether or not the State Legislature

8 agrees with the Resolution I have, going to the

9 State or not, I hope they do, but that's not the

10 point today. The point today is that the

11 Department of Education has the authority to

12 voluntarily make itself applicable and make itself

13 adhere to the same procurement process and the

14 same contracting throughout the City of New York.

15 So I am hoping that we hear that testimony today.

16 I'm hoping that the Department of Education will

17 come up with an answer to that question. I thank

18 you for having this hearing today.

19 CHAIRPERSON JACKSON: Thank you,

20 Council Member Katz. We've also earlier been

21 joined by Miguel Martinez of Manhattan, Melissa

22 Mark-Viverito of Manhattan and The Bronx, our

23 colleague Simcha Felder of Brooklyn.

24 COUNCIL MEMBER FELDER: Thank you.

25 CHAIRPERSON JACKSON: With that,

2 I'd like to turn to the Department of Education.
3 We have three representatives. I will ask them to
4 introduce themselves, their position with DOE, and
5 whatever, whichever one would like to begin first,
6 then they may please do so.

7 PHOTEINE ANAGNOSTOPOULOS: Okay.

8 Good afternoon, Chairman Jackson, Chairman James,
9 and members of the Education and Contracts
10 Committee. Let me introduce my colleagues.
11 Michael Best, who's our General Counsel at the
12 Department of Education, and David Ross, who is
13 the Executive Director of our Contracts and
14 Procurement Division. I'm Photeine
15 Anagnostopoulos, I'm the Chief Operating Officer
16 for the Department of Education, here to speak on
17 behalf of the Chancellor. We have obviously
18 prepared testimony, but if I can for a second
19 mention that we are very much willing to entertain
20 ideas and suggestions for how we can actually
21 improve the transparency of our contracting work.
22 We feel we've done, actually, despite what others
23 in this room are saying, and others outside the
24 hall, we feel we've actually made great progress,
25 and actually are as transparent as other City

2 agencies, if you will. But we are very willing to
3 entertain your thoughts on this, in this area. If
4 I may, what I'd like to do is actually go through
5 our prepared testimony, so that we can actually
6 put the contracting and procurement process at the
7 DOE into some kind of context, if you will. And
8 then come back and answer the questions, and in
9 particular, Councilwoman Katz's proposal. And in
10 terms of why we feel, and it's not just because of
11 a legal reason, although there are legal grounds
12 for why we feel we shouldn't be under the City
13 procurement rules, but at the same time, we would
14 also like to talk operationally how it would
15 impact our school system. So if I may, I will
16 begin. The external providers are very critical
17 to supplying our schools and departments with the
18 services and materials needed to facilitate our
19 students' learning. This includes the contracts,
20 obviously, for supplies that go directly into our
21 schools, such as the textbooks, the pencils, the
22 furniture, the computers. But it also means
23 contracts for services such as professional
24 development for our teachers and our principals,
25 and support programs for our students, such as our

2 Learn to Work internships, and our special
3 education services. We actually could not operate
4 our school system without these external vendors,
5 if you will. We have contracts that are clearly
6 essential to school operations, such as the
7 bussing contracts, and the food contracts. In
8 addition, we have contracts with a variety of
9 vendors that also provide our universal pre-K
10 programs that are outside of the public schools,
11 and the tutoring for our struggling students. So
12 we take it very seriously, these are services that
13 we are very, very well aware of having to get the
14 best price and the best quality in the schools,
15 for the help of our students, for the support of
16 our students. Because this impacts what happens
17 in that classroom, it impacts the learning in that
18 classroom. So, I realize that there is a lot of
19 animosity in the room about this, but what we're
20 looking for, as people who are working to support
21 the schools, is what is best for the students?
22 Which vendors will provide the best services for
23 our kids? If you look at the Department's overall
24 budget of \$21 billion, which has increased
25 dramatically, which is why you see the value of

2 the contracts increasing dramatically. We've had
3 an \$8 billion increase in our budget since 2002,
4 and clearly you're going to see a dramatic rise in
5 the value of the goods and services that go into
6 the classroom because of that increase of dollars.
7 Right now, we spend over \$3 billion on goods and
8 services contracts annually. Of that, we spend
9 nearly a billion dollars on transportation;
10 another \$600 million on contract schools for
11 special education. We spend \$440 million on
12 professional services that go directly to
13 students; again, mainly special education.
14 There's \$230 million that go into supplies and
15 materials when you're actually trying to teach a
16 million one students. We have \$220 million for
17 books, \$150 million for food. And all of this is
18 provided by about 1,500 vendors throughout, who
19 work throughout the Department and throughout the
20 schools. Vital to the working of our classrooms
21 and the functioning of our district's operations,
22 we realize that procurement must be done
23 effectively and efficiently. It is the
24 responsibility of the Central Procurement
25 Department to ensure, as best as possible, that

2 goods and services are delivered on a timely
3 basis, and in a high quality manner. Our division
4 of contracts and purchasing, supported by both our
5 legal and finance teams, has established and
6 maintained bidding and contracting procedures that
7 garner the optimal combination of price and
8 quality. And I want to emphasize, it's a
9 combination of price and quality. We have to make
10 sure that we have the quality in the classrooms
11 for our students. The DCP has established
12 processes that decrease the administrative burden
13 on principals and offices, while providing
14 safeguards to ensure the proper utilization of
15 public funds and resources. And we'll discuss
16 each of these points below. Since the Department
17 last testified on this topic before you, and I
18 believe it was in 2006, as my understanding, there
19 have been a number of significant changes that
20 impact on the procurement process. Grounded in
21 the belief that schools can best determine what
22 meets the learning needs of their students, all
23 principals are now empowered to make a broad range
24 of decisions that were previously determined
25 centrally. The empowerment of schools represents

2 a major shift in how the schools operate,
3 affording the principals greater discretion in
4 allocating their budgeted dollars between
5 resources, determining what to purchase and making
6 other decisions that affect their school's ability
7 to perform. Our procurement procedures must take
8 into account the fact that we have 1,500 public
9 schools, each of which themselves acts, if you
10 will, as a purchasing agent. We will describe
11 later how this impacts the purchasing and
12 contracting processes going forward; but I do want
13 to mention, that is really the major underlying
14 reason for having a difference between our
15 procurement processes and those of the other City
16 agencies. When you have 1,500 different, if you
17 want to call them subsidiaries, or different
18 subagencies, if you will, that are out there,
19 what's happening is they need the flexibility
20 within accountability guidelines, to actually make
21 the purchases necessary for their students. As a
22 public school district, we must ensure that we use
23 our public funds wisely, and maintain purchasing
24 procedures that are open, competitive and fair,
25 while allowing for our offices and schools to

2 contract with the organizations that best need,
3 meet our needs in terms of price, functionality,
4 service and quality. We must provide information
5 in a transparent manner, that is readily
6 accessible to the public. In establishing our
7 procedures and reports, we are guided by the same
8 basic principals and underlay the City's
9 procurement rules. So please note that while we
10 necessarily do not fall under the City's
11 procurement rules, we do follow a large portion of
12 the City's procurement rules, and we will explain
13 where we differ. In fact, our rules and practices
14 are similar to those City agencies other City
15 agencies actually follow. The competitive
16 Requests for Proposals, known RFPs, the Request
17 for Bids, commonly known as RFBs, or lowest bid,
18 are easily our most frequently used procurement
19 methods. And our approach to conducting these is
20 quite similar to the approach used by other City
21 agencies operating under the PPB rules. We
22 advertise in the City record, we maintain lists of
23 open procurements on our website, we send
24 invitations to bid or propose to vendors on our
25 bid list, and we often affirmatively reach out to

2 the vendor community in the interests of
3 encouraging competition. We then hold pre-bid or
4 pre-proposal conferences, and then publish our
5 responses to vendor questions. We open bids
6 publicly, we have evaluation committees evaluate
7 proposals, and we make our awards public. Each of
8 these steps help ensure that the process is
9 competitive and results in the best price for the
10 best quality of services to our schools and to the
11 district. We participate in the City's Vendex
12 system and we have dedicated resources to
13 expanding the depth of background checks performed
14 on vendors who stand to receive our contracts,
15 rooting out vendors not worthy of serving our
16 students or receiving our dollars. We send
17 contracts valued in excess of \$25,000 to the
18 Controller for registration and we send contracts
19 over \$5 million to the City's Office of Management
20 and Budget for its review. Reflecting the fact
21 that each of our 1,500 schools is a purchasing
22 site, purchasing site of it's own, we've developed
23 another set of procurement practices that allows
24 for decentralized purchasing. These procedures
25 must minimize the time and effort it takes schools

2 to complete their purchases, while ensuring that
3 our schools' dollars are spent wisely and are
4 accounted for completely. To meet these
5 requirements, we initiated the use of pre-
6 qualification solicitations, or what we call PQS,
7 in order to procure professional services. PQS is
8 a competitive process that offers schools more
9 options, more meaningful competition, and greater
10 fairness than what existed before. Before we
11 established the PQS process, the Department
12 would've awarded dozens of professional services
13 contracts through a single RFP, and schools would
14 choose any one of the listed vendors without any
15 expectation that they even consider alternatives.
16 Awarded vendors would hold contracts up to five
17 years, while others were out of reach until a new
18 contract would be awarded. Notably, we observed
19 that often half or more of the vendors holding
20 these contracts were not even used. Recognizing
21 that the committees reviewing responses to these
22 RFPs were really just qualifying vendors, and that
23 the selection of a specific vendor was as it
24 should be made at the school level in these cases,
25 we strategically altered the process. Vendors

2 respond to a PQS in much the same way as they do
3 to an RFP, which follows the City rules. And the
4 evaluation of their proposals is conducted
5 similarly as well. But now schools that spend
6 over \$25,000 through these contracts, must
7 consider at least three proposals from the
8 prequalified list of vendors. We built an online
9 utility that makes it easy for schools to work
10 their way through this process, and the same
11 system actually documents their efforts. In so
12 doing, we've created a competitive process where
13 before there was arguably no meaningful
14 competition, and we've also increased the options
15 for our schools. So far, we've completed twelve
16 PQS processes. The results included the award of
17 133 arts education service contracts, 128 student
18 support services contracts, and 43 contracts to
19 promote, save and support, in support of schools.
20 So far, we have awarded 464 contracts through the
21 PQS contract process and more on the way.

22 Recognizing that the nature of the school system
23 and the time constraints of the school year,
24 sometimes requires to move more quickly than a
25 typical RFP process allows, we recently created a

2 new competitive process known as expedited
3 competitive solicitation, or ECS. This
4 procurement method allows us to conduct a
5 competitive procurement and circumstances, where
6 we do not have time to do a full blown RFP. In
7 the ECS process, we begin by publicly advertising
8 the procurement in the City record for seven days.
9 We also identify known vendors and companies who
10 may be capable of doing the work and seek
11 proposals from them. The goal is to create a
12 competitive field of proposers that the Department
13 can select from in a short period of time.
14 Proposers are, proposals are evaluated by an
15 evaluation committee, and once a vendor is
16 selected the contract is processed in the same way
17 as any other contract. We also make use of both
18 the City and, both City and New York State Office
19 of General Services contracts whenever we're
20 confident that the value offered through those
21 contracts is at least on par with what we could
22 achieve on our own. A variety of changes and new
23 initiatives have transformed contracting at the
24 Department of Education, enabling us to offer
25 greater value, more transparency and improved

2 controls. We were the first to participate in the
3 City's efforts to migrate to a new financial
4 management system, FFMS III, and continue to work
5 towards the integration of our financial systems
6 within those other cities. We issue purchase
7 orders, accept invoices and make payment
8 electronically, the latter in coordination with
9 the City's Department of Finance. These
10 initiatives also support the City's environmental
11 goals by obviously reducing the use of paper. We
12 built a catalog management tool so that the
13 school's buying experience resembles what we've
14 all grown accustomed to with things like Amazon
15 and other web-based systems, and just obviously to
16 make it much easier for our principals.

17 Similarly, we've built a portal that among other
18 things, actually provides vendors with a one-stop
19 tool for finding contracting opportunities,
20 accessing bid documents and updating company
21 information, increasing competition by increasing
22 the number of potential bidders. And I would just
23 like to stop and pause there for a second, because
24 I think it's really important. If someone is
25 interested in trying to work with the Department

2 of Education, so in terms of increasing the
3 competition, the information is out there on the
4 web, it is publicly available. There is no lack
5 of transparency in terms of what the opportunities
6 are to bid on our contracts. One can go to our
7 website right now, go to the procurement area, and
8 you'll see what contracts are available, or what
9 request for proposals are out there. We have
10 enabled the number, the schools, to save millions
11 of dollars by strategically leveraging our buying
12 power to get better pricing on a wide range of
13 commodities. Let's, I realize there's been a lot
14 of discussion already from the Council Members
15 about the trade book situation. If I may just
16 digress for one second here, we are in a huge, as
17 everyone knows, a severe budget crunch. We just
18 testified last week before the Education
19 Committee, about the size of the budget hole that
20 we have. We all know that we receive about \$459
21 million from the State now, in addition to our
22 Title I and our IDA funds. We are still going to
23 have a very significant cut at our schools, and as
24 was in the testimony to, to Chairman Jackson on
25 the Education Committee, we have upward, we have

2 cuts over eight percent for a good portion of our
3 schools. In a scenario like that, we have
4 actually gone through all of our departments, and
5 actually forced through cuts, and of all types.

6 One of the areas that we had to go to was also our
7 vendors. We have asked a large portion of our
8 vendors, and I'll have my colleague David Ross

9 speak to this later, and in the Q&A session, to go
10 and reduce their prices. We have cut vendor

11 contracts. One of the reasons that we have

12 requirements contracts--and I know that you all
13 have something in your hand now from the

14 Controller--one of the reasons that we actually go

15 to requirements contracts is so that we have the

16 flexibility that when our budgets are going under
17 severe pressure, like they are now, that we are

18 able to quickly and more easily cut back on those

19 contracts. That is actually something I, who have

20 to personally sign a lot of these contracts, look

21 for. I want a requirements contract so that we

22 have that kind of flexibility in bad budget times.

23 That's very important. Now, let's go to the trade

24 books for a second. One of the reasons that we

25 actually instigated the, implemented, if you will,

2 the new policy, was because we needed to cut back
3 as many millions of dollars as we could. And the
4 savings that we're talking about here are \$17
5 million annually. Everybody is getting hurt in
6 this budget crunch. We, nobody was out to say,
7 "Let's go after the small book suppliers."
8 Obviously, that was nobody's intention, and I
9 don't think anyone would think otherwise.
10 However, what we had to do was to go out and get
11 the best prices we possibly could for the same
12 merchandise. In the case of trade books, by going
13 to, to book suppliers, if you will, that have
14 scale, and yes they are located outside of New
15 York State, but if you can go to bookstores that
16 have, book suppliers that have scale, we can save
17 \$17 million. That's a lot of teachers, that's a
18 lot of school aides, that's a lot of books and
19 programs for the students, and that's what we had
20 to do. We had to make that trade off. So we
21 understand the impact that that has, within the
22 community, and we had to, as those who are
23 fiscally responsible for the Department of
24 Education and the schools, had to make the trade
25 off in favor of our students and the schools.

2 Sensitive to the needs of our internal clients,
3 and particularly the schools, as well as the
4 vendors we partner with, we've maintained
5 dedicated customer service lines for both.

6 Schools and internal clients call our client
7 services line and vendors call our vendor hotline.

8 Client services received over 16,000 calls last
9 year, and the vendor hotline fielded over 3,500

10 calls. We tracked the calls coming into both and

11 offer an email option as well to ensure that our

12 clients and vendors get the information they need

13 promptly. Of course, we also maintain information

14 about our procurement process, as I mentioned

15 before, on our website. So, all of this is a

16 communication effort to reach out as much as we

17 possibly can, so that all vendors or potential

18 vendors, all schools who are the users of these

19 services, have the information they need, so that

20 we can make the matches that are optimal in terms

21 of both price and quality of service. We know

22 that there has been discussion about the

23 transparency of our procurement processes, you've

24 all brought it up in the recent comments; and also

25 about our use of exceptions to the competitive

2 solicitation. Transparency and competition and
3 procurement are important values for us, so let me
4 take just a few moments to address the concerns
5 we've heard, and then at the end of the testimony,
6 I'd like to address some of the specifics, which
7 you've brought up. The Department continues to
8 seek way to become more transparent within our
9 contracting processes. We've taken several steps
10 in the last few years to make information
11 available to the public as I've mentioned, and to
12 support the vendors. We've mentioned before now
13 several times in the testimony that we advertise,
14 but here's a few specifics: a request for bids
15 over \$15,000, and our service procurements over
16 \$100,000, are in the City, advertised in the City
17 record for a minimum of seven days before the due
18 date. The typical announcement runs for 14 days.
19 We also use our website and typically post there
20 for 20 days before the due date, and our
21 prequalified solicitations remain open and can be
22 viewed on our website on an ongoing basis.
23 Finally, the results or awards that come out of
24 our procurement are also published on our website.
25 We are open to suggestions as to how much, how,

2 what other channels that we can use in terms of
3 getting out the information. We are more than
4 welcome to hear those, but at this point we feel
5 that we are pushing out the information as much as
6 we possibly can. There have been several
7 questions about the exceptions contracts, or
8 contracts not put out for competitive
9 solicitation, that have been granted for
10 professional services. Exceptions contracts
11 actually represent a very small fraction of the
12 Department's budget. Approximately one percent of
13 what we do in contracts, and less than two-tenths
14 of one percent of our total budget. And this is,
15 it's very important to actually go through the
16 data in specific, and we are more than happy to do
17 that with any council members or staff that would
18 like to do that with us. And we can actually take
19 you through these numbers later in specific. All
20 exceptions, contracts in excess of \$100,000 are
21 approved by the DOE's Committee on Contracts,
22 which was first published under Chancellor Crew in
23 1997. While we have adhered to this process under
24 Chancellor Klein, we have also worked to improve
25 its transparency. The Committee on Contracts is

2 composed of representatives from several DOE
3 departments, including the legal office, the
4 divisions of contractors and purchasing, and the
5 DOE's auditor general. The Committee reviews and
6 advises the Chancellor and all non-competitive
7 professional service procurements in excess of
8 \$100K. The Committee's agenda items, meaning the
9 procurements they're going to consider, are
10 publicly noticed in the City record for at least a
11 week before the committee meets' and all
12 procurements the Committee will consider are also
13 posted on the Department's website for a minimum
14 of seven days prior to the meeting. The results
15 of the Committee's meetings are posted as well.
16 This process has actually helped us to keep the
17 number of non-competitive procurements in check.
18 In Fiscal Year 2008, the Committee approved 87
19 exceptions contracts, of which 68 were for pre-
20 kindergarten. It is also worth pointing out, then
21 in Fiscal Year 2008, 85 percent of the dollar
22 value of the DOE's exceptions contracts, which are
23 less than two-tenths of one percent of our whole
24 budget, were awarded for things like UPK
25 contracts, which was 50 percent; extensions of

2 contracts that had originally been awarded
3 competitively; and contracts resulting from legal
4 mandates that we have to follow. And no
5 exceptions contract awarded during Fiscal Year
6 2008 had a total value of over \$5 million, even
7 including all the years of multiple year
8 contracts. So, while this is actually somewhat of
9 a juicy topic for lots of folks, when you actually
10 look at the details, there is not much here. It's
11 literally two-tenths of one percent of our total
12 budget, and over half of that goes to CBOs to
13 provide UPK services for our students. As of the
14 middle of the school year, the Committee had
15 approved only 24 exceptions contracts, of which 13
16 are for pre-K. Again, these are a small fraction
17 of our procurements, and even smaller fraction of
18 our Department's budget. Before closing, I wanted
19 to talk to you about a procurement we're actually
20 working on right now. I raise it because it's the
21 approach we're taking that highlights the
22 complexities of our environment, and how a
23 thoughtful and strategic approach to procurement
24 practices can actually have a meaningful impact on
25 our schools. Currently, we have a single contract

1 that covers all manner of computer hardware
2 purchases, as well as the servicing of that
3 equipment. It's a one size fits all contract, in
4 that all of our schools are required to use the
5 same service provider and the same level of
6 services. However, many schools have complained
7 that they felt they were paying too much, and we
8 realized that what they were paying for, why they
9 felt that was they were paying for maintenance
10 services they didn't necessarily need, but that
11 were baked into the price of the equipment they
12 were purchasing. We're now approaching the finish
13 line with two procurements that will ultimately
14 result in contracts awards to replace this single
15 contract. First, we're buying computer hardware
16 in concert with the State's Office of General
17 Services. By leveraging our buying power with the
18 State's, and by taking maintenance out of the
19 price we pay for equipment, we'll be able to offer
20 schools much lower prices than they see today.
21 Second, instead of imposing a one size fits all
22 support contract on all schools, we're offering
23 schools a choice of service options so they can
24 decide what level of services is in the best
25

2 interest of their own schools. Finally, to foster
3 even more competition and to offer more choices,
4 we will be offering each school the ability to
5 choose between one of two selected providers for
6 these different services and hardware. I can't
7 share the specifics on these new prices,
8 obviously, yet, between vendors and the like,
9 because these procurements have not been
10 completed. But I can say that what we've seen is
11 very robust competition and all indications are
12 that our schools will see attractive prices and
13 options next year. I think it's noteworthy that
14 the only clients that will not have choices coming
15 out of this procurement are the central offices.
16 We believe it's reasonable to have our central
17 procurement office, in this case our technology
18 division, making decisions on behalf of the
19 Department's administrative offices. Our schools
20 need the flexibility, however, to address their
21 individual needs, and our rules and practices
22 reflect that need. The Department is committed to
23 greater transparency and to efficiency in our
24 contracting processes. We're also committed to
25 maintaining the flexibility needed to ensure the

2 smooth and effective operation of schools across
3 the system, while providing the accountability
4 needed to ensure the proper use of public funds.
5 We believe we have made good strides and are happy
6 to hear feedback from you and the public on other
7 ways that we can improve. Changes in the DOE
8 contracting processes are not an academic
9 exercise, because through the provisions of goods
10 and services to the schools, the procurement
11 procedures directly impact on the learning
12 environment of our students. Thank you for the
13 opportunity here. We'd be happy to answer
14 questions, but if I may, I'd like to answer a
15 couple of the points that, that you all made, if
16 we could proceed.

