

Testimony of Andrea Glick, City Chief Procurement Officer and Director of the Mayor's Office of Contract Services, before the New York City Council Contracts Committee

Proposed Int. No. 1009-A

November 18, 2013

Good morning Chairperson Mealy and members of the Contracts Committee. My name is Andrea Glick, and I am the City Chief Procurement Officer and Director of the Mayor's Office of Contract Services ("MOCS"). I am joined this morning by Ezra Polonsky, Deputy Director for Research and IT at MOCS, and Carol Green, Assistant Commissioner and Agency Chief Contracting Officer at DCAS. On behalf of the Administration, I would like to thank you for this opportunity to testify today about the City Council's proposed bill regarding preferred source procurement reporting.

Section 162 of the New York State Finance Law confers "preferred source" status on certain vendors in order to advance the State's social and economic goals, which include providing employment opportunities to disabled and incarcerated residents. Pursuant to this law, the New York State Office of General Services ("OGS") created a List of Preferred Source Offerings (the "OGS List") of all commodities and services that are available for purchase by government agencies from preferred source vendors. There are currently four preferred source providers: National Industries for the Blind of New York State, Inc. ("NIB"), also known as New York State Preferred Source Program for People who are Blind; Corcraft Products of the New York State Department of Correctional Services ("Corcraft"); New York State Industries for the Disabled, Inc.

("NYSID"); and New York State Office of Mental Health ("Buy OMH"). These providers offer employment opportunities for disabled or incarcerated individuals to receive job training, perform meaningful work, gain a sense of purpose, and increase self-sufficiency and self-determination.

As you know, Proposed Int. No. 1009-A would require MOCS to publish an annual report detailing the City's procurement of preferred source products during the prior fiscal year. The proposed report would include: (1) the total dollar value of each good or service procured from preferred source vendors; (2) the total dollar value of each good or service offered by preferred source providers but purchased from vendors not identified as preferred source providers; and (3) the total dollar value of all goods and services procured by the City that are available from preferred source providers. Although the first proposed item is relatively straightforward, the second and third items as described in the proposed legislation exceed MOCS's current reporting capabilities; collecting this data would be difficult for the procuring agencies and would require system changes to be made in collaboration with FISA and the Comptroller's Office.

MOCS can create a report to provide the aggregate dollar value of the City's contracts procured directly from each preferred source vendor. This data is tracked in the City's Financial Management System ("FMS") and is readily accessible, but our categorization of the specific goods and services does not directly align to the categorization of goods and services on the OGS list. We are happy to work with the

Council to identify a meaningful categorization, based on the data available, to support this reporting requirement.

It is much more challenging for MOCS to accurately identify the other data points requested, which both include the total dollar value of products available through the preferred source list but purchased through other means. To gather this data, MOCS would have to ask agencies to compile and provide this information manually, since it is not currently tracked in an electronic system. As we report in the Annual Procurement Indicators, the City processes approximately 40 to 50 thousand procurement actions each year and each would need to be reviewed individually to determine if it included any goods or services offered by the preferred source vendors. To streamline this effort, we recommend modifying the proposed legislation to apply only to procurements that are above the small purchase limit. The City's contracting universe below the small purchase limit contains an extremely large number of procurements at a relatively small value (87% of actions and only 2% of dollar value in Fiscal Year 2013), as compared to the universe of procurements that are above the small purchase limit which are smaller in volume but significantly larger in value. This change to the legislation would result in a much more reliable report, which would be far more manageable for agencies to collect.

Some background about this process may be helpful for an understanding of this reporting issue. Under State law, agencies are required to offer preferred source providers the right of first refusal for all goods and services that they offer to agencies. MOCS and DCAS have worked together to both enforce and reinforce this requirement with Agency Contracting Officers through efforts that I will detail in a few moments. It is therefore

likely that the requested report would ultimately show a very small dollar value for purchases of goods and services provided by preferred source vendors but not purchased from them. However, there are certain situations where agencies must use other vendors to procure goods and services otherwise provided by the preferred source vendors. Key examples are as follows: first, procurement opportunities may be initially offered to preferred source providers, but declined by those providers. Second, at other times the preferred source provider may offer the goods or services in question to the City at prices more than 15% above prevailing market prices, in which case the City has the statutorily authorized right to decline to use the provider. Third, the goods or services provided by the preferred source vendor may not meet all the specifications required by the City.

Therefore, the data that MOCS compiles showing goods or services offered by preferred source providers but purchased from other providers must identify these exceptions so as not to give the false appearance of non-compliance. In accordance with this legislation, the revised request for information would ask agencies why purchases were not made through preferred source vendors, giving the opportunity to identify instances in which preferred source providers denied their request for goods and services using the right of first refusal provisions in the law and the reason, if known, as to why the preferred source provider did not want to pursue the particular contracting opportunity that was being made available, or if the preferred source vendor's cost was more than 15% above prevailing market prices. We are also exploring ways that we might be able to modify our computerized systems to capture this information.

The reporting requirement, as is currently written, also refers to all procurements. We recommend that the bill should instead apply to all contracting actions where the primary purpose of the contract is to procure goods and services directly available from these preferred source vendors. The resulting report would be more narrowly-tailored to the Council's goals, removing unrelated contracting actions. For example, the City has contracts for human services in which vendors provide services such as day care, meals for the aging, and shelter to the homeless. Vendors operate sites that provide an array of services and, in doing so, may also have on-site security services or may purchase cleaning products to maintain their site. These purchases are generally for