17 CHAIRPERSON JACKSON: Sure, go, go
18 right ahead.

19 PHOTEINE ANAGNOSTOPOULOS: Okay.
20 Let's, and I will have my colleagues chime in on
21 some of these. First of all, in terms of the, the
22 area of the contracts that you mentioned, because
23 I think that's where people are, are most
24 interested, and the no exceptions contracts, which
25 you mentioned, were others that you feel that

2 they're an issue with. Let's talk about ARIS
3 first, that continues to come up in our
4 conversations. So, ARIS was actually awarded
5 through a competitive RFP process. That was not a
6 no-bid contract, that was a competitive process
7 where it was, yes, a very complicated proposal.
8 We ended up with two major bidding groups at the
9 end, but several, I forget exactly how many, but--

10 MALE VOICE: I remember how many.

11 PHOTEINE ANAGNOSTOPOULOS: Yeah, we
12 had more proposals and we narrowed it down to the
13 two. It is a large scale project for which you
14 obviously have to have very experienced companies
15 providing the services. But that was through a
16 competitive process, if you will. In terms of
17 the, the bussing contracts, Mike do you want to
18 take that one? In terms of the extension of the
19 bussing contracts?

20 MICHAEL BEST: Actually, the
21 Department has been looking at--the bussing
22 contracts as I understand it have been extended
23 without competition for something like the last 25
24 or 30 years. That's something that the Department
25 has been looking at, and in fact we recently went

2 out with a competitive solicitation for pre-K
3 bussing. We were, there was then a lawsuit
4 brought, I believe by some of the, by some of the
5 potential bidders, that they didn't feel that our,
6 our solicitation, they believe there are some
7 requirements and solicitation that were improper,
8 and we have been enjoined from proceeding with
9 that competitive solicitation. We are currently
10 appealing that decision, and you know, that's the,
11 the outcome, whether we can go forward with that
12 solicitation's going to depend on how the courts
13 ultimately rule. But this is a subject that we
14 have, we've been examining, and we have in fact
15 taken the first steps towards trying to engender
16 more competition in the, in bussing.

17 PHOTEINE ANAGNOSTOPOULOS: The
18 other, one of the other comment, comments on the
19 contracts was, in terms of the tutoring, I think
20 it's really important to note that the SES
21 providers, the Supplemental Education Service
22 provides, we are required to use a portion of our
23 Title I dollars for SES providers. The SES
24 providers are actually not approved by the
25 Department of Education in terms of their

2 services; that is done by the State. We have to
3 take the list of the providers from the State, and
4 assure that they actually meet the price that we
5 feel is reasonable.

6 DAVID ROSS: Actually the State,
7 actually the way the, the way the State law, the
8 way the federal law reads, we're required to offer
9 contracts to anybody who is certified by the State
10 as an SES provider. And I think if you look
11 outside of New York, you'd probably find very few
12 places who do anything other than just confer
13 contracts on them, based on that fact alone.
14 We've actually gone the extra mile with these
15 contractors, and sort of took a careful read of
16 the law and determined that we had at least some
17 room to maneuver and require the SES providers to
18 provide information about their cost of
19 operations. We then have that information
20 reviewed by our cost price unit in procurement, to
21 determine that the pricing is fair and reasonable.
22 And we basically tell the vendors that if we feel
23 the pricing that they're offering doesn't have
24 reasonable basis based on the cost information
25 they provide us, we will offer them a contract,

2 but we won't necessarily offer them a contract at
3 the price that they're offering, or with the, the
4 level of services they're providing. So in either
5 case, we, in many cases, have gotten vendors to
6 offer additional services for the same price, or
7 to lower their prices. And the specific case that
8 was referenced, we've actually taken a look at the
9 figures and costs presented by that company, and I
10 can't go into a lot of details, but we have
11 questions about whether the services are
12 consistent with the cost information they provided
13 us. So we will be reviewing that, that contract
14 very carefully. But I think the most noteworthy
15 thing here is that, that State licenses these
16 providers. We have to offer them a contract one
17 way or another. We can't just decide not to give
18 them contracts.

19 PHOTEINE ANAGNOSTOPOULOS: One of
20 the, I'm sorry, one of the other contract that was
21 mentioned was on A&M, and the A&M contract, I know
22 that this has been talked about it sounds like for
23 the last couple of years. But the A&M contract,
24 we spent about this, roughly \$16 million, or
25 \$15.7-8 million, that was out there for the A&M

2 contract; for which, we did actually use them to
3 come up with the savings as we restructured the
4 Department. And the savings that they actually
5 helped us develop were \$170 million, which we
6 could push out to the schools. So I would like
7 David to explain the procurement of that, but
8 there, in terms of the cost benefit here, this is
9 one where the, the actual contract itself
10 actually, basically benefitted the schools by \$170
11 million.

12 DAVID ROSS: Right. We, we--there
13 were extensive discussions with this Committee a
14 few years ago, I know, when the Alvarez and Marcel
15 contract first came up. And I, if there are
16 additional questions on it, I'll certainly answer
17 them. But without doing a complete rehash of the
18 circumstances that evolved, Alvarez and Marcel, at
19 the time the action came to the Committee, had
20 already been on the ground, on the support of
21 private funds, and it actually provided about \$5
22 million worth of services to the Department of
23 Education already. Time was of the essence, the
24 Chancellor had an interest in completely making
25 extensive changes to the school system, and, and

2 operations, and it was felt that it was just not
3 practical or possible to do an RFP or competitive
4 process, and not inhibit the ability to make the
5 reforms and changes that were needed to impose on
6 the school. Additionally, Alvarez and Marcel had
7 very significant advantages by virtue of the fact
8 that they had already been on the ground, paid for
9 with private funds. And they were already, they'd
10 already done a lot of the work, and, and, they,
11 so, the inertia behind them was already very
12 significant. It was a very unique procurement,
13 and I don't think you could find anything that
14 even remotely parallels that particular contract,
15 in any of the exceptions of contracts that we've
16 done since. So, like as Phote said, I would
17 certainly welcome people to take a look at the
18 details behind the contracts of the Committee on
19 Contracts is approved, because again, I think
20 you'd find that even if you were a critic of the
21 Alvarez and Marcel contract, you'd find it very
22 unique and without parallel since.

23 CHAIRPERSON JAMES: Interesting.

24 DAVID ROSS: Oh, yeah, the Snapple
25 contract's a little before my time. Michael

2 probably knows more about the way the initial
3 Snapple contract was done, but we are, we are in
4 the, in the final stages of planning the release
5 of a, a new request for proposals that would
6 replace that contract. It will certainly be a
7 competitive contract, it will, you know, it will
8 be handled by RFP, and the goal will be to bring
9 quality services and, and healthy beverages and
10 snacks into the schools; while at the same time,
11 you know, bring revenues as the current Snapple
12 contract does to our sports programs. So, that
13 will certainly be a competitive contract. Sorry?
14 [off mic "Did you say healthy and Snapple - - ?]
15 I guess I did. [laughter] I guess I--

16 COUNCIL MEMBER KATZ: You want to
17 restate that?

18 DAVID ROSS: And I'm not, I'm not
19 going to, well, the sentence was probably correct.
20 But again, we're going to do a competitive--Let me
21 be very clear, all joking aside, we will do a
22 competitive procurement, and that competitive
23 procurement will require that the vendor provide
24 beverages that are healthy, and particularly low
25 in carbohydrates for our, for our students. It's

2 getting a great deal of scrutiny and we're working
3 closely with the City's health department to make
4 sure that, that the beverages that are sold in the
5 schools going forward are beverages that we want
6 to have in the schools distributed to our kids.

7 PHOTEINE ANAGNOSTOPOULOS: Okay. I
8 think the, the last area to, major area to touch
9 on, is about the, why the City's rules, if you
10 will don't, would not completely work from an
11 operational standpoint with our schools. But
12 before I do that, I just want to point out, one of
13 the things that we obviously heard as we walked in
14 the door today, was about the requirements
15 contracts. And I do want to emphasize that it is
16 actually beneficial to the Department of Education
17 to have requirements contracts where we can,
18 because we can more easily control the costs of
19 those, despite what is being said. We can
20 actually more easily terminate, we can more easily
21 adjust the service levels that we get provided in
22 those contracts. And that's very, very important.
23 The other thing here to keep in mind, is we cannot
24 overspend our budget. We do not have the ability,
25 I cannot go to OMB and raise my hand and say, "Oh,

2 you know, we need, we need, you know, \$100 million
3 more for these contracts," that doesn't happen.

4 So, whereas, you may see that we have actually
5 expended more on a requirements contract than may
6 have been listed as expected in the requirements
7 contract, there are many reasons for that.

8 Whether it's the, more schools actually wanted the
9 services, it was actually successful. I mean,
10 that, that's one thing. Or we found that there
11 were more need in the school, and whether they
12 want it or not, we were providing more services
13 and more training. But it was to allow, that's
14 why you see those contracts increase. But keep in
15 mind, we could not go up above our budgeted
16 amount. So, there is a very, very big check on
17 those contracts, and that's our budget. So I
18 think it would be best if, if Mike would actually
19 explain to you the, the contracting and procedures
20 that we use relative to those at the City.

21 MICHAEL BEST: I'll, I'll try to be
22 brief. I appreciate the, I appreciate the
23 Committee's concern, and specifically the concern
24 behind Council Member Katz's Resolution in this.
25 I think that, you know, as we've, as Phote said in

2 the testimony, we share the same goals about
3 transparency, accountability and competitiveness
4 that the City's rules are premised on. The, my
5 view on the City's rules vis-à-vis the Department
6 of Education is informed very much by the fact
7 that I was, in a previous life, if you will, the
8 Director of the Mayor's Office of Contractors, and
9 al--and also, and the City Chief Procurement
10 Officer. Subsequent to that, I served as a member
11 of the City's procurement policy board and in
12 fact, so I've, I've had a lot of experience with
13 the City's rules. The City's rules, while I, I
14 have no argument with them as a general rule for
15 mayoral agencies, and have, they have many good
16 things in them. They are, however, premised
17 around a centralized procurement system for
18 agencies. Almost, virtually everything has to run
19 through an agency chief contracting officer. And
20 they're really built for agencies which, which,
21 you know, as most, virtually all mayoral agencies
22 under the charter are, they consentualize their,
23 their contracting operations in a way that allow
24 almost everything to flow through that central
25 agency chief contracting officer. Given the

2 nature of the school system and the need to have,
3 to have schools making individual purchases, that
4 framework becomes very difficult for us. And in
5 fact, specifically, in the procurement law that
6 was referenced by the chair earlier that grants
7 the chancellor the authority to create the
8 procurement policy for the schools, there's an
9 actual State law requirement that our procurement
10 policy must allow for individual purchasing by
11 schools. Because, and I think that goes back
12 many, many years, long before the mayor and the
13 Chancellor were granted control by the State
14 Legislature of the school system. And I think
15 that's a, it's a recognition of our different
16 structure and the different needs that we have, as
17 compared to a number of the mayoral agencies.
18 That said, as Phote also said, we are open to any
19 suggestions the Committee has about, about how
20 procedures related from the procurement policy
21 board rules, or other procedures, would benefit
22 the, the values that I think we share about how
23 procurement should operate.

24 CHAIRPERSON JACKSON: Finished?

25 Well, first let me, let me thank you all for

2 coming in and sharing with the Committee, the both
3 Committees information concerning this extremely
4 important subject area. And expanding on that in
5 detail on other areas in which we have raised
6 concern. Let me introduce our other colleagues
7 that are present, and then I'm going to turn it
8 over to my co-chair, Letitia James. But to my
9 left, we've been joined by John Liu of Queens, Dan
10 Garodnick of Manhattan, and Oliver Koppell to our
11 right from The Bronx, and Lew Fidler of Brooklyn,
12 and Bill de Blasio of Brooklyn, and Peter Vallone,
13 Jr. of Queens. And Melissa Mark-Viverito of
14 Manhattan and The Bronx. And I think I mentioned
15 them earlier. Yeah. And with that, let me, let
16 me turn it over to our co-chair, Letitia James,
17 for opening round of questions. And I say to our
18 colleagues, then when we move to members, we're
19 going to ask you to stay within the five limit
20 question and answer, and we'll rotate. Five
21 minutes.

22 CHAIRPERSON JAMES: Five minutes.

23 Mr. Chair, I thank you. Before I, I'm going to
24 have, defer and have Council Member Katz, who's
25 the author of the resolution go first, because she

2 has a time constraint. But let me just say this.
3 I think I've come around to supporting mayoral
4 control, but I believe that we should mend it and
5 not end it. Let me say that this area is one area
6 that should be amended because there's too much
7 discretion, too much latitude, and too much
8 flexibility, and it create room for abuse. And I
9 have witnessed that. And so, I will get to my
10 series of questions, but at this time I'm going to
11 turn to Council Member Katz.

12 COUNCIL MEMBER KATZ: Madam Chair,
13 I thank you. And just so you know, we have a
14 Resolution in to the State Legislature requesting
15 that if they do give mayoral control again, that
16 one of the things that should be dependent upon is
17 that the Department of Education is, is adhering
18 to the same standards as all the other agencies,
19 with procurement and with contracting. Thank you
20 for your testimony here today. You know, I have
21 to tell you, from listening to the testimony, it
22 almost sounds like you could agree to everything
23 that we're asking in my entire Resolution, and
24 we'd be okay. Because it's such an open,
25 transparent process already, what would be the

2 difference? But the truth is, we all know
3 different. Transparency is one thing, making sure
4 that we adhere to the same standards beforehand,
5 and before we issue the contracts, is a very, very
6 different thing. I just want to talk about a few
7 things. Number one, the fact that there's 1,500
8 public schools in the City of New York, and also
9 the fact that you talk about the fact that you
10 need flexibility in bad budget times, I'm not sure
11 why those things create an exception for the
12 Department of Education, when I guess other
13 agencies could use the same argument, right?
14 Police precincts have precincts all over the City.
15 We have Meals-on-Wheels with seniors, that just
16 happened. There were senior centers all over the
17 City, but the City took them over and forced a
18 contract centrally, which many of us were in
19 disagreement with, and said, "You know,
20 individuals can do better," but the City thought
21 that was the best thing to do. So I guess my
22 first question would be, I need a better
23 explanation as to why you are such an exception,
24 with these things, 'cause it seems to me in a bad
25 budget crisis, nobody should be the exception. If

2 you believe in the open RFP process, and if you
3 believe in open contracting, and if you believe in
4 transparency, and if you believe that the RFP
5 process is the best way to get the best bids, and
6 the best contracts, at a best cost.

7 MICHAEL BEST: I can't speak to
8 the, to the other contracts you've mentioned, I'm
9 not familiar with them, and I don't know what
10 those decisions, so I, I simply can't address
11 them. I can say this, it's, it's not a matter of
12 us, in my view, being an exception to the rules.
13 We have a different law that governs us. Now, I'm
14 not saying that that is the reason why our rules
15 should be different, which I know, I heard you
16 earlier, Council Member, about that, and what I'm
17 saying is that the, the development of the, of the
18 Department's rules has happened under a different
19 law than the one that governs mayoral agencies.

20 COUNCIL MEMBER KATZ: I know, we're
21 trying to fix that.

22 MICHAEL BEST: [laughs] I
23 understand, I understand your, your position and
24 what, and what your Resolution says. I think that
25 you're probably right that the differences between

2 what you're calling for and what how the
3 Department, for the most part, operates on
4 procurement or not, that large. And so, as I
5 said, we're open to suggestions to try to bridge
6 that gap. I do think that if, if the proposal is
7 simply to put us under the PPB rules, I do think
8 that it, I don't know if our situation is
9 different than City Meal-on--I don't know what
10 City Meals-on-Wheels situation is, I really don't,
11 so I can't make a comparison to that. But I can
12 tell you that, from the perspective of trying to
13 engender a system in which principals have
14 decision making power over their schools, in which
15 they confine the services that, within their, and
16 use their budgets in a way that will best benefit
17 the actual kids in those schools, we do need a
18 certain flexibility that having a centrally driven
19 process through an agency chief contracting
20 officer, as is current--as is required in the PPB
21 rules, it would hamper our flexibility to do that.
22 And it would ultimately result, we think, in the
23 situation where schools are go--where schools
24 would have to pay more for certain things, they
25 wouldn't have as many choices, actually, and they

2 wouldn't have as much discretion over how to spend
3 their budgets to get their right services for the
4 actual, the, the particular kids in those schools.

5 That's, but, I think we've highlighted in the
6 testimony that we do agree that the RFP and RFB
7 processes, the competitive processes are the way
8 to go, and in fact we do them very similar to what
9 every City agency does. Even our PQS process,
10 which is somewhat different than other processes
11 that are in the PPB rules, is modeled on, is
12 modeled on a, you know, on the same kind of RFP
13 idea. You know, it's just built in a way that
14 provides a lot more flexibility out in the field,
15 than a centrally driven process does. So, I don't
16 think we're quarreling with you about the fact
17 that we need to have a system that is transparent
18 and competitive, and that has safeguards and
19 oversight. We just think that, my view anyway, is
20 that the specifics of the PPB rules don't really
21 work very well for a system that's set up in the
22 way that the school system is under State law.

23 And so, if, you know, as I say, we, we have tried
24 to encompass a lot of things in our, as a, as Mr.
25 Ross said earlier, we've tried to encompass a lot

2 of things and Phote testified about the, the, you
3 know, the notice we put in the City record, just
4 like City agencies do, etc., etc., to try to
5 mirror those kinds of things that are in the PPB
6 rules. If there are things that the Council
7 believes, or the State Legislature believes we
8 should follow in addition to that, we're more than
9 open to talking about that. We have been
10 continually trying to improve that since the
11 Chancellor, the procurement process since the
12 Chancellor took over, and we believe we've made
13 strides. We're not going to tell you we think
14 we're all the way there, and we're open to
15 suggestions.

16 COUNCIL MEMBER KATZ: I wasn't
17 trying to compare Meals-on-Wheels with the
18 Department of Education. What I was trying to say
19 is that the City seems very apt to centralize
20 things that we care deeply about, as well. And it
21 seems like they're all very important, and they're
22 all extremely relevant to the men and women of the
23 City. Two other things, if I can. Controller
24 Thompson, as you know, has issued testimony and a
25 press release, regarding the issue here today.

2 And I'm just wondering if you have any comments on
3 what he has stated, which is that the Department
4 of Education has routinely let hundreds of
5 contracts costs balloon. One contract of is 6,700
6 percent. He talks about one in every five DOE
7 contract ended up, the last two fiscal years,
8 costing well over 25 percent or more. I'm just
9 wondering if you have any comments on that, since
10 he will probably testify after you.

11 DAVID ROSS: Yeah, I'll offer
12 comment on that. Unfortunately, we, we read the
13 press release on our way into the room today, so I
14 haven't had an opportunity to go look at the
15 specific contracts that are referenced in the
16 press release, so I can only speak in general. We
17 do all manner of requirements contracts, and that
18 is correct, and I think that's a reflection of the
19 way the system is built, with 1,500 independent
20 public schools. So let me offer a couple of
21 examples of where we do requirements contracts,
22 and why we think that's critically important. I
23 know in the past I've, I've read criticism from
24 the Controller's office about large overruns on,
25 on requirements contracts, and I think one of the

2 contracts that a lot was said about was in fact
3 one of these supplementary education services
4 contractors, which is the same group of contracts
5 I discussed a few minutes ago. Those contracts,
6 what, what I didn't say a few moments ago is not
7 only does the State license those providers, and
8 we're required to offer them contracts, but we
9 have no decision making authority over which
10 contractor the parents choose to serve their kids.
11 So the federal law is very intentionally written
12 so that parents choose the provider. When we do
13 contract estimates for those contracts, frankly we
14 have very little idea how much of those services
15 people are going to use. We, we use the best
16 information that's available to us, but it's very
17 limited information. If they're a new contract,
18 we use information provided by the vendors about
19 how much they expect to be providing in service.
20 When there's some experience with them, we use
21 their, their past success in marketing themselves
22 and selling their services to the parents of the
23 kids that are served. We're not even making
24 decisions about how much those contracts are used.
25 So the idea that we lack control because we, we're

2 maybe even wildly off on the contract estimates,
3 is just not--

4 COUNCIL MEMBER KATZ: So your
5 argument is you couldn't do anything about it?

6 DAVID ROSS: On those, we have no
7 effect. Now, those aren't the only requirements
8 contracts we do. We do a lot of requirements
9 contracts that provide services to schools. And
10 the, in those cases, any of our 1,500 public
11 schools are looking at the different services
12 providers, and selecting the one that they use.
13 Now, in the past that was, those contracts were
14 done by RFP; a lot of those contracts are being
15 replaced with the PQS process, but again, it's the
16 schools that are making a decision about how much
17 of those services they're going to use. So, the
18 central office, we don't necessarily know that
19 much about how much of those services people are
20 going to be using up front.

21 COUNCIL MEMBER KATZ: Well--

22 DAVID ROSS: We do requirements
23 contracts for goods and services, as well, but
24 again very often, those contracts are just tapped
25 into all over the system and particularly

2 throughout the schools, the schools themselves.

3 So, we, you, we make a good faith effort

4 estimating the contract usage on them, but we

5 don't necessarily know. Those agreements, it's

6 important to understand they're really price

7 agreements. They're agreements between the vendor

8 and us, that they're going to sell certain

9 services or goods, at certain prices, and they

10 don't specify the quantity that we're going to - -

11 COUNCIL MEMBER KATZ: But according

12 to the Controller, those prices go up and up and

13 up. I mean, apparently \$195 million was supposed

14 to be spent on 127 contracts, and in the end it

15 was like \$500 million. So--

16 DAVID ROSS: Yeah.

17 COUNCIL MEMBER KATZ: I think

18 that's the issue there, and I know that there's

19 other questions. I just have one more question,

20 though. I know there's other folks.

21 MICHAEL BEST: Could I just address

22 that very directly.

23 COUNCIL MEMBER KATZ: Right.

24 MICHAEL BEST: What the

25 Controller's looking at when he cites those

2 figures is the amount of money spent on the
3 contract. The prices in those contracts, as
4 specified in the contract--

5 COUNCIL MEMBER KATZ: Okay.

6 MICHAEL BEST: --they don't go up.
7 And in fact, in some cases--

8 COUNCIL MEMBER KATZ: I have one
9 more quick question.

10 MICHAEL BEST: --we're looking at
11 vendors that have requirements contracts and going
12 to them for voluntary price reductions in the
13 current climate. But the unit prices are what
14 they are, they don't increase. It's the, it's the
15 expenditures under those contracts that might be
16 higher than we estimated.

17 COUNCIL MEMBER KATZ: Just one more
18 very quick question, if you can limit your answer
19 to just relatively quickly, if you can, that would
20 be really helpful, there's a lot of people here.
21 There's been a lot of talk about displaced workers
22 in the Department of Education, and one of the
23 issues is the transparency of that. Outside
24 contractors, how much are we spending for it, who
25 are they displacing, how does it work moving

2 forward, how are those contractors chosen, and
3 what's the procurement process for that? So if
4 you could just talk about that for a moment, that
5 would be great. [laughter] I think, no problem,
6 just give it a second.

7 PHOTEINE ANAGNOSTOPOULOS: Yeah,
8 so, just quickly, I mean, in terms of where you
9 have, basically what you're doing is, what you're
10 talking about, I believe is where we use
11 consultants--

12 COUNCIL MEMBER KATZ: Yes.

13 PHOTEINE ANAGNOSTOPOULOS: --as
14 opposed to full time. First of all--

15 COUNCIL MEMBER KATZ: That's 600
16 consultants, if I'm not mistaken.

17 PHOTEINE ANAGNOSTOPOULOS: So, we
18 need to look at what those consultants are. A
19 large portion of those consultants are for related
20 services. They are speech therapists, they are
21 occupational therapists. We do not need them on
22 full time, to do that would be cost prohibitive.
23 So that is one reason that we do that. The second
24 thing is we have, and when we're doing large scale
25 development efforts, such as the special education

2 system, we do not, in fact, I would not let our
3 technology department bring on additional full
4 time employees. It would not be a wise use of our
5 funds, going forward after the first, you know,
6 eight months of production development work was
7 done. So we will use them where we know there is
8 a short term project that has to get finished.
9 So, we are also--

10 COUNCIL MEMBER KATZ: How are they
11 chosen?

12 PHOTEINE ANAGNOSTOPOULOS: How are
13 they chosen? We actually do those through
14 competitive bids. We actually have that going
15 through that. The other piece to note, that is,
16 on the DIT side, where you did see a lot of
17 consultants, we have actually gone through a
18 massive number of consultant conversions. So we
19 are actually saving dollars. They were forced,
20 they either were chosen because they did a great
21 job for us, to be offered a full time job. Some
22 took it, some didn't because of the price
23 differential, but we do, we are converting the
24 consultants where we found that they're, they're
25 full time. It is a very good point. Where

2 they're full time, we're putting them in as
3 people.

4 COUNCIL MEMBER KATZ: I thank you,
5 Mr. Chair, Madam Chair. I would like to see from
6 the Department of Education as a follow up, how
7 many employees were displaced at the Department of
8 Education in order to hire these outside
9 consultants, how much money is ostensibly being
10 saved because of it, and how many folks are not
11 working because of it. I thank you very much. I
12 need to chair a meeting across the street that one
13 of my colleagues has done for me for the last
14 hour, so I appreciate you yielding to me on the
15 questions, thank you.

16 CHAIRPERSON JACKSON: Well, without
17 a doubt we, we understand that you were supposed
18 to be over there, so clearly, you know, since you
19 are the prime sponsor of the Resolution, you
20 deserve your time. We've also been joined by
21 Jimmy Vacca of The Bronx, down there way down to
22 the right, and Council Member Gale Brewer of
23 Manhattan. Where are you, Gale?

24 COUNCIL MEMBER BREWER: Right here.

25 CHAIRPERSON JACKSON: All the way

2 down to the left. Our colleague, Letitia James,
3 the co-chair and chair of the Contracts Committee.

4 CHAIRPERSON JAMES: Thank you. The
5 policy behind the City's procurement rules, as
6 established by State law, basically seeks to
7 ensure fair and competitive contract awards to
8 reputable vendors. As you know, there's rules for
9 small purchases, there's rules regarding
10 competitive sealed bidding, there's rules with
11 regards to competitive sealed proposals, there are
12 some negotiated acquisition, there's rules with
13 regards to sole source procurement, there's
14 factors that should be taken into consideration,
15 financial resources, experience, satisfactory
16 record of performance, business integrity, whether
17 or not you're a local business; there's rules with
18 regards to WMBE, minority and women business
19 enterprises; and there's a public hearing,
20 particularly on contracts exceeding \$100,000 in
21 value. Again, all of those requirements are, seek
22 to ensure a fair and open process. If those
23 processes, if that works for all other City
24 agencies, why can it not work for the Department
25 of Education? Or why does it not work for the

2 Department of Education?

3 MICHAEL BEST: There, there are
4 certainly some of the specific things that you
5 mentioned are, are not in our procedures, but I
6 think what's important to understand is that by
7 and large the processes that we're following, the
8 principals that we follow in assuring that there's
9 transparency in our procurement process, and
10 fostering competition, are very much embedded in
11 our, in our philosophies and approach to conducting
12 our procurements.

13 CHAIRPERSON JAMES: Several stu--Go
14 ahead.

15 MICHAEL BEST: Well, I mean, you
16 know, we have to get really, you know, granular
17 about the specific requirements of the PPB rules
18 and what parallels exist in our rules, and why
19 they're different, to, to really give an, a
20 reasonable answer.

21 CHAIRPERSON JAMES: Several
22 students at Columbia Graduate School of Journalism
23 have set up a website and a blog to report on the
24 investigation of sole source contracts awarded by
25 the Department of Education. The students stated

2 that they have filed a Freedom of Information
3 request to view contracts, and have experienced a
4 long response from the Department of Education.
5 The students also declare that DOE does not
6 maintain reading rooms for the public to review
7 documents, including contracts, as required under
8 FOIL. They also report that their requests for
9 copies of contracts, unfortunately, have been
10 denied. They basically say that it's infeasible
11 for them to pay for the contracts, and they say
12 that there is, as far as they know, there has not
13 been any public hearing with respect to contracts.
14 You talk about transparency, but yet students at
15 Columbia University, unfortunately have not been
16 able to get any information with regards to these
17 contracts. If it's, if these students are having
18 difficulty, I would image the viewing public has
19 the same problems.

20 MICHAEL BEST: I can't speak to the
21 accuracy of what the Columbia students are
22 writing, as I have not read that blog, and I don't
23 know specifically what they're talking about. I
24 can tell you, I will certainly look into whether
25 there are any pending FOIL requests, and whether

2 they're overdue, and try to expedite them if
3 they're, if our records access officer hasn't
4 gotten back to them. But we do get a lot, we give
5 out a lot of contracts through the FOIL process
6 every year. And you know, as far as the copying
7 costs go, I'd simply say that the State law
8 provides that there's a, you know, we can charge a
9 25 per page copying cost of, for FOIL requests.
10 We often do, simply because the--we get many,
11 many, many FOIL requests and it costs us a lot of
12 money to process them, and including the supplies
13 and the photocopiers and everything else, and we
14 need to pay for that. And since State law
15 specifically says that we can do that, we do it.
16 That said, it's not an attempt to prevent anyone
17 from getting the information, and I will certainly
18 look into any request by the Columbia students to
19 see what the status of those are.

20 CHAIRPERSON JAMES: Currently,
21 there's a law in the City of New York, as it
22 relates to increasing the number of opportunities
23 for local and minority and women owned businesses.
24 Does Department of Education have a similar
25 policy, and if so, and if so, if you have a

2 policy, why does it, why did it not apply to the
3 contract for textbooks? And if you could provide
4 for me the number of local businesses, minority
5 businesses and women owned businesses, that
6 Department of Education currently contracts in the
7 City of New York, that would be greatly
8 appreciated. If you have that information with
9 you now, if you could speak to it, I'd appreciate
10 that as well.

11 DAVID ROSS: Don't have that
12 information handy today, but let me speak to the
13 other - -

14 CHAIRPERSON JAMES: [interposing]
15 Do you have any percentages on how many women,
16 minority or local businesses you contract with?

17 DAVID ROSS: I don't have that
18 handy today, but we'll, we'll get you that
19 information. What I can say is that for contracts
20 over \$100,000, we require an affirmative action
21 plan. And--

22 CHAIRPERSON JAMES: What does, what
23 does that mean?

24 DAVID ROSS: Well, you want to
25 describe more in detail, Mike?

2 MICHAEL BEST: It, that, that's
3 actually about every company that we contract with
4 over \$100,000, our Office of Equal Opportunity
5 will review the contract before it's approved to
6 ensure that they have an affirmative action plan
7 and an equal employment opportunity policy--

8 CHAIRPERSON JAMES: Can you think
9 of any minority or women owned business off the
10 top of your head, that you do currently do, do
11 have contracts with, that are over \$100,000,
12 currently?

13 MICHAEL BEST: I don't know that, I
14 don't know the particulars--

15 CHAIRPERSON JAMES: None sticks
16 out?

17 MICHAEL BEST: --of our contract,
18 but our, our, my, we, but as Mr. Ross said, we can
19 get back to you with information, with the
20 information about that. His office can, can find
21 the information on that.

22 CHAIRPERSON JAMES: Would you
23 remove that for now? Thank you. Go ahead.

24 MICHAEL BEST: And, you know, as
25 far as, but that, you know, the affirmative action

2 plans actually don't speak directly to your
3 question, so if Mr. Ross can--yes.

4 CHAIRPERSON JAMES: Affirmative
5 action speaks to the fact that you would
6 affirmatively engage in some action to contract
7 with minority and women business?

8 MICHAEL BEST: No, - - , no ,no,
9 what I'm saying is that it doesn't, you, you ask,
10 I'm trying to tell you that you specifically asked
11 about minority run business contracts. The
12 affirmative action plan and EEO requirement,
13 although quite important to us, is a slightly
14 different issue. It applies to every contractor
15 regardless of who owns the company and etc. And
16 so, I'm going to defer back to Mr. Ross to talk
17 about what else we do in the area you specifically
18 asked about.

19 DAVID ROSS: Right. And, and we,
20 we do, we do regular outreach, with and without,
21 with and without City Department of Small Business
22 Services, more often with them.

23 CHAIRPERSON JAMES: Let me stop you
24 there. You do outreach to minority businesses and
25 women businesses?

2 DAVID ROSS: Yeah, we, right, the--

3 CHAIRPERSON JAMES: When was the
4 last time you had outreach in the--

5 DAVID ROSS: The City Department of
6 Small Business Services often holds, often holds
7 gatherings of, of minority and small business
8 owners, and we participate in those, and, and
9 share information and disseminate on how to do
10 business with--

11 CHAIRPERSON JAMES: Yes, I know,
12 they often do it with me.

13 DAVID ROSS: Right.

14 CHAIRPERSON JAMES: And I don't
15 know of any concerted effort on the Department of
16 Education, to affirmatively reach out to the
17 minority and women owned and local businesses in
18 the City of New York. I know of now such event.
19 I know SBS does a lot, because they usually
20 partner with my office, and with me in particular,
21 because I'm Chair of Contracts.

22 DAVID ROSS: And we, and we
23 participate in those.

24 CHAIRPERSON JAMES: You participate
25 but you said affirmative action, and to me that

2 does not suggest affirmative action.

3 DAVID ROSS: No, no, no.

4 CHAIRPERSON JAMES: That just said,
5 that suggests participation.

6 DAVID ROSS: No, then I misstated.

7 CHAIRPERSON JAMES: Okay.

8 DAVID ROSS: We, we participate in
9 those outreach programs with the Department of
10 Small and Minority Businesses. We, we work with
11 them.

12 CHAIRPERSON JAMES: Okay.

13 DAVID ROSS: And, and you know,
14 more generally, we support vendors with our vendor
15 hotline and our website. I mean, we, you know,
16 it's vendors in general, that's not for minority
17 and small businesses. All can use that, but you
18 know, it is our goal to foster competition in
19 general through our procurements.

20 CHAIRPERSON JAMES: There, you, I
21 believe someone testified earlier that there were,
22 you were going to achieve some savings as a result
23 of this RFP with these two vendors, who are now
24 doing textbooks: Ingram Library Services and the
25 Book Source. Where are they located?

2 DAVID ROSS: I, they're, they're
3 not New York State, I - -

4 CHAIRPERSON JAMES: [interposing]
5 Do you know what state they're located?

6 DAVID ROSS: No.

7 CHAIRPERSON JAMES: Okay.

8 DAVID ROSS: No.

9 CHAIRPERSON JAMES: So, as a result
10 of the savings, and I believe you, someone
11 testified we were going to save about \$20 million.
12 \$17 million.

13 DAVID ROSS: \$17 million, right.
14 And that's, and just to be clear, that there, the,
15 the contract we're talking about is going to more
16 than those two vendors. There are actually three,
17 there are three components of that procurement.
18 One component was the trade book procurement.
19 There was a second component that was for pre-
20 bound--

21 CHAIRPERSON JAMES: Pre-bound?

22 DAVID ROSS: --volumes and the
23 third component was for classroom collections.

24 CHAIRPERSON JAMES: And so--

25 DAVID ROSS: And the, and the two

2 vendors that, that I believe were named or
3 referenced are the, were the awardees on the first
4 category. So, just generally speaking about that,
5 well I'm sorry, I'll let you ask your question.

6 CHAIRPERSON JAMES: No, so it's my
7 understanding that also the third category was
8 also a subject of an RFP, is that true?

9 DAVID ROSS: They were all done the
10 same, they were all part of the same procurement.

11 CHAIRPERSON JAMES: They were the
12 same. And so, because we, this Department of
13 Education, and I assume you include that, you
14 include the City of New York, we realized a \$17
15 million savings, have you calculated the number of
16 businesses, of small businesses that will close in
17 the City of New York, the number of people who
18 will be laid off, the number of people who will
19 have to receive social services, the number of
20 people who will have to file unemployment claims,
21 the number of people who will be on the streets of
22 the City of New York? Have we, you know, did a
23 cost benefit analysis of going to two out-of-state
24 books, bookstore, not bookstores, but book
25 suppliers? Have we calculated that? I knew you

2 have received a savings, but the City of New York
3 obviously will suffer greatly as a result of this
4 savings.

5 PHOTEINE ANAGNOSTOPOULOS: Our,
6 unfortunately, our role here is to actually try to
7 get the best price and the best quality for the
8 schools. So, I mean, it is--

9 CHAIRPERSON JAMES: You know, and
10 let--No, and that, we started this out as I
11 mentioned to you earlier, I went to, I think it
12 was during the holiday season, I went to a local
13 book supplier in my district, to buy some books
14 for my nieces for the holidays, and he told me
15 that they would be closing. And I was outraged.
16 And, and immediately after the holidays, ran to my
17 co-chair and started screaming, and here we are.
18 So, he's told, he, I promised him I would not
19 scream, but I am very much concerned, and I do not
20 want this book supplier on, and/or this bookstore,
21 to close. Why? Because they sell culturally
22 sensitive textbooks that I provide to my nieces,
23 and to the children in my district. Do these two
24 companies provide culturally sensitive books?

25 PHOTEINE ANAGNOSTOPOULOS: Yes.

2 DAVID ROSS: Actually, yes, what
3 we, we took a very careful look at, at the trade
4 book industry, and, and to be clear, the books
5 that are available through those contracts are all
6 available in mass market. So, we took--

7 CHAIRPERSON JAMES: Do they--

8 DAVID ROSS: --if I may.

9 CHAIRPERSON JAMES: Sure.

10 DAVID ROSS: We, we found the 20
11 largest publishing houses, and we made sure that
12 the contracts, that the books provided through the
13 trade book contracts covered all of the publishing
14 houses that the schools are buying books from. If
15 any books are not available through those
16 contracts, they would still be made available to
17 the schools. But leave no doubt about it, we, we
18 accounted for the vast majority of spend in mass
19 market materials, and that's what this was
20 targeted for. It wasn't, this procurement was not
21 about textbooks that are only available directly
22 through a publisher, they were about mass market
23 materials, and it was done as a bid, and awarded
24 to the lowest responsible bidders on those
25 publishers lines. So, we were very careful not to

2 restrict, or, or reduce access for schools to
3 these materials at all. Over history, the fact is
4 the Department was paying, either retail or pretty
5 near retail, on the vast majority of these books.
6 And the reason why we're seeing enormous savings
7 for the schools, and they're very large savings
8 for the schools, is we're now affording the
9 schools the ability to get the discounts that
10 maybe you and I were able to even achieve before
11 by going to Amazon.com and those sources.

12 CHAIRPERSON JAMES: No, I
13 understand. My last--

14 DAVID ROSS: Actually we're doing
15 better than that, because we - -

16 CHAIRPERSON JAMES: [interposing]
17 My last two comments, 'cause I know my colleagues
18 have questions. One, the principals have
19 contacted me, and they would prefer to purchase
20 books from the supplier in the neighborhood; two,
21 the question that I ask you is, do these two
22 outlets, is their staff reflective of the City of
23 New York? Or is it reflective of the state that
24 they are located in? Do they have a diverse
25 staff?

2 DAVID ROSS: Well they, the
3 affirmative action plan.

4 MICHAEL BEST: We, as I said, since
5 the contracts are over \$100,000, it, it will go
6 through our Office of Equal Opportunity--

7 CHAIRPERSON JAMES: The answer is
8 yes or no. Do you know whether or not they have a
9 diverse staff?

10 MICHAEL BEST: I do not know, but
11 we can, we will take a look at what has been done
12 in regard to their, the plans that mentioned
13 earlier, and we can get back to you, Council
14 Member.

15 CHAIRPERSON JAMES: And the
16 contracts over \$100,000 are subject to a committee
17 which is, who are employed by the Department of
18 Education. Is that true?

19 MICHAEL BEST: Do you mean in
20 regard to the, the affirmative action plans in the
21 EEO policies?

22 CHAIRPERSON JAMES: No, no,
23 separate and apart.

24 MICHAEL BEST: Or the, or the
25 Committee on Exceptions?

2 CHAIRPERSON JAMES: Correct.

3 MICHAEL BEST: Yes, that, that
4 committee is made up of employees of the
5 Department of Education.

6 CHAIRPERSON JAMES: And let me ask
7 you this last question. Has any contract ever
8 been denied by this committee?

9 MICHAEL BEST: I believe that it
10 has. I also know that a lot of the time, the
11 committee, if the committee has a problem with the
12 contract and believes that it's not appropriate to
13 be done as a non-competitive solicitation, they'll
14 send it back to the, to the division that has
15 asked them to consider it, and tell them either
16 come up with a better explanation as to why this
17 has to be non-competitive, or do a competitive
18 solicitation. And many of the time that ends up
19 as a, as a - - solicitation.

20 CHAIRPERSON JAMES: If you could
21 provide me with that, with the situation where the
22 committee was denied a, a non-competitive
23 contract, I would--

24 DAVID ROSS: Right. And just to,
25 just to be, to clarify what--

2 CHAIRPERSON JAMES: Yeah.

3 DAVID ROSS: --what happens when
4 these, before these get to the committee, they,
5 they come to the contracts office, and we review
6 them in some, to some extent, and we will advise
7 the program office if there are other competitive
8 means to procure them. What you would find much
9 more often happens with the committee meetings, is
10 the committee will sometimes reduce the term that
11 the committee will agree to, so we'll actually
12 reduce the length of the contract and, and
13 encourage or require the program office, in fact,
14 to do a competitive procurement - -

15 CHAIRPERSON JAMES: [interposing]
16 It's also my understanding, and I have heard, and
17 I'm, you know, I've heard that the bid that was
18 put out there, put on the street, was basically
19 crafted in a way that would benefit a large
20 outfit, as opposed to these small book supplier.
21 Can I get a copy of that bid?

22 DAVID ROSS: We can certainly give
23 you a--any of, any of our bids or RFPs are
24 certainly available to you, and yeah.

25 CHAIRPERSON JAMES: I would like to

2 see a copy of the bid because I'm concerned as to
3 whether or not it was crafted in a way that
4 basically prohibited a small, local book suppliers
5 from applying for this contract.

6 DAVID ROSS: We'll certainly give
7 you a copy of the trade book.

8 CHAIRPERSON JAMES: Thank you.
9 I'll be back for a second round.

10 CHAIRPERSON JACKSON: Thank you,
11 Council Member. Mr. Ross, you indicated that in
12 response to Council Member James' question to you
13 regarding whether or not culturally self-sensitive
14 books can be obtained from the two suppliers that
15 were selected, and you said, "Yes," and you said,
16 "Even if they did not have the books, schools
17 would be able to obtain them." How would they be
18 able to obtain them?

19 DAVID ROSS: Yeah. To be clear,
20 the, the--

21 CHAIRPERSON JACKSON: If the school
22 supplies is not--

23 DAVID ROSS: Anyone who is bidding
24 on the contract, and what you would see if you,
25 when you get the bid specifications, which we'll

2 certainly provide to you, you'll see that anybody
3 bidding on the contract was required to
4 demonstrate that they had the ability to sell
5 books that were available from the major
6 publishing houses that sell to the Department of
7 Ed.

8 CHAIRPERSON JACKSON: Right. You
9 said the 20 major publishing houses.

10 DAVID ROSS: That's part, so part
11 of, right, so part of the qualification process
12 for these vendors was demonstrating that they
13 could sell us those books.

14 CHAIRPERSON JACKSON: Okay.

15 DAVID ROSS: If they couldn't sell
16 us those books, or then that would be a problem
17 for them in qualification.

18 CHAIRPERSON JACKSON: Right.

19 DAVID ROSS: And we actually didn't
20 even go out in the first instance to say that we
21 were going to only award to two vendors. We
22 didn't know how many vendors we were going to
23 award to. The requirement was, we said that we
24 would award to a minimum of two vendors, but to as
25 many vendors as necessary to see that we actually

2 had coverage of all the major publishing houses
3 hat are selling to the Department of Ed. So
4 again--

5 CHAIRPERSON JACKSON: But they had
6 to meet--

7 DAVID ROSS: The, the reason--

8 CHAIRPERSON JACKSON: But they had
9 to meet the minimum qualifications of the RFP.

10 DAVID ROSS: Right, they had to
11 meet minimum qualifications of the RFP.

12 CHAIRPERSON JACKSON: And if, and
13 that had a, did that have a specific volume? Did
14 it have other qualifications which, as my
15 colleague alluded to, would exclude some of the
16 local people that she was referring to?

17 DAVID ROSS: There, there were some
18 volume requirements.

19 CHAIRPERSON JACKSON: Right, so--

20 DAVID ROSS: Probably--Actually I
21 know that there was, there was a requirement in
22 terms of the gross sales, that I think was \$5
23 million, which in the context of Department of
24 Educ--of our buyers, is not--

25 CHAIRPERSON JACKSON: Right. But,

2 if, if--

3 DAVID ROSS: --that great. But
4 there, there was certainly, there, what I'd say is
5 there, a large number of firms would've qualified
6 to offer services through this contract. We just
7 got very aggressive pricing from two very large
8 sources. And those, since this was a competitive
9 bid, they low bid everybody, and they were able to
10 cover the full breadth of, of books that we
11 needed.

12 CHAIRPERSON JACKSON: And, and some
13 of these local/minority/women owned businesses
14 that were selling books to our schools. They feel
15 that they have been cut out of the, the process.
16 Let me just point, point blank, based on the RFP
17 minimum requirement. But if these, if some of the
18 books that the schools were ordering are not part
19 of the books that are within the framework of the
20 20 major publishers, how then would a school be
21 able to get those books if they wanted them?

22 DAVID ROSS: I want to be very,
23 very clear, Chairman. If a school is unable to
24 get a book that they want to get for their school,
25 we will help the book get the school, get that

2 book.

3 CHAIRPERSON JACKSON: How?

4 DAVID ROSS: We will help the
5 school get that book.

6 CHAIRPERSON JACKSON: No, explain
7 to me how. If in fact--

8 DAVID ROSS: We will find the
9 source and we will help them get that book.

10 CHAIRPERSON JACKSON: Okay, so, so
11 let me walk this through.

12 DAVID ROSS: We, we're not, I'm
13 telling you, we're, we're not going to tell the
14 school that you can't get a book because it's not
15 covered under contract, it's just not going to
16 happen.

17 CHAIRPERSON JACKSON: Okay. And I
18 hear you loud and clear with that. I hear you
19 loud and clear. So, if some of these minority and
20 women owned businesses, located in New York, that
21 had contracts for books out of one category and
22 there's three categories that you mentioned, if,
23 if the contracts that they had are, are expiring,
24 how would they renew the contracts with the DOE,
25 in order to sell some of their culturally

2 sensitive books that may not be covered by the 20
3 major publishing houses in the United States of
4 America, or the publishing houses in the world?

5 DAVID ROSS: I, I--

6 CHAIRPERSON JACKSON: I'm asking
7 the questions, is it world or USA?

8 DAVID ROSS: I under--I understand
9 your question, but I want to, it's--we, we respond
10 to the needs of the schools, so what I, what I,
11 what I'm going to say is just to reiterate what
12 I've said. I have--

13 CHAIRPERSON JACKSON: Okay.

14 DAVID ROSS: We have a contract
15 that provides a broad range of books--

16 CHAIRPERSON JACKSON: Mr. Ross--

17 DAVID ROSS: --a broad range of
18 publishers, and--

19 CHAIRPERSON JACKSON: Mr. Ross, you
20 don't need to go--I've heard you four times
21 already.

22 DAVID ROSS: No, no, but, but if
23 they, if a book is not available, then we will--

24 CHAIRPERSON JACKSON: You'll find a
25 way.

2 DAVID ROSS: Help the school, we
3 will find a way to help the school get that book.

4 CHAIRPERSON JACKSON: I, but, but
5 you could not answer my specific question as to
6 how. But you said you'd find a way.

7 DAVID ROSS: Because, because
8 generally--

9 CHAIRPERSON JACKSON: Okay.

10 DAVID ROSS: --we don't provide
11 contracts to vendors, because vendors ask for
12 contracts.

13 CHAIRPERSON JACKSON: No, I
14 understand that.

15 DAVID ROSS: We got out and we
16 procure goods and services because someone in the
17 system, or some group of offices or schools in the
18 system, require a service.

19 CHAIRPERSON JACKSON: Okay.

20 DAVID ROSS: Then we go out and
21 procure the service. So we respond to the needs
22 of the schools, and, and get contracts or
23 materials as they need.

24 CHAIRPERSON JACKSON: Got it.

25 DAVID ROSS: We don't offer

2 contracts 'cause vendors ask for contracts.

3 CHAIRPERSON JACKSON: Got it, loud
4 and clear. Thank you. Let's turn to our
5 colleague, Council Member John Liu, then Council
6 Member David Yassky. Council Member Liu of
7 Queens.

8 COUNCIL MEMBER LIU: Thank you very
9 much, Mr. and Madam Chairs. Thank the Department
10 of Education officials for joining us today. The,
11 I did want to go over just to clarify for the
12 record, your comments about the A&M contract, with
13 regard to how the school busses were totally, the
14 school bus routing and system was totally
15 reengineered. Now, you, you stated that A&M had
16 already had a contract prior to them getting the
17 \$16 or \$17 million school bus contract. Is that
18 right?

19 MICHAEL BEST: It was not with the
20 schools.

21 PHOTEINE ANAGNOSTOPOULOS: The, the
22 contract was with the Fund for Public Schools.

23 COUNCIL MEMBER LIU: Okay, so the
24 contract was not actually with the Department of
25 Education.

2 PHOTEINE ANAGNOSTOPOULOS: No, the
3 initial contract was with the Fund for Public
4 Schools.

5 COUNCIL MEMBER LIU: Alright. And
6 how much was that contract?

7 DAVID ROSS: I, as I recall it was
8 around \$5 million. I don't, I don't remember the
9 exact - -

10 COUNCIL MEMBER LIU: Well, I, I
11 remember it being a couple million dollars, but
12 I'll take five. And how long had they been
13 working on that contract?

14 MICHAEL BEST: I, I don't recall
15 the, the amount of time that they had--

16 COUNCIL MEMBER LIU: My
17 recollection is six months. So, just to, you
18 know, because you talked about how that was a no-
19 bid situation, because A&M had already had another
20 contract, and it just made sense for them to
21 piggyback off their prior contract and go straight
22 into this contract with a no-bid scenario. That--
23 It's rather curious the logic there, it being that
24 A&M didn't actually have any contract with the
25 Department of Education, they had worked on it for

2 a period of months, and it was a contract for no
3 more than \$5 million, my recollection being
4 actually just a couple million dollars. And that
5 allows them to get a \$16 or \$17 million contract
6 without competitive bidding.

7 MICHAEL BEST: Right.

8 COUNCIL MEMBER LIU: The logic
9 there is very, very shaky.

10 MICHAEL BEST: Well, and I, and I
11 don't want to ignore that a very important factor
12 in that decision, maybe a driving factor in that
13 decision, was the time constraints involved. That
14 was a time when the, the chance to look into--

15 COUNCIL MEMBER LIU: Well, let's
16 look at the time constraints.

17 MICHAEL BEST: Okay.

18 COUNCIL MEMBER LIU: The time
19 constraints. Why was it such a rush to have to
20 reengineer all of the school bus routes? Throwing
21 families into chaos in the middle of the school
22 year--

23 PHOTEINE ANAGNOSTOPOULOS: Okay,
24 so--

25 COUNCIL MEMBER LIU: What was the

2 reason for the timing?

3 PHOTEINE ANAGNOSTOPOULOS: If we
4 can talk for two seconds about the A&M contract
5 and then put it in perspective of where we are
6 today. So the--

7 COUNCIL MEMBER LIU: No, no. No,
8 my question, because now you're saying, well, not
9 only did the A&M have a contract before, which we
10 are now establishing was not actually with the
11 Department of Education, but with an affiliated
12 organization, and that we've also established that
13 the prior contract was for a far smaller amount
14 than they eventually wound up with, without
15 bidding, competitive bidding, now you're saying
16 that, well, they had to do it because of the time.
17 And I'd like to know, understand, what was the
18 rush? Why have to do it in the middle of the
19 school year, on the, the effective date was one of
20 the coldest days of the year, when families and
21 kids were waiting out there, in the cold, not
22 having any school bus show up. What was the
23 reason for the timeframe?

24 PHOTEINE ANAGNOSTOPOULOS: So the
25 contract with A&M was not, per se, about bussing.

2 The contract with A&M was for services to help
3 find savings within the organization and
4 recommendations - -

5 COUNCIL MEMBER LIU: [interposing]
6 So then the time was not a factor.

7 PHOTEINE ANAGNOSTOPOULOS: If I
8 could finish for a second, please.

9 COUNCIL MEMBER LIU: If you could
10 answer the question.

11 PHOTEINE ANAGNOSTOPOULOS: I will.

12 COUNCIL MEMBER LIU: Okay.

13 PHOTEINE ANAGNOSTOPOULOS: So, the
14 contract was about recommending how can we
15 restructure, reorganize and change the processes,
16 whether it was for transportation, it was looking
17 at facilities, it was looking at the overall
18 regional structure. So the goal of the contract
19 and the work of it, was not just about the
20 bussing, that was just one portion of the work.
21 The \$170 million that came, that was being pulled
22 out of the, sort of as everybody here talks about
23 the bureaucracy, so we could push it to the
24 schools, the amount that came out for bussing was
25 a small number, a small percentage of that. So, I

2 want to make sure that everyone understands,
3 because the impression you're leaving is that this
4 was a bussing consulting contract, it wasn't. It
5 was a contract for reorganizing the processes and
6 the structures within the department, so that we
7 could get more money to the schools. I also want
8 to point out that that was, the timing on that
9 was, that the restructuring of, from the regions
10 into the school support organizations was
11 happening within that 18 month time period. So
12 that was actually the time period, that was the
13 time crunch. It was trying to get as much money
14 to the schools as soon as possible, and get as
15 much of the accountability and the decision making
16 down at the school level. So that's what was the,
17 was driving that contract. I do think it's
18 important to understand that as we've gone
19 forward, we've now at the point where when you
20 look at the exceptions contracts, the no bid
21 contracts, we're down to last year 87 and over
22 half of them were for CBOs and UPK contracts. And
23 only one of them was even at \$5 million.

24 COUNCIL MEMBER LIU: Alright, so,
25 so you're saying that the \$17 million was for far

2 more than just school busses?

3 PHOTEINE ANAGNOSTOPOULOS: Yes, the
4 \$17 million with A&M--

5 COUNCIL MEMBER LIU: What, what
6 proportion of that would you say was for school
7 busses.

8 PHOTEINE ANAGNOSTOPOULOS: The \$170
9 million of savings, I will have to go back in and
10 check the figures, I'm sorry I don't remember them
11 off the top of my head. But I believe--

12 COUNCIL MEMBER LIU: Well, there
13 was \$10 million, it was supposedly--

14 PHOTEINE ANAGNOSTOPOULOS: It's
15 about \$11 million.

16 COUNCIL MEMBER LIU: \$10 million.

17 PHOTEINE ANAGNOSTOPOULOS: Yeah, I
18 want to say \$11 million, out of the \$170 million
19 dollars. So, there was, if you think that's, you
20 know, about five percent, and so there was a large
21 portion of that was just basic restructuring and
22 how we actually pulled - - region.

23 COUNCIL MEMBER LIU: An exclusion.
24 It was also exclusion, because just to take the
25 example of the school busses, some of the cost

2 savings was garnered [laughs] not because of,
3 because the system was made more efficient, but
4 because kids just were denied school bus service
5 in the future.

6 PHOTEINE ANAGNOSTOPOULOS: The kids
7 were not denied school bus service--

8 COUNCIL MEMBER LIU: Sure they--Are
9 you kidding?

10 PHOTEINE ANAGNOSTOPOULOS: --at
11 this point, when you look at --

12 COUNCIL MEMBER LIU: [interposing]
13 There were a large number of students and families
14 who were subsequently denied school bus service.
15 Let's talk about your no-bid contracts for the
16 UPK. Why is it that so many organizations that
17 got no-bid contracts?

18 PHOTEINE ANAGNOSTOPOULOS: No, no,
19 so let's talk about UPK for a second. The UPK
20 providers are, at I think 100 percent CBOs,
21 community based organizations. The way that the
22 UPK dollars flow from the State, they come down
23 too late for us to actually be able to get the RFP
24 out there in time. It is also an RFP that hasn't
25 changed much over the last few years. So, in

2 essence, there is, to be honest, I think I forget
3 how many CBO providers we have, way over 500 at
4 this point, though, so there are sheer number,
5 there's competitive. There's a competitive
6 situation there. But we are, that is - -

7 COUNCIL MEMBER LIU: [interposing]
8 There are lots of situations where apparently it's
9 not competitive.

10 PHOTEINE ANAGNOSTOPOULOS: For the
11 CBOs and UPK? I don't think so.

12 COUNCIL MEMBER LIU: And then there
13 are lots of situations where this, the CBO--

14 PHOTEINE ANAGNOSTOPOULOS: There is
15 also--

16 COUNCIL MEMBER LIU: --provided
17 universal pre-Ks, you have, you have designated
18 number, numbers of seats that are far in excess of
19 the applicants. So, I'd like to get a list of--

20 PHOTEINE ANAGNOSTOPOULOS: We
21 actually pay now per seat. We're working with
22 ACS, so the, and we, if you look at what we were
23 doing with the UPK providers, we've actually
24 pushed for the utilization rates to go higher, and
25 we can show those to you.

2 COUNCIL MEMBER LIU: Well, I'm, I'm
3 running out of time, but I would like to request,
4 Mr. Chair, if we can get a copy of all of these--

5 CHAIRPERSON JACKSON: Sure.

6 COUNCIL MEMBER LIU: --
7 organizations that pre-K contracts without
8 competitive bid.

9 CHAIRPERSON JACKSON: Okay.

10 PHOTEINE ANAGNOSTOPOULOS: Sure, no
11 problem.

12 COUNCIL MEMBER LIU: And, and--

13 PHOTEINE ANAGNOSTOPOULOS: And you
14 will see that their rates are very similar to
15 those that did under the competitive bids.

16 COUNCIL MEMBER LIU: Well, when,
17 how long would it take, when can we get that?

18 PHOTEINE ANAGNOSTOPOULOS: I would
19 think a couple of days. It's, we just have to run
20 'em off and--

21 COUNCIL MEMBER LIU: A couple of
22 days beginning today.

23 PHOTEINE ANAGNOSTOPOULOS: Yeah,
24 yeah.

25 COUNCIL MEMBER LIU: Okay.

2 CHAIRPERSON JACKSON: If you can
3 give to counsel, I'd appreciate it.

4 PHOTEINE ANAGNOSTOPOULOS: Sure.

5 COUNCIL MEMBER LIU: Okay, and then
6 finally, I will just say that Mr. Ross, I mean,
7 look, don't take any of this personally, by the
8 way.

9 DAVID ROSS: I never do.
10 [laughter]

11 COUNCIL MEMBER LIU: Mr. Ross, you
12 are, you know, you talk about--

13 DAVID ROSS: I'm going to be back
14 here three years later.

15 COUNCIL MEMBER LIU: In response to
16 Chairperson Tish James' questions about how, why
17 is it that other agencies have these procurement
18 rules, and that they are subject to the audit
19 process? And you talk about how well the
20 Department of Education tries to follow those
21 kinds of same procurement processes. But you
22 know, without some kind of outside auditor,
23 looking at your processes, we can all say that
24 till we're blue in the face, but none of it
25 actually is, is true, unless it's certified by

2 someone from the outside.

3 DAVID ROSS: Well, we are audited.

4 COUNCIL MEMBER LIU: Thank you.

5 DAVID ROSS: But, we--

6 COUNCIL MEMBER LIU: Thank you.

7 DAVID ROSS: We are audited.

8 COUNCIL MEMBER LIU: Well, why not
9 by an elected member of the City government?

10 CHAIRPERSON JACKSON: Okay.

11 MICHAEL BEST: We, we are, just so
12 it's clear, we are subject to audit by both the
13 City and State comptrollers, and we are regularly
14 audited by them. I think if you go to either of
15 their websites, you can find a number of audits of
16 the Department, including contractual matters.
17 And, you know, I think that Mr. Ross was simply
18 trying to express earlier that, you know, the same
19 sort of thing I was trying to express to Council
20 Member Katz in response to her question, which was
21 that we, we agree on a number of the principals
22 that do this; our rules incorporate them. There
23 are some specifics that are a little bit
24 different, and we're open to suggestion on that.

25 CHAIRPERSON JACKSON: Thank you,

2 thank you very much.

3 MICHAEL BEST: - -

4 CHAIRPERSON JACKSON: Thank you,
5 Council Member Liu. Council Member Maria del
6 Carmen Arroyo of The Bronx. But before that,
7 we've been joined by Council Member Al Vann of
8 Brooklyn.

9 COUNCIL MEMBER ARROYO: Thank you,
10 Mr. Chair. Good afternoon and thank you for being
11 here. I, I want to talk a little bit about a more
12 broader issue that I think where we might miss if
13 we get very specific in the questions. I
14 recognize that the priority of the Department is
15 to respond to the needs of the schools. And to do
16 so within a certain dollar amount, and do so
17 responsibly. I think that the first question I
18 have is, is doing business with minority women
19 owned business enterprises more expensive for the
20 City?

21 PHOTEINE ANAGNOSTOPOULOS: I don't
22 think we would actually know that, unless there
23 was a specific bid situation in which we actually
24 analyzed what came in, in response to an RFP or a
25 response to bid. So, if you, if we're going back

2 onto the trade book area, you know, they're, I'm
3 sure--

4 COUNCIL MEMBER ARROYO: No, no, no,
5 I, I have, this is a very general question,
6 because I would have the same question of DIFTA,
7 of DYCD, of the, the HPD. The belief here,
8 certainly is that we can fuel the economic engine
9 of the City, and keep people employed, if we
10 contract with local businesses. I think that's
11 the overwhelming sense that we have. And the
12 frustration that is felt when contracts are
13 awarded to out of city, out of state entities, it
14 increases unemployment in communities that already
15 have large numbers of individuals unemployed. So
16 I think that that's, that's my, that's why I'm
17 asking the question.

18 PHOTEINE ANAGNOSTOPOULOS: So--

19 COUNCIL MEMBER ARROYO: Is it more
20 expensive? And if it is, then what are we doing
21 to help our MWBEs and our City businesses to be
22 more competitive and to develop the capacity
23 necessary in order to compete with the outer
24 state--

25 PHOTEINE ANAGNOSTOPOULOS: Sure.

2 COUNCIL MEMBER ARROYO: --

3 businesses that could take the contracts away?

4 PHOTEINE ANAGNOSTOPOULOS: Sure, so
5 let, let me, so bear with me for a little bit of
6 economics, I don't want to say "lesson," but
7 diatribe here for a second. If you look at our,
8 the makeup of our employees, we have roughly
9 138,000 or so employees in the Department of
10 Education. And if you look at the makeup of
11 those, amongst those are 10,000 school aides, we
12 have 17,000 paraprofessionals, we have I think a
13 couple of thousand family workers and so on. The
14 way that we help keep that, those folks employed,
15 if you will, we have our teachers, obviously. The
16 large makeup of a, of the portion of, that I
17 mentioned, the school aides and so on, are
18 minorities. And the way that we can best keep our
19 employees, if you will, in their jobs, is to
20 actually use our money as wisely as possible.

21 COUNCIL MEMBER ARROYO: I agree.

22 PHOTEINE ANAGNOSTOPOULOS: And so
23 what we need to do is we have to look for the
24 lowest price for the best quality. And so there
25 are going to be times I'm sure where there are

2 going to be responses to our bids, that have come
3 in from small, minority owned companies or women
4 owned companies that will--

5 COUNCIL MEMBER ARROYO: Let, let--
6 Okay, so, let's back up for a second. Let's take
7 the MWB out of it. I'm talking about locally
8 owned businesses in the City.

9 PHOTEINE ANAGNOSTOPOULOS: Okay, so
10 if loc--

11 COUNCIL MEMBER ARROYO: Let's keep
12 it at that level.

13 PHOTEINE ANAGNOSTOPOULOS: Sure,
14 but if locally owned businesses provide the best
15 price, then we would go with a locally owned
16 business. If they don't, we can't afford--

17 COUNCIL MEMBER ARROYO:
18 [interposing] I, I understand that. My question
19 though is, what is it that we as a City can do to
20 both, every single City agency, the Department of
21 Education, all of us work to help our local
22 businesses develop capacity to make them more
23 competitive, not only with the Department of
24 Education but across the board with anything the
25 City would ever procure.

2 MICHAEL BEST: As I understand it,
3 the mayor has tasked the Small Business Services
4 Commissioner with that. I believe he issued an
5 executive order about that some years ago. And
6 that SBS has, as Mr. Ross was testifying about
7 earlier, leads a lot of the efforts on that. The
8 details of all of their efforts on, you know,
9 their, the economic development side for minority
10 and women owned businesses and small businesses
11 locally, we're not going to be in a position to
12 answer for you, simply because it's not what we
13 do. And, you know, we're not trying to avoid the
14 question, it's just, it's, it's a very important
15 issue, so obviously it's just - -

16 PHOTEINE ANAGNOSTOPOULOS: So you
17 can't, you can't give us an example of, under the
18 mayor's initiative, the result, as it relates to
19 the Department of Education, has been, that you
20 have seen an increase of a certain percentage of
21 locally owned businesses that are now doing
22 business with the Department of Education, that
23 prior to that initiative were not doing business
24 with you.

25 PHOTEINE ANAGNOSTOPOULOS: So, what

2 we can do for you is to go back through the
3 contracts for the last couple of years and look to
4 see if there has been any increase. I do want to
5 point out, there are, you know, we're, we're
6 thinking about the, the businesses that are sort
7 of wholesale or retail. If you look, we have, the
8 largest portion, one of the largest portions of
9 our contracts goes for professional services where
10 these are individuals who provide the speech
11 therapy, the occupational therapy, who provide
12 professional development to our teachers. And a
13 large portion of those are locally based. So I
14 think, I understand your point completely. We'll
15 get you that information, but I think it's very
16 narrow just to focus in on a certain segment of
17 the business population. If you're looking at
18 what are, but I think was mentioned before,
19 consultants who are local.

20 COUNCIL MEMBER ARROYO: Well, you
21 buy paint, you buy books, you buy professional
22 services--

23 PHOTEINE ANAGNOSTOPOULOS: Right.

24 COUNCIL MEMBER ARROYO: --you buy
25 pencils, you buy--

2 PHOTEINE ANAGNOSTOPOULOS: Exactly,
3 so--

4 COUNCIL MEMBER ARROYO: I mean, it,
5 it runs the gamut. I'm, I'm not focusing on any
6 one segment of any of the services that you
7 procure.

8 PHOTEINE ANAGNOSTOPOULOS: Sure, so
9 we'll get you those numbers.

10 COUNCIL MEMBER ARROYO: I'm, I am
11 asking a very general question, because I think,
12 at the heart of this is, ensuring that our small
13 businesses can compete fairly, and if they can't,
14 what do we do to be able to able to raise their,
15 their competitive edge while securing that we
16 employ people and, and keep the, the engine in
17 this, in the City, well oiled, fairly. But if we
18 don't work deliberately to help build the
19 capacity, we're going to continue to have this
20 conversation, and I think it's just stupid for us
21 to continue to beat this thing if we're not doing
22 something aggressive to be able to change the
23 circumstances. So none of the small members in
24 this room have to worry about losing a contract
25 because they know they can compete toe-to-toe with

2 the big guys, as well. And that's, I think at the
3 heart of what this conversation is about. Thank
4 you, Madam Chair.

5 CHAIRPERSON JAMES: Council Member
6 Stewart.

7 COUNCIL MEMBER STEWART: Thank you,
8 Madam Chair. I just want to follow up on what the
9 Council Members' been asking about: MWB vendors.
10 But first of all, in terms of the contracts with
11 purchasing of books, you said that you must have a
12 \$5 million sales per year. Is that one of the
13 things you said? I would like to know how many
14 MWB vendors will have that kind of sales in the
15 City? And also how many of these vendors are in
16 the City that are even below the 500, the \$5
17 million sales. Do you have any idea?

18 MICHAEL BEST: I would have to get
19 back to you. I don't know.

20 COUNCIL MEMBER STEWART: Alright.
21 So, it means then, that I believe that there,
22 there wouldn't be many minority vendors that are
23 above \$5 million in sales a year. I don't think
24 so. There might be a few, but I don't think
25 there's a lot. So that means, you were

2 eliminating the majority of vendors who might want
3 to be, or want to have a contract with the City,
4 in terms of sales.

5 MICHAEL BEST: Right.

6 COUNCIL MEMBER STEWART: So if you
7 eliminate those folks, and that means the idea of
8 really keeping the business in the community and
9 helping small businesses, you were really taking
10 it away from our general idea.

11 MICHAEL BEST: Right.

12 COUNCIL MEMBER STEWART: And if you
13 do that, by not giving them an opportunity, and we
14 are talking about at continuously, we are saying
15 that we want to do something though. What kind of
16 policies that you're, now that you hear that, what
17 kind of policies that, do you think that you can
18 come up with. What changes that you think you can
19 come up with, so that we can at least give the
20 local vendors an opportunity to participate?

21 MICHAEL BEST: Let me see if I can
22 sequence the responses to that as best I can.

23 COUNCIL MEMBER STEWART: Maybe I
24 asked too many questions, alright, go ahead.

25 [laughter]

2 MICHAEL BEST: I'm trying to keep
3 track of them, but I, let's do our best we can.
4 First, I don't, I don't want to leave the
5 impression that we just had an arbitrary
6 procurement and we, and we, we just cut off
7 vendors for no good reason. I think when you have
8 an opportunity to read the bid specifications,
9 you'll, what you'll see is that they reflect
10 really the needs of the Department. And that's
11 the way we built those specifications, is around
12 the needs of the Department. The new contract
13 requires a variety of things that the contract,
14 are in the Department's best interests to procure.
15 For example, we require that they have EDI
16 capabilities, and the ability to, to, that they
17 have computer systems in place that are able to
18 interface with ours and they have the
19 infrastructure within their organization to supply
20 books on a regular basis, so they can meet the
21 service level requirements of those contracts.
22 They were very stringent. The, I mean, the bottom
23 line was that we built a contract that we expected
24 and in fact did get several competitors on with
25 very aggressive pricing, and the result, the goal

2 was to provide the schools with a broad range,
3 actually a very comprehensive range, of titles
4 available to them and services available to them,
5 at, at steeply discounted prices. So, you know,
6 again, we, I understand the concerns, and I hear
7 the concerns of the Committee loud and clear about
8 the interests of, of small businesses, minority
9 and women owned businesses and local businesses.
10 But, and, and it's true, we, we built the
11 procurement around serving the interests of the
12 schools. And, and that--

13 COUNCIL MEMBER STEWART: But, but
14 let me, let me see if I can get that a little
15 clearer, because what, what you're saying here is
16 that you want to have maybe one company that can
17 provide everything. And that's what, to me that's
18 what a contract is all about, what you're saying.
19 But why can't you break up the contracts to say,
20 "Well, listen, maybe we deal with this company to
21 deal with mathematics books," or this company to
22 deal with literacy books, or even science books.
23 Why wouldn't you do that instead of just having
24 one or two companies just providing everything?

25 DAVID ROSS: And that, and that's a

2 great question, and actually to a large extent, we
3 did that with this procurement. I know not to the
4 extent that many would've liked, but we did. In,
5 in some procurements, for example, when we went
6 down and bought office supplies, we, it was a
7 winner take all contract, and the low bid won on
8 office supplies quite generally. In the
9 particular case of a, of the, these, these
10 contracts, we provided that vendors were able to
11 bid on a frac--a portion of the publishers that
12 exist in the marketplace, so that it was possible,
13 and we, we left open the possibility that we
14 would've actually awarded to multiple vendors
15 through this procurement. If somebody was able to
16 come in very aggressively on, on less than the
17 whole set of, of big publishing houses, then they
18 could've won on that group. So, like I said, we,
19 we didn't go into this with the intent of awarding
20 two contracts, if in fact smaller and middle sized
21 businesses were able to provide us steep
22 discounts on some of the publishing houses, they
23 would've won on that aspect of the bid. And like
24 I said, we're not awarding to two here, there were
25 three classes in this procurement, and each class

2 provided for multiple awards. And I think the,
3 the first class, there were, there were two
4 awardees, and in the other classes I believe there
5 are three or more, in each one of the other
6 classes.

7 COUNCIL MEMBER STEWART: Alright,
8 thank you.

9 CHAIRPERSON JACKSON: Thank you.
10 Can you explain to, we, we do understand, and we
11 have information on the two in the first class. I
12 think you said there's basically, I'm breaking it
13 down, there's three parts.

14 MICHAEL BEST: Right.

15 CHAIRPERSON JACKSON: And you
16 explained that there's two, what we call big huge
17 vendors that are dealing, that many of the
18 minority and women owned business firms have
19 complained that they've been shut out of the
20 process. And you had indicated, I think to my
21 colleague asked you, do you know which state one
22 or more of the other two, and you did not know.
23 Are both of those book dealers or sellers, are
24 they in the United States of America?

25 MICHAEL BEST: I believe so, yes.

2 PHOTEINE ANAGNOSTOPOULOS: Yes,
3 they are.

4 CHAIRPERSON JACKSON: You believe
5 so.

6 MICHAEL BEST: Yes.

7 CHAIRPERSON JACKSON: Okay, and
8 not, because I, you know, this is a worldwide
9 global economy.

10 MICHAEL BEST: The two awarded--
11 Right. The two awarded on the, on the first class
12 of the - - contract.

13 CHAIRPERSON JACKSON: Yes, first
14 class.

15 MICHAEL BEST: One is Ingram Taylor
16 and the other is Booksource. And Ingram Taylor
17 actually supplies all, all manner of, of middle
18 people. They're like, they're, they're huge, they
19 supply Amazon and, and all manner of companies
20 that you would be familiar with, Barnes and Nobel
21 and others.

22 CHAIRPERSON JACKSON: Okay.

23 MICHAEL BEST: So, we, we're buying
24 from some very, from some very big outset,
25 outfits, at very steep discounts.

2 CHAIRPERSON JACKSON: And the
3 second class you talked about, you said there were
4 three classes or three categories.

5 MICHAEL BEST: Yeah.

6 CHAIRPERSON JACKSON: Can you
7 explain those, if you don't mind, you said that
8 there were three individuals or groups, or
9 vendors, or were selected for the second class, or
10 second category. Can you explain that? And
11 explain the third also, if you don't mind?

12 MICHAEL BEST: Right, sure, the,
13 the second category--actually I don't have a, the
14 details of that down, but I, I'll do it from
15 memory. The, the second category, I may get the
16 second and third confused.

17 CHAIRPERSON JACKSON: Okay, very
18 good.

19 MICHAEL BEST: Forgive me on that.
20 But the second, I believe is, is the pre-bound
21 books, which effectively they take paperback books
22 and they, they bind them, so that they become more
23 durable. And the third category are, are
24 collections, they're collections of books.

25 CHAIRPERSON JACKSON: What do you

2 mean by that, I'm sorry, collections of books?

3 Like series?

4 MICHAEL BEST: They're, yeah,
5 they're, they, often classrooms, teachers will buy
6 collections of books for a classroom, so they, and
7 they, they're like prepackaged groups of books
8 that sort of go together for a purpose.

9 CHAIRPERSON JACKSON: Theme or
10 something like that.

11 MICHAEL BEST: Yeah.

12 CHAIRPERSON JACKSON: Okay. And,
13 and you said that there was--

14 MICHAEL BEST: And those, and the
15 latter two categories in the, are in the process
16 of getting awarded, but those bids were already
17 received and were qualifying vendors, and they're--
18 -

19 CHAIRPERSON JACKSON: So you're in
20 the final stages of awarding those contracts?

21 MICHAEL BEST: Correct.

22 CHAIRPERSON JACKSON: Is that
23 correct?

24 MICHAEL BEST: Yes.

25 CHAIRPERSON JACKSON: Okay. And

2 that's for category two and three?

3 MICHAEL BEST: Two and three,
4 correct.

5 CHAIRPERSON JACKSON: And when
6 would those be completed, if, if you have, in
7 timeframe wise? A month, two months, three
8 months?

9 MICHAEL BEST: I think, I believe
10 they're very close.

11 CHAIRPERSON JACKSON: Okay. My
12 colleague Letitia James.

13 CHAIRPERSON JAMES: Since it
14 appears that the contract two and three have not
15 been awarded, I would urge you, and, and I know
16 I'm joined by my colleagues, that you incorporate
17 or reconsider this proposal, and that you consider
18 the interests of small and minority owned
19 businesses in this City which are the backbone and
20 the engineer of this economy. And the adverse
21 impact that it would have if theses businesses
22 were to be closed. Particularly in districts that
23 are already, have high rates of unemployment. I
24 implore you to pull back, to reconsider, and take
25 into consideration the status of these suppliers.

2 I do not want any supplier to close in the City of
3 New York, particularly during these austere times,
4 and I do not want to put anyone else on the
5 unemployment line. And I urge that you reconsider
6 this RFP. And earlier I requested the bid, the
7 bid specs, or I requested the bid, but it's really
8 the specs that I would like to look at, because
9 again I'd like to see whether or not these
10 contracts were steered towards these large
11 companies. And again, given the, I recognize
12 that, you know, your rationale for not being
13 subject to PPB rules is because of time
14 constraints, fiscal constraints and your need, and
15 the Chancellor's desire to reform the system. And
16 I understand that; however, notwithstanding those
17 factors, I would think that you could carve out
18 exigent circumstances, and that you would still
19 be, be, amend the system so that you could be
20 subject to PPB rules. And I would ask that you
21 consider that as well. And my last question is,
22 these COC meetings, are they public meetings? Can
23 anyone testify? Are minutes taken at the
24 meetings? And would the Department of Education
25 make the COC meetings public, similar to the

2 public hearings held by the mayor's Office of
3 Contract Services, which are held each month. Let
4 me end by saying that these questions were not
5 personal, but my nieces love this book supplier in
6 my neighborhood. All of the principals in my
7 district love this book supplier, the children
8 love this book supplier, it is crowded each and
9 every day. And to put them out of business would
10 be an indictment not only to the DOE but to this
11 administration.

12 MICHAEL BEST: Okay, so, so in
13 response to your question about the Committee on
14 Contracts meetings, the, the meetings are not
15 public meetings. The, the--

16 CHAIRPERSON JAMES: And, and can
17 you, how, how is, you talked about transparency
18 and opency, that's not consistent with those two
19 principals.

20 MICHAEL BEST: Right. I--I
21 understand that view. We, we publish the agenda
22 for the committee meetings, as, as explained in,
23 in the testimony, seven days in advance of the
24 meeting. So we actually invite in advance of the
25 meeting, questions or comments or some, a vendor

2 were to come forward for example, and offer
3 services against a contract, those are published
4 in the City record, along with other potential
5 City contracts. So there is an opportunity for
6 somebody to come forward before the meetings and
7 tell us that, that they feel that could offer
8 services against their contract. And on the tail
9 end, we also--

10 CHAIRPERSON JAMES: Can I just say,
11 you're a very smart and intelligent man, and I
12 really respect you. I respect you're intelligent,
13 and I respect what you have to say today. But
14 just because you say it's public, does not make it
15 public. And what you described is not public.

16 MICHAEL BEST: I said that they're
17 not public meetings. I started my comments with
18 that. So, I want to be very clear--

19 CHAIRPERSON JAMES: And they're,
20 and therefore it's not--

21 MICHAEL BEST: --the meetings are
22 not public--

23 CHAIRPERSON JAMES: --and therefore
24 the process is not transparent.

25 MICHAEL BEST: Well. Okay.

2 DAVID ROSS: Council Member, I
3 think we, we hear your concern. We have, as, as
4 Phote testified earlier, we believe we've moved
5 that process in the right direction in terms of
6 transparency. But we understand the concern that
7 you and the rest of the committee members are
8 voicing about it, and we're going to take that
9 under advisement, and see, see if it's something
10 we believe is the right thing to do.

11 CHAIRPERSON JACKSON: I want to
12 thank you all for coming in on behalf of the
13 Department of Education. I'm sorry. Our
14 colleague Melissa Mark-Viverito has one last
15 question. I mean, I'm sorry, Maria del Carmen
16 Arroyo.

17 COUNCIL MEMBER ARROYO: I'm not
18 offended, 'cause I adore Melissa, but we are very,
19 look very different. School Construction
20 Authority, do you have any say about how that
21 contracting process is done?

22 MICHAEL BEST: Legally, you know,
23 they're set up by state law as a separate entity
24 and do their own procurements. So, I think it
25 probably best to address questions directly to

2 them.

3 COUNCIL MEMBER ARROYO: So we
4 should have them here before this committee, as
5 well, to answer the same kind of questions.

6 MICHAEL BEST: I, I would not
7 presume to tell either of these committees who you
8 should have in front of you. [laughter] Although
9 we're very happy to appear today.

10 COUNCIL MEMBER ARROYO: Well, I, I
11 think that the state--the general statement that I
12 made regarding the concerns, regarding the
13 contracting practices, and the impact that it has
14 on locally owned businesses, and the impact that
15 that has on unemployment in our communities, is
16 the underlying concern that these committees are
17 raising here today.

18 PHOTEINE ANAGNOSTOPOULOS: No, we,
19 we appreciate the, the issue and we will work with
20 you as part of the City in terms of where, where
21 we can go from here. I know that we're wrapping
22 up, so thank you very much for the opportunity to
23 speak with you. What I would like to urge
24 everyone, there's been a lot of myths, if you
25 will, that swirl around about the contracting

2 that's done at the DOE. I would urge you to
3 please contact us, we'll sit down with you and
4 actually walk you through the actual numbers.
5 We'd be more than happy to do that. And where
6 there are questions, where you see concerns or
7 issues, we are more than happy to address those.

8 CHAIRPERSON JAMES: And the only
9 why, only reason why there's myth is because the
10 system is shrouded in secrecy, and you need to be
11 more transparent.

12 CHAIRPERSON JACKSON: Our
13 colleague, Council Member Gale Brewer, has one
14 question please.

15 COUNCIL MEMBER BREWER: I'll be
16 very quick. Regarding the technology, the issue
17 with ARIS and others, I think originally there was
18 a lot of concern about the contract and the use
19 and, and the way in which it was discussed and
20 shared and taught, to individuals. And I've heard
21 a lot of improvement. My question is, when you do
22 contracts that are as complicated as that, how do
23 you also procure the services of the company that
24 is providing the contract to provide technical
25 assistance to the people who are using that

2 contract?

3 PHOTEINE ANAGNOSTOPOULOS: Sure.

4 We actual--

5 COUNCIL MEMBER BREWER: That seemed
6 to be a problem with ARIS.

7 PHOTEINE ANAGNOSTOPOULOS: Sure.

8 The, the way that ARIS and a lot of the other
9 contracts that are large scale, we have one now
10 called CECIS [phonetic], which is a special ed
11 system, and we oftentimes, it is because the
12 technology's being developed by the general
13 contractor, if you will, we will contract with
14 them to provide the training and they will
15 actually go out and subcontract with what they
16 find is the best training group. So, the way
17 those contracts work is we have a lot of say as to
18 whether or not we think we're getting the quality
19 for that training, so you did see the improvement
20 in ARIS's training over time, and in fact I think
21 there was a dramatic improvement. And so we did
22 work with the vendor to make sure that proved--

23 COUNCIL MEMBER BREWER: So, at,
24 other technology contracts that are coming down
25 the pike, will in fact have a better training

2 component than ARIS did?

3 PHOTEINE ANAGNOSTOPOULOS: Well, we
4 will contract with the general contractor, if you
5 will, for the training, who then goes out and gets
6 what, you know, as part of their bid they have, or
7 proposal, they would've had to put in a
8 description of their training. And we will go
9 with, you know, as part of the overall evaluation,
10 one thing we consider is whether or not that
11 training and the communications and the change
12 management is of high quality. So we are looking
13 for the best, and yes, we have learned from ARIS.
14 So I think it's actually been something that will
15 help us with CECIS for instance.

16 COUNCIL MEMBER BREWER: And did you
17 discuss Snapple and what happens now, earlier in
18 the hearing?

19 PHOTEINE ANAGNOSTOPOULOS: Yes.

20 COUNCIL MEMBER BREWER: Okay.

21 PHOTEINE ANAGNOSTOPOULOS: Yes.

22 COUNCIL MEMBER BREWER: Thank you.

23 CHAIRPERSON JACKSON: Well, thank
24 you for coming in. We have received testimony
25 from the Office of the City Controller, William

2 Thompson, Jr., and his testimony is now part of
3 the record. Now we're going to hear from George
4 Sweeting, the Assistant Director for the
5 Independent Budget Office. And next we're going
6 to hear from a panel of union member, union
7 leaders. After Mr. Sweeting, we're going to hear
8 from Joseph Colletti, of UFT, and Robert Stroller,
9 from Local 891 of, of the Operating Engineers.
10 So, Mr. Sweeting, welcome, you've sat through this
11 part of the hearing of the Department of Education
12 on contracts and procurement, and do you have a
13 written testimony, or would you like to comment on
14 what was said?

15 GEORGE SWEETING: I have a
16 relatively brief written statement, that I think
17 it's just as well if I read it through, and then
18 I'd be happy to try to answer your questions.

19 CHAIRPERSON JACKSON: Sure, please
20 go right ahead.

21 GEORGE SWEETING: So I'm George
22 Sweeting, Deputy Director of the New York City
23 Independent Budget Office. And I'd like to thank
24 the chairs and the members of the two committees
25 for the opportunity to appear before you today,

2 regarding the contracting rules for the Department
3 of Education. Over a year ago, I appeared before
4 a Council hearing on school governance and mayoral
5 control, and described how the failure of the 2002
6 school governance legislation, to clarify the
7 Department's standing under the procurement
8 regulations that control contracting by other City
9 agencies, had left a gray area in the law that
10 needed correction. We suggested that regardless
11 of how the State Legislature resolves the school
12 governance question, it should fix the contracting
13 loophole, along with several other budget process
14 issues. Those of you familiar with IBO procedures
15 may be surprised to hear us make a specific
16 recommendation on this matter. In general, IBO
17 has chosen not to make policy recommendations, in
18 order to maintain our role as a source of
19 objective and nonpartisan analysis. Over the
20 years, we have made one exception, and that is for
21 recommendations on questions of budget process.
22 We have supported proposals that improve budget
23 transparency, public understanding, and greater
24 accountability for how City resources are spent.
25 Since the mayoral control legislation was passed

2 in 2002, most New Yorkers assume that the DOE
3 functions like all other City agencies. However,
4 aside from altering the makeup of the Board of
5 Education, and the process for appointment a
6 chancellor, the legislation made few other
7 changes. The renamed Department of Education is
8 still fundamentally a State entity. And as such,
9 it is not subject to the provisions of the New
10 York City charter that governed procurement policy
11 for City agencies. Specifically, the Procurement
12 Policy Board, which is created in Section 311 of
13 the charter, is authorized to issue rules and
14 regulations to be used when City departments
15 procure goods and services. The PPB has exercised
16 that authority to establish a regime of
17 procurement rules, which among other things
18 largely prohibit sole source contracts for major
19 purposes, requiring competitive bidding instead.
20 The PPB rules are intended to improve
21 transparency, avoid excessive costs, and reduce
22 the potential for favoritism that can result in
23 the absence of competitive bidding. While
24 agencies procuring goods may chafe under the
25 strictures that the PPB imposes, it is difficult

2 to understand how those, how those rules are
3 considered useful when other City agencies procure
4 goods and services but unnecessary or too
5 cumbersome for the DOE. A change to State law
6 clarifying that the DOE is indeed subject to PPB
7 rules, and to the full authority of the City
8 Controller under the City charter and existing
9 laws in reviewing and registering contracts, would
10 serve to improve transparency, accountability and
11 confidence in the DOE's procurements, and
12 potentially save the City money. So thank you,
13 and I'd be glad to answer any questions you may
14 have.

15 CHAIRPERSON JACKSON: Now, well,
16 thank you, and we appreciate you and the
17 Independent Budget Office for always coming in and
18 giving your opinions. And obviously, you've made
19 a specific suggestion, and I'm sure that you're
20 communicating this to the State Legislature, when
21 they're reviewing the whole issue of mayoral
22 control, which expires in June 30th of this year.
23 But if not, we will be forwarding your testimony
24 and making the suggestion ourselves concerning the
25 transparency. Because my colleague, Letitia James

2 had, had indicated and based on the Department of
3 Education, when they talked about the, the
4 Committee on Contracts, and which is an internal
5 committee, they said they advertise in the City
6 record seven days before, they publicize the
7 results of it, and they so forth and so on, so
8 they, you know, they're doing everything according
9 to--But, but the actual hearing itself is closed.
10 So, I mean, if they, if they advertising way in
11 advance that, that they're holding a committee,
12 they advertise the agenda, they, they--And when
13 they finish the hearing, they basically publishes
14 the results of it, the only thing that's missing
15 is the, is the hearing itself. So why not just
16 open it up for total transparency? And that's
17 what people are complaining about. What do you
18 have to hide? What are you doing behind, in
19 secret behind closed doors? So I'm glad that the
20 Independent Budget Office has put forward that
21 change in law would be appropriate in order to
22 have total transparency and accountability. Let
23 me ask you a question with respects to, you've
24 heard the comments, you have any additional
25 comments concerning anything that was said in the

2 testimony today?

3 GEORGE SWEETING: I think one, just
4 one observation I'd make in terms of the meetings
5 of the Contract Oversight Board, or whatever they
6 have inside. The, the key issue really is that
7 you have that meeting in itself, because you're
8 having that meeting to do contracts that would
9 normally, I can't say with certainty that every
10 single one of them, but most of them would not,
11 the ones that they have to do the exceptions on,
12 wouldn't fit under procurement policy board rules.
13 So if you had those, you wouldn't have that whole
14 process. So whether that, those meetings are open
15 or closed, in a sense are secondary to the fact
16 that you have that process in the first place. To
17 be frank, most contracting is not open. I mean,
18 you don't, you know, people don't go in and watch
19 the Department of Finance do a contract, whether
20 it's to buy paper or to buy a computer system.
21 Those are, you know, that's part of the normal
22 administrative process. When people talk about
23 transparency, it's more the noticing, the--the
24 publication of the specifications, and the
25 following of standard rules that the City has

2 imposed on all other agencies. That's the
3 transparency. That's, that's where transparency
4 really comes in. More than on the particular
5 process of how they decide on these exception
6 contracts.

7 CHAIRPERSON JACKSON: Council
8 Member Brewer?

9 COUNCIL MEMBER BREWER: Thank you.
10 Thank you, my question is, I should know this, but
11 the PPB rules, how specifically, you mentioned a
12 little bit regarding this one committee, but to
13 give the example, the City contracts for
14 stationary and paper with Staples; the City
15 Council participates, some of us who care about
16 our local stationary stores are concerned. So
17 when the co-chair mentioned bookstores,
18 unfortunately all of us are part of the same
19 challenge when it comes to things like paper and
20 stationary, we're all mandated to work with
21 Staples, because it is less money. But my
22 question is, how would the PP rules specifically,
23 if the DOE was to come under it, how would it make
24 it different than whatever process we went through
25 for stationary, how would it make it any different

2 in terms of the DOE? I mean, what, other than
3 publicizing and having the information as has
4 already discussed, I don't think that we can sit
5 and listen to a discussion opening up proposals in
6 a room. How would it be different under PPB?

7 GEORGE SWEETING: I'm not sure
8 that--I'm not sure that in most cases it would be
9 that different. As I testified here today, they,
10 the Department, you know, by their assertion,
11 largely follows the rules. But they, they want to
12 hold onto certain exceptions where, you know, and
13 they argue, you know, that the, that it's because
14 of the particular purchasing structure of their
15 agency, that it's different. I can't, I can't,
16 you know, offer an opinion on, on the accuracy of
17 that statement.

18 COUNCIL MEMBER BREWER: Okay. Do
19 you think there are more, there are more sole
20 source contracts at DOE because of the lack of PPB
21 oversight? Or that's probably not relevant.

22 GEORGE SWEETING: I don't know if
23 there's more or not. I know that the Controller
24 has offered testimony on that, and I'd, I would
25 defer to his--

2 COUNCIL MEMBER BREWER: Alright--

3 GEORGE SWEETING: --his knowledge
4 on that.

5 COUNCIL MEMBER BREWER: Thank you.

6 CHAIRPERSON JACKSON: Well thank
7 you very much, we appreciate you coming in, and
8 please give our regards to your director.

9 GEORGE SWEETING: I will, thank
10 you.

11 CHAIRPERSON JACKSON: Next we'll
12 hear from Joseph Colletti of UFT and Robert
13 Troeller from Local 891 of Operating Engineers.
14 Please come forward. If you have testimony,
15 please give it to the Sergeant-at-Arms. And come
16 up and identify yourself and you may begin your
17 testimony. And next we're going to hear from
18 Veronica Montgomery Costa, President of Local 372
19 and President of DC 37, if she's here. And, and
20 then after her, Henry Garrido [phonetic] of the,
21 Assistant Associate Director of DC 37, after
22 Veronica Montgomery Costa. Colletti, introduce
23 yourself, your position, and you may begin your
24 testimony. Press the button please. Thank you.

25 JOSEPH COLLETTI: Oh. My name is

2 Joseph Colletti, I'm a special representative for
3 educational programs with the United Federal of
4 Teachers. And you've received my written
5 testimony, so I'd just like to highlight some of
6 the items in that testimony. As you know, the UFT
7 has been battling to protect classrooms from
8 massive budget cuts and I think the last thing any
9 of us wants to see is kids lose out on direct
10 service because of the misuse of funding, or the
11 unwise of funding. So, today's scrutiny on the
12 Department of Education's contracting and
13 procurement process is particularly important and
14 timely, and I want to thank Councilman Jackson and
15 Councilwoman James, and the members of your
16 committees for this opportunity, and for holding
17 these hearings. We know that many projects and
18 programs have gone through the proper channels,
19 but there is the issue that many more contracts
20 have been entered into outside of the bidding
21 process, and away from public scrutiny. And the
22 DOE has doled out hundreds of millions of dollars
23 in contracts without competitive bidding, and
24 that's often with mixed results. And the City
25 Controller and the Public Advocate have done

2 extensive work to shed light on these practices.

3 And we did get a statement from the Controller

4 earlier today. But there's still a lot we do not

5 know about many of the private vendors' contracts

6 operating in our public schools. And as,

7 Councilman Jackson you mentioned earlier, that we

8 too at the UFT have had to rely on the Freedom of

9 Information Act, to get information about what's

10 happening in our public schools, and we too have

11 had to wait many, many months, and sometimes years

12 to get that information. Now the most contracts

13 are probably entirely appropriate. Of course the

14 companies hired are uniquely qualified to do the

15 work, but the lack of bids on so many occasions

16 does raise the issue of secrecy, of

17 accountability, and we've heard the word over and

18 over today: transparency. And--The issue has

19 also exploded into controversy. Councilman Liu

20 earlier mentioned the Alvarez and Marcel role in

21 the bussing debacle of several years ago, and to

22 the best of my knowledge I don't think anyone,

23 least of all the vendor, was held accountable for

24 any of those faults. There's also the issue of

25 private funding. We heard Alvarez and Marshall,

2 also the Leadership Academy, they were originally
3 private funded, suddenly tax levy and general
4 budget dollars are being used to fund those
5 programs through contracts. And we really don't
6 have information about how those changes come
7 about. I want to go back to the transparency,
8 because it is a, it is a critical issue.

9 Classrooms and services must be protected because
10 kids don't get a second chance, we know that.

11 That means how we spend every dollar today is much
12 more important, and the public must know how money
13 is being spent in the public schools. And

14 therefore, we are recommending an independent
15 review and evaluation of all DOE contracts, and we
16 need to be smart and strategic about what
17 contracts and vendors we keep, what contracts we
18 need to put on hold or cancel entirely. I'll give

19 you an example. On March 26th, Chancellor Klein
20 testified before the Education Committee that

21 there is still a threat of layoffs. Then, why are
22 we paying \$10 million to recruit new teachers?

23 We've heard about ARIS, there is a State

24 Accountability System, we could meld the

25 accountability system of New York City into that,

2 and we'd save about \$20 million. McGraw Hill,
3 acuity program, periodic assessments every eight
4 weeks the students receive tests. These are
5 useful tests, but in this climate they're not
6 mandated by any federal or state laws, and
7 suspending them could save about another \$25
8 million that could be put into classrooms.

9 External consultants, we've heard a lot about that
10 today. Well, they should be reevaluated.

11 Consultants and contract agencies employed by
12 schools provide a lot of services, professional
13 development, special education related services,
14 and in both those areas the DOE could use in-house
15 specialists to deliver those services cheaply,
16 efficiently, and in my opinion, sometimes a lot
17 better than what's being done right now. It's a
18 shame that the priority is not encouraging and
19 enhancing the leadership and instructional
20 expertise we have within in our own schools, and
21 why we're going outside to get some of that
22 sometimes. Transparency is the key here, when we,
23 so that we can make informed decisions. The UFT
24 in its proposals is a strong advocate of checks
25 and balances, and accountability at the top. And

2 we believe that a public contracting process is
3 necessary for our public schools. Teachers want
4 to make a difference in kids' lives, they
5 appreciate the fact that the president of the
6 United States has called for transparency, also;
7 and that we are glad that he will spend his
8 political capital to provide the resources to make
9 it happen. The same rationale should apply to
10 every bit of contracting by the Department of
11 Education. We should not be laying off people or
12 cutting direct services to kids, until we have
13 transparently reviewed every contract and
14 maximized our savings by modifying or dropping
15 those that aren't necessary during these difficult
16 times. Thank you.

17 CHAIRPERSON JACKSON: Thank you.

18 And next, Mr. Troeller, just identify yourself and
19 you may begin your testimony.

20 ROBERT TROELLER: Yes, I'm Robert
21 Troeller, I'm the president and business manager
22 of Local 891, International Union of Operating
23 Engineers. I want to thank Chairman Jackson and
24 Chairman James for having me here today, here
25 today, and for holding these important hearings.

2 And I want to thank the other distinguished
3 members of the City Council. As business manager
4 and president of 891, the Operating Engineers, I
5 represent 950 school custodian engineers, who are
6 responsible for making sure our schoolchildren in
7 New York City can learn in the safest and cleanest
8 environment. Custodial budget cuts over the past
9 several years have resulted in manpower loss
10 equivalent to over 1,000 fulltime positions. It
11 has become increasingly more difficult for my
12 members to perform their jobs in an adequate
13 manner. I'd also like to discuss today mayoral
14 control and the negative effects that it has, it
15 has had on the safety, safety and cleanliness of
16 our schools. I also want to express my union
17 support for Resolution Number 1831. I was very
18 interested when Gale asked the gentleman from IBO
19 her questions about how would it be different had
20 the Department of Education fallen under the
21 procurement procedures outlined in the City
22 charter. Well, I'd like to give you three
23 examples how I feel it would be, it would've been,
24 things would've been different, and would've saved
25 the City money, and resulted in safer and cleaner

2 schools, had that happened when mayoral control
3 was instituted. Shortly after the passage of that
4 law, the City Schools Chancellor developed and
5 attempted to implement a plan to outsource
6 custodial services. In response to that, his
7 initiative, this Council held oversight hearings
8 and examined his scheme. In 2004, the result of
9 the Council's investigation and hearings was the
10 passage of Resolution 37A2004. That Council
11 Resolution called for a complete abandonment of
12 outsourcing of custodial services. The hearings
13 exposed many flaws in the procurement and
14 contracting processes used by the Department of
15 Education. I'm happy to report that due to the
16 pressure brought by the, the hearings, the
17 objections of parents, the press, and elected
18 officials, the Department abandoned that
19 particular outsourcing effort. But during the
20 same time period, the Chancellor had attempted to
21 implement a \$60 million emergency no-bid contract.
22 \$60 million. And at that time, Local 891, myself
23 actually, went to the State Controller and the
24 City Controller, and I asked him to examine his
25 contract. How can a \$60 million, under what rules

2 can such a contract be let? And both told me they
3 did not have the jurisdiction to examine that
4 contract. While it's true they, they spoke
5 previously about the Department of Education
6 auditing their books, that's after the fact. It's
7 not like other City agencies whereby the
8 contractor signs off on these contracts prior to
9 being let. So, due to the flaws of the enactment
10 of that mayoral control legislation, both men
11 claim not to have oversight of the DOE's
12 contracting process. Frustrated by a system with
13 no oversight, my local took the Chancellor and the
14 DOE to court. The State Supreme Court declared
15 the contracts to be illegal, and the process by
16 which it was entered into to be illegal. Under
17 the judge's order, the approximately 120 school
18 buildings covered under the agreement were
19 returned to the care of the Civil Servant
20 Custodian Engineers. Those schools are still
21 cared for under the Civil Service System today,
22 although there are fewer contractor schools today--
23 -Is it, is it not working right? Or was I--oh,
24 okay. Although there are fewer contractor schools
25 today, I feel any are too many, because it costs

2 more money to operate with a private contractor
3 than a civil servant custodian. It should be
4 noted, in that judge's ruling, the judge ordered
5 that, I mean, the judge declared that, although
6 the State education law does give procurement and
7 purchasing powers to the Chancellor to set rules,
8 that does not, that does not mean he's exempt from
9 following State basic bidding and purchasing
10 requirements. And that order, that law, I mean,
11 that law, because it's a judge order, originally
12 was challenged and then that appeal was dropped.
13 So that, that order still stands. You know, it's
14 interesting to note that there is a State judge,
15 and a Supreme Court that ordered the Chancellor is
16 responsible to basic State bidding and purchasing
17 guidelines. Hopefully, the DOE will soon be
18 looking to enter into new agreements with vendors
19 to supply the New York City's school custodian
20 engineers with supplies and equipment. Under the
21 charter, they, as I noted, most sole source
22 contracts are illegal. Unfortunately, my members
23 suffer under such a sole source contract today.
24 The current lucrative contract held by SDI have
25 led to millions of dollars in waste. SDI had been

2 granted a virtual monopoly. As an unnecessary
3 middleman, they add an additional cost to every
4 purchase custodian engineers make. The allocation
5 my members receive are actually meant to provide
6 manpower labor, but custodian engineers utilize
7 some of that money to supplement their supply
8 allocations, which have remained unchanged since
9 1996. And you know, it was noted today how many
10 billions of dollars the Department of Education
11 has added to the system, the mayor and the State
12 both. But for some bizarre reason during that
13 period, custodial budgets have been reduced five
14 times. We've never had any increase, you know,
15 except to account for increase of negotiated wage
16 increases. We've actually had reductions and
17 elimination of staff, and no increases to our
18 supply budget despite inflation and everything
19 else. So, the dollar amount they receive is
20 exactly the same as it was in 1996; our contract
21 requires purchases be made through DOA, DOE
22 approved sources. The Department of Education
23 should accept competitive bids on custodial
24 products and allow custodial engineers to purchase
25 supplies from multiple vendors. Instead, they

2 give a monopoly to one company and we waste
3 millions of taxpayer dollars. Such waste is
4 particularly unacceptable and offensive in these
5 economic times. I believe the education law must
6 be amended and I hope this Council urges the State
7 Legislature to do so. I have cited three examples
8 of failed contracting procedures which are
9 directly related to my members and custodial
10 operation. One doesn't need to speculate too much
11 to assume there are numerous examples of how the
12 Department of Education squanders public funds. I
13 have urged the State Legislature to amend the law,
14 so that an independent entity is given oversight
15 of the Department of Education's procurement and
16 contracting process. True oversight will never
17 come from a board that has a the majority of its
18 members appointed and serving at the will of the
19 mayor. Considering the DOE spends more money than
20 any other agency, it's only reasonable that they
21 should be required to follow all the procurement
22 provisions outlined in the City charter. Thank
23 you.

24 CHAIRPERSON JACKSON: Well, let me
25 thank you both for coming in and representing the

2 members of the United Federation of Teachers and
3 Local 891. Clearly, both of your testimonies
4 indicate that there is not the transparency that
5 we're, that we're seeking, and not the
6 accountability. And I think very specifically,
7 President Troeller, you've laid out specifically
8 cases in which had negatively impacted your
9 membership and what you have done to fight on, on
10 behalf of your membership. So I say that both of
11 your testimonies are, your members should be proud
12 that you're, both of you are involved in this
13 particular hearing today, in trying to look at the
14 contracting out and procurement process of the
15 Department of Education. And as the saying goes,
16 this will continue to go forward. But thank you
17 both for coming in.

18 ROBERT TROELLER: Thank you. And,
19 and just want to say, more importantly, it's
20 negatively affected the children, and the
21 cleanliness and safetiness, safety of the schools.
22 Thank you.

23 CHAIRPERSON JAMES: Are you
24 lobbying members of the State Legislature with
25 regards to a change in the education law?

2 ROBERT TROELLER: Yes, I have and--
3 I'm sorry, yes, we are, and yes I have. And many
4 of the changes I call for are exactly the same
5 things that the IBO and UFT and many other
6 organizations are calling for.

7 CHAIRPERSON JAMES: So if, I'm
8 prepared to join you in any letter to, I think
9 it's Assemblywoman Nolan who's Chair of Education.

10 ROBERT TROELLER: Yes, Catherine
11 Nolan, yes.

12 CHAIRPERSON JAMES: And her
13 counterpart, whoever that might be, in the State
14 Senate.

15 JOSEPH COLLETTI: Thank you, I'll
16 take that message back.

17 ROBERT TROELLER: Thank you.

18 CHAIRPERSON JACKSON: Well, thank
19 you. And next we're going to hear from Veronica
20 Montgomery-Costa, President of Local 372 and
21 President of DC 37.

22 CHAIRPERSON JAMES: Henry is.

23 CHAIRPERSON JACKSON: No, I
24 understand that, but I, it's--I, I understand. Is
25 there anyone here on behalf of Veronica

2 Montgomery-Costa. Excuse me? Where's it at in
3 the record? Do we have anything on the record
4 from Montgomery, Montgomery-Costa? [pause] So we
5 have, for the record, testimony submitted by
6 Veronica Montgomery-Costa, President of Local 372
7 of the New York City Board of Education Employees,
8 and District Council 37 of ASME. So. And next,
9 with an attachment, and next we're going to hear
10 from Henry Garrido, the assist, assoc--Assistant
11 Associate Director of DC 37. Henry, welcome.
12 Just press the button, identify yourself, you may
13 begin your testimony.

14 HENRY GARRIDO: Good afternoon, my
15 name is Henry Garrido, and as you said, I'm the
16 Assistant Associate Director from DC 37, and I'm
17 here on behalf of our Executive Director, Lillian
18 Roberts, who could not be here with us today due
19 to some scheduling conflict. You have my
20 testimony for the record, so I don't want to go
21 through every aspect of it, but I will take two or
22 three of the points, because I think they are in
23 direct contradiction to what was testified by the
24 Department of Education here today. On the issue
25 of transparency, I like to take a moment to talk

2 about the issue consultants in the Department of
3 Education. We at DC 37 have done extensive
4 research on the issue of contracting out on all
5 City agencies, but particularly in the Department
6 of Education, because it's the largest contracting
7 agency within the City. And because we have found
8 so many violations of what would be procurement
9 rules under general circumstances. But I want to
10 take a moment to talk about the issue of
11 consultant services. The Special Commissioner of
12 Investigation, Richard Condon, found that, on a
13 report, that a number of consultant services were
14 being, in effect, being placed through a temporary
15 agency. And what we heard today from the
16 Department of Education, that most of those
17 services are in fact for, you know, related
18 services and, you know, special education
19 services, is in fact not accurate. Under that
20 investigation, over 600 consultants were placed
21 through a temp agency, to work side-by-side with
22 children. There is absolutely no accountability
23 on that contract. The way it works is, the
24 districts and--district offices and main offices
25 are given, have a directive from the Department of

2 Education, indicating that if they wish to hire a
3 consultant service, or a specific consultant, then
4 they need to refer that consultant to the temp
5 agency. In this case, the agency is Good Temps.
6 That consultant is referred directly from the,
7 from the district back to the temp agency, back to
8 the Department of Education. There is no
9 background check, there are no fingerprinting, the
10 cost is already set by the district, so the good,
11 the agency called Good Temps is simply accepting
12 the recommendation of the districts. This was
13 highlighted on a report from the Special
14 Commissioner of Investigation. It hasn't changed,
15 it's still there. There is extensive memorandums,
16 even to this day, on how this, this agency, Good
17 Temps, which was hired as a sole source provider,
18 is still placing over 680 consultants to do the
19 services, day-to-day services, in the school
20 districts, providing services that could be done
21 by not only City workers but people in our
22 community. And the second issue that I want to
23 take all this, was the issue of converting city
24 consultants, specifically on the information
25 technology area. We highlighted a lot of

2 documents that show that there was list of
3 hundreds of computer consultants throughout the
4 system. Take an example, the issue of, right now,
5 in the Marriott Marquis areas, one of the floors
6 is completely, completely staffed by consultants.
7 And the same happens to be true at Two Metrotech.
8 The Department of Education is using a lot of
9 these computer consultants to do day-to-day
10 business, help desk services that could be done by
11 civil servants, by people in the community. And
12 one of the things that, that was really
13 interesting, when I heard about the efforts that
14 they're making to involve people in the community,
15 recently we'd done some research and we've found
16 that the highest users of H1 visas, which are
17 visas, visas here in the United States, in the
18 country, that is not a business, is the New York
19 City Department of Education. In the year
20 2006/2007, they had over 600 H1 visas. In 2007,
21 which is the latest date that we have to-date,
22 they had 179. That is more than the Bloomberg
23 Corporation and many other major companies. And
24 these are jobs that could be done by people in our
25 community. And we're not talking expertise that

2 we wouldn't find here, we're talking about
3 accounting services; we're counting, talking about
4 services for information technology that they
5 could procure here and make available to the
6 people. And we believe in the civil service
7 system, as a system to provide upward mobility to
8 people of color, minority, and they're not,
9 they're just not simply abiding by that. Lastly,
10 I'll talk about the issue of, of abuse of
11 temporary clerical workers, hundreds of them. In
12 the month of September, there were two offices of
13 over 380 consultants working side-by-side civil
14 servant. They don't have to do a background
15 check, and this is what's disturbing to us: these
16 people were doing scanning services for test
17 results. The, again, the Office of Special
18 Investigation did, did an analysis of this
19 particular scan office in Long Island City in
20 Queens, and he found that the majority of the
21 people that were placed through these contractors
22 had not been fingerprinting. Upon further review,
23 he found the main person who was actually leading
24 the consultant, the temporary workers, had been
25 terminated from the, from the City from HRA for

2 welfare fraud. This is the same person who had
3 managed to put 25 additional people, six of which
4 had been previously arrested for serious offenses,
5 including felony charges, and they were the ones
6 handling the test results that were being scanned.
7 Alright? And should we have a system, if we had a
8 system of accountability, where you have
9 background checks, which is required of all City
10 workers, you wouldn't have that situation. So, we
11 like to raise the issues, who, who's taking care
12 of the services for our children? We have
13 multiple examples of cost savings, we have a
14 recent paper that has over \$130 million in
15 savings. There's a lot of examples in the
16 Department of Education, in the food delivery
17 service, in the computer consultant services.
18 Time and again, we have made that issue, but the,
19 the point is, under the contract with DC 37, and
20 under procurement board, if you are required to do
21 a cost analysis, if you're displacing City
22 workers, then we have an opportunity to intervene.
23 But the problem is, because these contracts are
24 not subject to any review, often we find that, you
25 know, two years, three years after the fact, and,

2 and we have absolutely no recourse at that time.
3 And at the same time, people are being laid off,
4 so many other people in, in the communities were,
5 we talked about, you know, in, in, about a year
6 ago, we had community coordinators, parent and
7 community associates in the district offices, were
8 being laid off; at the same time, the new
9 contracts were coming in. And, and that's
10 unconscionable, and they're bringing people from
11 outside, not only here in New York, but people
12 from outside New York, from the State of New York,
13 and we think that's, that's, it's wrong, you know,
14 I think, we think it's time to stop it. Thank
15 you.

16 CHAIRPERSON JACKSON: Well. [off
17 mic: "Wow."] You've said a mouthful. [laughter]
18 And clearly, if the special investigator has found
19 basically the details in which you laid out, that
20 independently shows that there's a problem, and,
21 and in fact, we're going to be following up on the
22 things that you mention and maybe request a
23 meeting with you to, to pick your brain more so
24 with respect to contracts at the Department of
25 Education that are not kosher, not in line with

2 transparency and accountability, and, and not
3 having the security checks that are supposed to be
4 in place. So, let me thank you on behalf of all
5 of the members that you represent as the Associate
6 Director for, I believe, Research--an Assistant to
7 the Deputy Executive Director, let me thank you
8 Henry for coming in, you've always, in my opinion,
9 been right on point with respects to the papers
10 that DC 37 have brought out concerning contracting
11 out matters. Any questions? Council Member Gale
12 Brewer.

13 COUNCIL MEMBER BREWER: Thank you.

14 Tank you, Henry, I agree that you're always on top
15 of things. My question is, when DOE testified
16 about the computer issues, somebody asked about
17 contracts, and they said that they hire a lot of
18 people for temporary, probably programming; in
19 other words, when they're doing the special
20 education, etc., etc. How do you respond to that?
21 Are those some of the people, do you think at
22 Metrotech and so on, or are you talking about a
23 different kind of part time contract, consultant?

24 HENRY GARRIDO: No, I, I think the,
25 the purpose is try to confuse the issue, because

2 there are people who are contracted out to receive
3 services that we don't have in house. And I
4 think, I want to be clear that we're not saying
5 that every contract is evil. Right? There are
6 some contracts that are legitimate. What we're
7 asking for, is if you're going to have a contract
8 that's going to provide services for helpdesk, for
9 web maintenance, things that are not likely to go
10 away, why are you using consultants to do this?

11 In the City, in 2005, the Commissioner - - if you
12 recall had put in a plan that would require, or at
13 least advise the City to contract in the work in
14 order to save \$100, \$75 million. What the City
15 did, it created a special title, called the
16 Certified Network, whatever. And that, that
17 contract had a very high salary, allowed people to
18 apply, and, and get training for it. And, and get
19 the job and become City workers. They began the
20 process of converting what they said would be over
21 1,000 consultants over to the, to this title.

22 Well, in the Department of Education, the lowest
23 number certified that were titles. They stopped
24 at about 50, from 1,000. We don't know why, but
25 we think it's directly related to the City, or the

2 mayor's office, issuing a hiring freeze. You
3 know, when, and that's part of the problem. You
4 issue a hiring freeze, saying you cannot hire
5 anyone, but at the same time, there's absolutely
6 no regulation on the \$9 billion worth of
7 contracting out that you have. So agencies have
8 to get the business done, even when they want to
9 hire people, in this case couldn't hire people,
10 because OMB was basically telling the people, "You
11 can't, you have a hiring freeze. We can't hire
12 anybody." So, our experience is completely the
13 opposite, is that while there's a small amount of
14 those contracts that are legitimate because you
15 don't have the service in-house, the truth is, we
16 have hundreds of consultants doing day-to-day
17 functions, that are going to be here now, are
18 going to be here ten years from now, that should
19 just be, be made City employees. Thank you.

20 CHAIRPERSON JACKSON: Thank you,
21 again, for coming in on behalf of your union.
22 This panel is Connie Attanasio, Ad Hoc Committee
23 of Minority Vendors; and Desmond Reid of Desmond
24 A. Reid Enterprises; and Genaro Bastos, Bastos
25 Educational Books. Please come forward.

2 [background noise] Madam, just introduce yourself
3 and you may begin your testimony. Press the
4 button please.

5 CONNIE ATTANASIO: Oh, sorry.

6 Connie Attanasio, President of Attanasio and
7 Associates, and also in charge, or head of the Ad
8 Hoc Committee of Minority Small Business and Women
9 Vendors. And I'd just like to read this preface
10 for a moment, and then I would like to address
11 some of the issues that were asked of David Ross
12 that I think were tremendously fabricated from him
13 as a response. As a consequence of the--Oh, let
14 me just tell you what you have in front of you.
15 You have the Ad Hoc Committee's statement on page
16 one. On page two, you have the winner of the
17 trade bids under A, B and C. B and C have not
18 been registered as yet. They would not give me
19 this information when I called the Board, but a
20 friend was at a meeting in Brooklyn, and this
21 information was passed out. So, I'm showing it to
22 you folks to see that the vendors are the same in
23 all categories. And C is an article from City
24 Limits that was written some time ago by a
25 reporter who was here earlier today, talking about

2 our plight. As a consequence of the above bid
3 from the New York City Department of Education
4 Contracts and Purchasing Division, there will be a
5 negative impact on the education of New York
6 City's greatest treasure, our children,
7 specifically in the language minority communities.
8 This bid excluded participation of small, minority
9 and women owned businesses, predominately based in
10 or near New York City. For decades, ESL and
11 bilingual program administrators and teachers have
12 relied on minority vendors, 'cause they
13 traditionally encounter difficulties identifying
14 and procuring quality instructional materials
15 targeted to the needs of this population. In
16 addition, the vendors provide free, in-service
17 trainings for their offerings, which are carefully
18 reviewed and aligned to curriculum and State
19 standards. I might add that we're also not afraid
20 to go to areas of Brooklyn and the South Bronx on
21 Friday nights or Saturday mornings to do parent
22 workshops, we've been doing it for years. I've
23 been doing it for 25 years, my colleagues have, I
24 believe been doing it for more. Under the newly
25 awarded bid, textbooks and trade books that are

2 available on the open market, can only be
3 purchased through the following giant companies
4 based outside of New York State: Ingram and
5 Booksource. Ingram is in Tennessee, Booksource is
6 in Missouri. They can afford to give large
7 discounts 'cause they probably pay their employees
8 \$1.98. In New York we pay very high real estate
9 costs, and we also pay our employees a decent
10 wage. To, the funds to purchase these materials
11 are both federal and state, whose guidelines
12 prohibit exclusion of minority owned businesses.
13 The Department of Ed's website encourages minority
14 owned and small, independent firms to do business
15 with the Department; however, the above mentioned
16 bid totally violates this purported idea. Unable
17 to make free choices as to selecting textbooks and
18 supplemental materials which support teaching and
19 learning, the educators of New York City will be
20 held hostage to a small handful of mega-publishing
21 giants, who will only provide these items which
22 are most profitable for them. In corporate
23 fashion, this will eliminate those materials which
24 would be used wisely by language minority
25 communities. The result of this will undoubtedly

2 be quite the opposite of No Child Left Behind. In
3 New York City, there will be countless children
4 left behind, unserved by an education system which
5 places less value on the children and more value
6 on making life easier for a Department of
7 Bureaucrats. There are two things that I'd like
8 to address right here. Number one, we couldn't
9 apply because it was \$5 million bid; you had to
10 have EDI capability with virtual inventory sites
11 everywhere; and you also had to maintain an
12 incredibly high inventory on all kinds of stock.
13 Now, I happen to have specialized in the ESL
14 community, and I had word-to-word dictionaries,
15 which are accommodations for our children who
16 speak 170-something different languages for the
17 various State tests. Those dictionaries were
18 taken from me, and moved over to Ingram and
19 Booksource. Either they're not find in the
20 computer at all, in the database, or they're found
21 with zero inventory. So the schools call me
22 frantic, "How am I going to get my dictionaries?
23 How am I going to get my dictionaries?" I say, "I
24 don't know what to tell you what to do, because I
25 can't legally supply them to you anymore." Now,

2 the other thing is, the materials, the Spanish
3 materials, the Chinese materials, these materials
4 are not going to be supplied by these big
5 companies, because they don't have anybody that
6 knows the community. They don't have people that
7 go out and can service these, these communities.
8 And so therefore, when David Ross said, "Well, we
9 took a look at the 20 biggest companies," well
10 those 20 biggest companies are not the ones who
11 public culturally sensitive material, and
12 culturally sensitive trade books, for all of the
13 kids that are in our different communities in New
14 York. So he's just lying about what's going to be
15 available. In addition to that, I did, I, you
16 know, I need to say this, I guess I could say it
17 in public. I wrote to David Ross on a number of
18 different occasions, because I found collusion at
19 the Department of Ed amongst his employees. And
20 some of those winners are the winners of the bid.
21 I wrote to him on a couple of occasions, and he
22 said to me, he'd either didn't ignore me, or then
23 finally when he wrote back to me, he said, "Well,
24 you have to send it, the information to the IG,"
25 and I gave him specific instances. Well, I did

2 write to the IG, but I wrote anonymously because I
3 was afraid I was going to lose my contract. Well,
4 since we have these hearings nowadays, next week I
5 will go into the IG and testify as a real person
6 and give my real name, as to the collusion type
7 of, that I have found in special relationships
8 between Nelson Roman, who was in charge of the
9 bid, and two of the vendors that won the bid,
10 which was Booksource, which was represented by the
11 Sussmans, and that's the relationship he has with
12 the Sussmans, and in addition to that, Ben Khan
13 [phonetic] with Knowledge Industries. I, I was at
14 a book expo meeting two years ago, and Nelson
15 Roman was walking down the main aisle, with Ben
16 Khan. Ben Khan is one of the winners of the bid.
17 And he also in January, at the Educational
18 Paperback Association, Nelson Roman was on a panel
19 chaired by Ben Khan. So, where is this
20 transparency? Nelson Roman called me into his
21 office, told me that I had no right to talk about
22 what I was talking about, that he could go and do
23 whatever he wanted to do. And I said, "You know
24 what? But you got to be transparent." And if I
25 lose my business because it's a level playing

2 ground, I understand. But if I lose my business
3 because you have preferred relationships with
4 other people, that's not right. And the, there
5 are two other things that I wanted to say is that
6 I went to a law firm in the City, and they told me
7 that this whole thing was illegal, it would cost
8 me \$60,000 to fight it, \$60,000, which I don't
9 have. In addition to that, Jason Henry, who's
10 under Nelson, who's under David Ross, said on two
11 different occasions, "We don't want so many
12 vendors for the City, we only want a few." Now,
13 when I called the Puerto Rican Legal Defense Fund,
14 they told me that if you lose your business
15 because it's a policy that was put into effect,
16 and it touched everybody equally, then there's
17 nothing that could be done. But if the policy was
18 created to be exclusionary, then you'd be able to
19 fight it. Well, we don't have the money to fight
20 it. And we thank you all for doing this for us.
21 And that's about what I have to say.

22 CHAIRPERSON JACKSON: Thank you.

23 And next we're going to hear from--

24 CONNIE ATTANASIO: Yes, yes, that's
25 what I said. Yeah. That's what I said,

2 represented by them. Okay.

3 CHAIRPERSON JACKSON: Desmond Reid,
4 just identify yourself and you may begin your
5 testimony. Press the button, please.

6 DESMOND REID: Which one of the
7 buttons is it?

8 CHAIRPERSON JACKSON: Just, just
9 press it, when it's off it's on.

10 DESMOND REID: Okay.

11 CHAIRPERSON JACKSON: Test it.

12 DESMOND REID: Okay. Thank you.
13 Thank you for inviting me to testify, first of
14 all. My name is Desmond Reid, and I'm the
15 President and Owner of Desmond A. Reid
16 Enterprises. I am one of the victims of what I
17 think is the mayor's campaign to transfer wealth
18 and influence from the poor and middle class to
19 the rich. About a year ago, I received
20 notification of a request for bids posted on the
21 Department of Education's Vendex system. Among
22 other things, it required, in order to qualify to
23 bid, that vendors needed to have done \$5 million
24 business in the previous year, have at least one
25 salesperson in each borough, have an EDI system

2 hookup, and be doing business with 16 of the 20
3 enumerated publishers. And by the way, I do
4 business with about, with in excess of 400
5 publishers. But of course that didn't qualify me.
6 [laughs] Anyway, to my knowledge, only about four
7 of the hundred stated vendors qualified to bid.
8 When we went to the bid meeting, they told us
9 there were 100 vendors. Only four are qualified
10 to bid. At a pre-bid meeting, a number of
11 questions were asked of the DOE representatives.
12 One was, could a current vendor combine to meet
13 the \$5 million requirement. The answer was that a
14 bidder, in order to qualify, was allowed to have
15 one subcontractor. So, this ruled out most of us,
16 because most of us did less than half a million
17 dollar business. When the question was asked,
18 considering the DOE receive money from the State
19 of New York and the federal government, with their
20 requirements for minority and women set aside, why
21 is there no apparent allowance for that in the 100
22 plus page request for bids? The answer was that
23 the DOE is a mayoral agency which is exempt from
24 those requirements. Why is that so? And what can
25 be done about it? Many questions were asked about

2 special education, ESL and other materials which
3 are targeted to specialized populations, to which
4 the answer was that those type of material could
5 be offered through, through whomever is awarded
6 the contract. We know that's not so because they
7 do not have access, and as my colleague says,
8 they--the schools are not actually able to get it.
9 Okay? So these people are not able to get all of
10 these from the many hundreds of publishers all
11 over the world. We are able to because that's
12 what we do. The DOE, in response to the questions
13 from the media and others, insist that they will
14 save approximately 30 percent through the new
15 procurement method. That may or may not be true,
16 I'm sorry. Monopolists do not create, do create
17 their own challenges. Publishers will increase
18 their prices in the face of diminishing returns.
19 However, the resultant loss of these dozens of
20 vendors will nullify those savings. The support
21 system which multiple vendors provide is
22 irreplaceable. To begin with, there's myriad of
23 information and assistant to the pedagogues by the
24 research done by even the smallest vendor that
25 cannot be garnered by the large distributors. The

2 RDs [phonetic] are not in the research and
3 publishing business, so they don't know what is
4 needed. Additionally, they are not in New York,
5 and are not familiar with the nuances and needs of
6 the New York schoolchildren and teachers. The
7 vendors like myself provide a research and
8 training arm for teachers and administration,
9 through workshop and one-to-one consultations. In
10 addition to supplying books, there's a wealth of
11 vendor created material that some vendors provide.
12 Since some of us are former teachers and
13 administrators, as well as parents, we sometimes
14 know what are lacking to give these educators that
15 extra boost and an edge. We sometimes provide
16 encouragement to these harried educators who are
17 sometimes overwhelmed with discipline problems and
18 other challenges. In a society where there are so
19 many ethnic groups, it is a challenge to have
20 children claim learning. Many times, the lessons
21 deal with people other than us. So if it doesn't
22 apply to us, we don't attach any importance to it.
23 That's part of the problem why there is so little
24 learning. But when it applies to us, we pay
25 attention, so we learn. That's why divergent

2 materials are so important to our classrooms. I
3 believe that I heard of the importance of
4 curriculum of inclusion. We small vendors are the
5 one who find the material to be included. The DOE
6 divided up the textbook contract into three parts,
7 you've heard that. And you've heard that Ingram
8 Book and Booksource, and Ingram by the way is the
9 largest book distributor in the United States.

10 Okay? So you've heard that. The other parts have
11 not been awarded. Oh, the other thing is, we have
12 not discussed today the fourth part of this
13 contract, the second set of contract, which is the
14 library contract. Okay? We got an, a request for
15 bid in the summertime, and of course none of those
16 of us who attended qualified to bid. Okay? The
17 outcome of the DOE's new procurement policy is
18 that approximately 98 textbook vendors, and I
19 don't know how many library book vendors will be
20 out of business. This will impact at least 500
21 employees and other support people. The savings
22 may be 30 percent but the collateral damage will
23 impact on the City's economy in a geometric way.
24 There are many vendors like myself who have been
25 in business for many years. I myself have been in

2 business for 27 years and have done business with
3 the DOE for 26. I, like many of the others, do it
4 because, do not do it because it makes us rich,
5 but because we see it as a service to our children
6 and the other children of the City. Our
7 satisfaction is not necessarily financial riches,
8 but doing our part to make this a great city. But
9 we're appalled and outraged at the way this whole
10 lynching took place. We were always aware that
11 our contracts could be cancelled at any time
12 without cause, but none of us anticipated the cold
13 blooded way this would be handled. We were
14 basically treated as enemies to be eliminated.
15 The decision to excise the vendors was not made by
16 a clerk or a supervisor at the Department of
17 Education, in my opinion. It is a policy decision
18 made by the Chancellor and the mayor. It is one
19 more step in the mayor's quest to not only
20 transfer wealth from the poor to the middle class
21 of this city, to the rich, but to bedazzle people
22 in the process. We are made to believe that it is
23 all for the good of the children or the City. We
24 have only to look at the transfer of public funds
25 to private entity under the title of charter

2 schools. Children are being fired from their
3 schools, which are being given to private entities
4 to accommodate people who do not want their
5 children in the public schools. They can
6 segregate their children while having the public
7 pay for their education. There's much more that
8 can be said on this matter, but this is not the
9 forum. Suffice it to say that the children of
10 this city will, ultimately, pay the price for such
11 action. I appeal to you on behalf of myself and
12 the other vendors to review the procurement
13 practices of this mayor in a serious way. And I
14 don't ask that you do so only because I am a
15 victim of this decision. I ask you to do so
16 because you have been empowered to act as a check
17 against an outrageous or irrational action of any
18 mayor or city agency. I believe that no single
19 person in government, should be able to act
20 unfettered when the interests of the constituents
21 are not being served. I trust that you will act
22 on this and any other important matter as this in
23 a timely and effective way. Thank you.

24 CHAIRMAN JACKSON: Thank--

25 CONNIE ATTANASIO: Also, there is

2 another member of our committee here, come on, you
3 want to come up. Harris, he's, he's also another
4 business that's going to be affected.

5 CHAIRMAN JACKSON: Thank you.

6 Genaro Bastos, just introduce yourself and your
7 company and you may begin your testimony.

8 GENARO BASTOS: Sure. First of
9 all, thank you for having this hearing. It's
10 really a pleasure to see that there are people who
11 are willing to take on the mayor and [laughter]--
12 So, my name is Genaro Bastos, I own my small
13 company of educational publications distribution,
14 and that's what I'm, an army of three, it's myself
15 and two more. First of all, I am going to be a
16 little bit more perhaps technical as to how this
17 process works, because the individuals that were
18 here representing the Department of Education,
19 they were all lying through their teeth. And it's
20 not my opinion, I started when I had white hair,
21 so [laughter]--First of all, in order to sell
22 materials through the New York City Department of
23 Education, the books have to be reviewed. And in
24 order for them to be reviewed, they have to have
25 an ISBN number, an international standard book

2 number. If you do not have that number, or the
3 book doesn't have a barcode on the back, they will
4 not even consider that. What they did about a
5 year-and-a-half ago, they asked all of us to clean
6 up what was on the database. They've contracted
7 out without telling us what they were doing, with
8 a company called Bowker. Bowker is the agency
9 here in the United States that actually assigns
10 the ISBN numbers. If you do not have that, you're
11 essentially don't even bother to appear there to
12 tell them "I have a great book that I'd like the
13 students to have access to it." So, that's number
14 one. Number two, let's assume that you've got
15 that. The contract, the way they restructure it,
16 is that they're going to be giving it to the
17 publisher, not to the distributors, unless the
18 distributor basically is given the right by the
19 publisher to sell it. In the past, they had what
20 they called a PC, it was a Publisher's
21 Certificate. You would go to the publisher, the
22 publisher will actually sign it, and legally you
23 were allowed to sell the books on behalf, but as a
24 business, on behalf of that publisher. Now they
25 are doing away with that, which means that, for

2 example, a new collection of reading materials--I
3 sell foreign languages and bilingual materials in
4 ESL--was just published in Puerto Rico. The
5 Puerto Rican company doesn't do business in the,
6 in New York City. As a result, they will not be,
7 the students will not be able to have access to
8 that. So what he was saying, that he was making
9 accommodations, that's not true. My contract
10 expired on the, on February 28th. Basically they
11 extended it to all of us, to finish the school
12 year because of what was a major disaster and
13 teachers most likely would've been complaining.
14 So, the point is that the way they structure the
15 whole thing is that they are pushing us out, not
16 necessarily in terms of awarding contracts, but at
17 the same time fulfilling the small little
18 requirements to get on what they call the famous
19 [phonetic]. And the first thing that the teachers
20 and the principal, when they talk about principals
21 having freedom to choose, that's not true, because
22 if it is not on the famous list, that principal
23 and that teacher will not be able to buy it. And
24 I stand by that.

25 CONNIE ATTANASIO: It's the truth,

2 it's the truth.

3 GENARO BASTOS: So, in essence,
4 the, basically, in addition to that, they've also
5 redesigned the, the definition of a textbook. The
6 textbook, they say that if it is in the open
7 market, meaning that it's available to Amazon.com,
8 Barnes and Nobles, and most of them are, then it's
9 considered a trade book. And as a result, it goes
10 under those three bids. So basically, they've
11 done it in such a nice manner, in a very care--
12 very careful, crafted, design that will benefit
13 just a handful of people. And so, the point is
14 that, when he says that we want the whatever the
15 material the school needs, we will make it
16 available. That is not so, because the, the, for
17 example, I also sell Latin books, and where are
18 they going to get them? Do they speak the
19 language, can they make a phone call and, and get
20 the supplier? So, in essence, they've decided
21 that, as Connie was saying, they want to have less
22 work, 20 publishers, do business with them, and
23 get all of us who do not, I mean, I don't know
24 anybody else, but I sell the, about \$200,000,
25 that's as much as I sell to them. So, they

2 probably looked at the bottom line, most of
3 minority vendors, small, very small companies, and
4 say, "Well, let's see, why don't we get rid of
5 them, they don't have the resources, and they're
6 not going to fighting us." And that's my
7 testimony.

8 CHAIRMAN JACKSON: I want to thank
9 you for walking us through. And we have, we've
10 been joined by Kamal Harris. Kamal, if you have
11 testimony, would you introduce yourself and your
12 company or your position, and you may begin your
13 testimony.

14 KAMAL HARRIS: Absolutely. My
15 name's Kamal Harris, and I want to thank you for
16 the time. I'm not going to belabor the issue.
17 Between what the, my committee said, as well as
18 your line of questioning for the DOE, an exchange
19 that you got absolutely no answers for. It was
20 ridiculous, but the problem is, just I wanted to
21 add to one thing. I've been in neighborhoods in
22 the South Bronx and Brownsville, Brooklyn, where
23 some of the representatives asked me, "Could you
24 stay here and wait for me, before we leave, to get
25 out of that neighborhood?" because of just the

2 fear of the neighborhood, and nothing was going
3 on. But they, the problem is we go into the
4 school systems, we have the relationships with the
5 teachers, the relationships with the principals,
6 and there are certain books that Ingram and
7 Booksource, because we have exclusives with
8 authors who are self-published, there's no way
9 they could get those books. So, to cut this
10 committee out, and you know, the four members that
11 you see, and probably the other hundreds of small
12 publishers and distributors that are out there, I
13 think it's absolutely ridiculous. And what the
14 gentleman just said, I think it was your question,
15 Mr. Jackson, about how are you going to, it was
16 something about the contracts, and they said
17 they're going to look into it. There's really
18 nothing that can be done. I mean, I was just,
19 that's a smoke and mirrors answer, nothing is
20 going to be done, so whatever you can do. And
21 this, I'm kind of new to this, my father, Jesse
22 Harris, has been in the business for some years
23 now. I piggybacked in and out, I mean, the family
24 business is the family business. I've been in and
25 out of the business for some time now, but

2 whatever it is in your power to have these things
3 reinstated--When they cut our contracts, they took
4 about 170 titles, and those are, those are not 170
5 books, each title is actually, some of them are
6 series, so it goes up into the hundreds of books.
7 They cut us down to 13 books, which is absolutely
8 ridiculous, and there's no way we can strive or
9 thrive and survive on, you know, what they left us
10 with. So, that's, that's all I wanted to say, and
11 thank you again for the time.

12 MALE VOICE: And that's temporary.

13 KAMAL HARRIS: Exactly, and that's
14 temporary.

15 CONNIE ATTANASIO: That's
16 temporary, that's only till June, those 13 titles.

17 CHAIRMAN JACKSON: Miss-

18 CONNIE ATTANASIO: So, if you guys
19 can really get them to put a hold on - - , it
20 would like be so great, because they've been
21 awarded but they're not registered.

22 GENARO BASTOS: Plus the library,
23 plus the school library--

24 CHAIRMAN JACKSON: Speak into the
25 mic, please.

2 CONNIE ATTANASIO: If you could get
3 really a, a hold on B and C, they have been
4 awarded, but they haven't been registered. So,
5 and our contracts are still okay through to June.

6 KAMAL HARRIS: June 30th.

7 CONNIE ATTANASIO: So perhaps maybe
8 they could have a system where if you're a
9 minority company, you could like choose a certain
10 part of the market and, you know, supply that, or-
11 -something, something that would allow us to stay
12 in business, keep our staffs, and also be able to
13 help the teachers and the principals, and
14 ultimately the most important, which is the kids.
15 You know, I mean, if kids don't get books where
16 they can recognize their faces and their
17 communities in the books, then they're not going
18 to be that interested in them. It's just, it's
19 just the way it is, you know.

20 CHAIRMAN JACKSON: Mr. Harris,
21 what's the name of your company, please?

22 KAMAL HARRIS: Sorry, it's Source
23 International Technology Corporation, S-O-U-R-C-E,
24 Source International Technology Corporation.

25 CHAIRMAN JACKSON: You want ask a

2 question?

3 CHAIRMAN JAMES: Yeah. What,
4 what's the criteria for the library contract, is
5 it the same, pretty much?

6 CONNIE ATTANASIO: I don't know,
7 you know, we don't know.

8 CHAIRMAN JAMES: Do we know?

9 DESMOND REID: Basically, I didn't
10 even go through and read the whole thing, 'cause
11 it's dozens of pages. The textbook contract was
12 over 100 pages.

13 CHAIRMAN JAMES: Wow.

14 DESMOND REID: And that's pretty
15 large, too. But one of the things they say is
16 that you still had to be hooked up to Bowker's EDI
17 system, which gives a virtual inventory. Okay?
18 And the other thing is that you cannot, you had to
19 do the library processing in-house. No, I'll say
20 this, when I provided library processing, I used
21 to do it in-house. I charged them \$1.25 for
22 hardcover and 95 cents for paperback processing.
23 When I did it in-house, it cost me about \$5 to do
24 each one. So, I had to of course job it out. And
25 I job it out, I get, I pay the 95 cents and \$1.25

2 respectively. So, it's impossible for us to do
3 it. You know, that's a whole business in itself.
4 So--

5 CHAIRMAN JAMES: Is this group
6 collectively considering legal action? 'Cause I,
7 there's some aspects to this which I think are
8 troubling, legally.

9 CONNIE ATTANASIO: Well, we had
10 somebody, I believe. Sorry. If, if we had
11 somebody like, that would take on our case, I
12 mean, I went to a lawyer and it was \$60,000, you
13 know.

14 CHAIRMAN JAMES: Have you went to
15 any organizations that focus on the interests of
16 people of color, like for instance, I don't know,
17 Center for Law and Social Justice, the--

18 CONNIE ATTANASIO: Your father went
19 to the NAACP.

20 CHAIRMAN JAMES: Yeah, the NAACP.

21 CONNIE ATTANASIO: Yeah, they went
22 to the NAACP.

23 DESMOND REID: And we went to the
24 Puerto Rican Defense, which now they change that
25 to Latino Legal Defense, and we got no answer.

2 CHAIRMAN JAMES: No answer.

3 DESMOND REID: I mean, they
4 listened to us, they're sending me emails, and
5 we're still waiting.

6 CHAIRMAN JAMES: Okay.

7 GENARO BASTOS: Well, there's one
8 other thing. The contract we signed enjoins us
9 from suing the Department of Education.

10 CHAIRMAN JAMES: Ohhhh.

11 GENARO BASTOS: Okay, they wrote it
12 in the contract.

13 CHAIRMAN JAMES: Yeah, but I think
14 that contract is illegal. But, nonetheless. I
15 know this weekend, I think it's this weekend, the
16 National Action Network is having a forum on
17 mayoral control. Reverend Sharpton. So I
18 received a email about that. So, I would hope
19 that you would join us. And hopefully, I'm going
20 to ask our chair to, that we can co-pen a letter
21 to the Chancellor, urging an, an extension and a
22 delay, and talk about the impact of this, this
23 contract to this mega-supplier will have on small
24 and minority and women owned businesses in the
25 City of New York. I just don't think they took it

2 into consideration, because--

3 CHAIRMAN JACKSON: Speak into the
4 mic, please.

5 CONNIE ATTANASIO: --look in here,
6 this, Jason Henry and David Ross, was interviewed,
7 and they said their business was not to keep
8 vendors in business, their business was to get
9 good prices.

10 GENARO BASTOS: And if I may say,
11 when I talk about prices, once again, the process
12 is that once you submit because you do have a
13 contract and you have that little number, then
14 you're allowed to submit it. The price, it stays
15 for three years. You cannot change it, and then
16 you're allowed to make a change at the third
17 anniversary for the next two years. So basically
18 that price, it's almost fixed for five years. So
19 when they're talking about prices, and in addition
20 to that we're not allowed to charge them shipping
21 and handling, we build it into the price at a
22 percentage of that basically they tell us. So
23 when they're talking about saying that they are
24 actually looking for prices, you're selling a book
25 that you submitted a price today, and in 2011,

2 you're still selling at the same price. They're
3 getting a fantastic deal, so when they say that
4 they are saving money, or they're trying to save
5 money, that's not true, because this mechanism,
6 the one that they had, it allowed them to save
7 money.

8 CHAIRMAN JAMES: How many--?

9 DESMOND REID: One, one last - -

10 CHAIRMAN JAMES: How many, how many
11 have you, what, how many people do you employ,
12 each of you? How many people do you employ, Mr.
13 Reid?

14 DESMOND REID: I had four. We're
15 down to two now.

16 CHAIRMAN JAMES: Okay.

17 CONNIE ATTANASIO: I had eight,
18 we're down to six and one's down to three.

19 GENARO BASTOS: I'm myself and tow
20 independent contractors.

21 KAMAL HARRIS: Myself and my
22 father.

23 CHAIRMAN JAMES: Okay.

24 DESMOND REID: Oh, one last thing,
25 my contract actually ended December 31st.

2 CHAIRMAN JAMES: Oh, great.

3 DESMOND REID: I got an extension
4 to April 30th.

5 CHAIRMAN JAMES: Right.

6 DESMOND REID: But they won't renew
7 it, so--

8 GENARO BASTOS: So you're, you're
9 out.

10 CHAIRMAN JAMES: Thank you.

11 CHAIRMAN JACKSON: You should ask
12 for another extension, all of you, and see what
13 they say. And we will try to work on this to see
14 what we can do from our end.

15 DESMOND REID: Appreciate it.

16 CONNIE ATTANASIO: Thank you so
17 much.

18 DESMOND REID: Thank you very much.

19 CHAIRMAN JACKSON: Thank you very
20 much, thank you all for coming in. Last but not
21 least witness, Rodney Deas, D-E-A-S, please come
22 forward. Anyone else willing to give testimony?
23 Hearing none, our last but not least. Identify
24 yourself and your organization, you may begin your
25 testimony.

2 RODNEY DEAS: My name is Rodney
3 Deas, I'm a resident of, entrepreneur of Brooklyn,
4 Bed-Stuy. I'm a long time community parent,
5 activist, and I really appreciate the Education
6 Council, with the work you brothers and sisters
7 are doing, my white brothers and sisters are doing
8 on this council. I really know you have a lot of
9 hard work, work real hard to get this together, do
10 the right thing with the public money, public
11 trust, and I want to totally agree 100 percent
12 without going technical, with the brothers and
13 sisters here, who really told the facts about this
14 vendor situation. I don't want to use the R word,
15 and I don't want to go there, with the R word.
16 And has "ism" on the end of it, too. And it gets
17 funky, and I know it's hard when the City Council
18 works so hard, and it's, I feel like going home
19 and cry because - - but so much you can do with
20 racism but change it. So I'm asking my,
21 everybody, to consider the fact that as best that
22 we can, is all we can do, is really do what we can
23 to stop racism. It is the, as hard as, as you
24 know, we all want to go, go home when we leave, we
25 leave here, we get home, but the problem with this

2 is basically a system, is the systemic racism, as
3 much as you all on the City Council work hard and
4 want to do, you can't stop racism until you stop
5 the system somehow. So I'm asking my white
6 brothers and sisters to just speak up on behalf of
7 the vendors and the disparity, the criminal
8 behavior that's going on. And my community in
9 Bed-Stuy, I have a model block. I've been very
10 successful because people like Tish and, and Jan,
11 grabbed me out of the community and as a parent, I
12 took charge of this information. And I have a
13 model block where I took the worst kids and I made
14 them very successful with my own budget. And I
15 can prove it, I can shout about it. So, when the,
16 the DOE comes in front of the City Council, to
17 these hearings, it's a lie. They're lying.
18 They're lying, there's vendor, there's one very
19 important vendor, who's been around for a while,
20 long time, he's a outside brother, his name is Dr.
21 Gerald Deas, he went to a, he went to, he, he
22 actually has a program called "Dr. Do It." And,
23 Dr. Do it, he's had many meetings with the DOE,
24 and this is a really sad story. Like the other
25 story I just heard before I came to this

2 microphone, which is very sad, it's pain, it's
3 real pain, and we must somehow go home and face
4 the fact that, it's but so much we really can do,
5 you know, if we don't change the fact that we got
6 to face this "ism." And all of us in this
7 together, and I know we going to do our best. And
8 Dr. Do, Do It, is a program for children to train
9 them to be doctors at third grade. And this is
10 Gerald Deas's vendor program to help small,
11 minority businesses and contractors, to come into
12 the education, the DOE, and service the, service
13 some of the majority of the students could have,
14 the majority of students are black and Latino.
15 Obviously, it can be done, where black and Latino
16 vendors, contractors, can be allowed to do
17 business with the DOE. It's a lot of talk, you
18 know, just lies, okay, for lack of a better word,
19 they said it earlier, lies on top of lies. And
20 it's not going to change, because it's in the
21 system. I mean, I want it to change, and I'm
22 doing on my block what I can do on my block. But
23 I would like to see something really change for
24 these vendors, because \$60,000 this lady's got to
25 find. I would be willing to see if I can raise

2 \$60,000, to help the sister fight this lawsuit,
3 because like the, the Councilwoman said, it sounds
4 criminal, Tish James, I think she said, "Sounds
5 criminal." Oh, you didn't say criminal, but we
6 don't know. It sounds criminal to me, because I'm
7 testifying on behalf of may residents in Bed-Stuy.
8 It sounds like it's criminal.

9 CHAIRMAN JAMES: Thank you.

10 RODNEY DEAS: Thank you.

11 CHAIRMAN JACKSON: Thank you.

12 Well, I want to thank you all for coming in.
13 Obviously, we have a long way to go. As our
14 colleague indicated that we will be sending a
15 letter and trying to meet with the Chancellor to
16 ask them to delay and, and not issue the decisions
17 concerning the other two parts of this contract.

18 MALE VOICE: And to extend the
19 contract.

20 CHAIRMAN JACKSON: And to extend
21 the contracts of all of the other groups that
22 contracts expire at the end of June. And we hope
23 to work with you in trying to resolve this
24 situation. I want to thank all of the staff for
25 preparing us today. And all of the staff involved

2 in monitoring this hearing and the Sergeant-of-
3 Arms, and it is now 4:27 p.m. And on behalf of my
4 colleague, Letitia James, who's standing, co-
5 chair, and Chair of the Contracts Committee, and
6 myself, Robert Jackson, I want to thank you wall
7 for coming in. This hearing is hereby adjourned.

8 [gavel]

9 FEMALE VOICE: That's everybody.

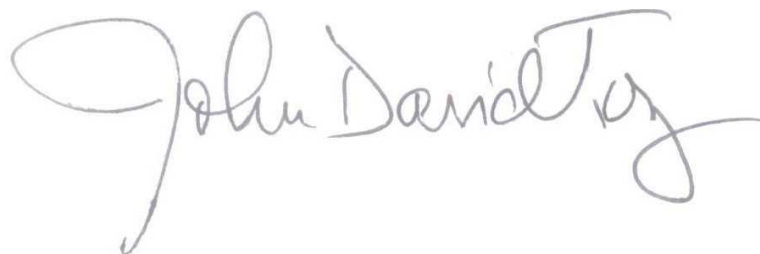
10 [background noise]

11

C E R T I F I C A T E

I, JOHN DAVID TONG certify that the foregoing transcript is a true and accurate record of the proceedings. I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

Signature

A handwritten signature in cursive script that reads "John David Tong". The signature is written in dark ink and is positioned above a horizontal line.

Date April 22, 2009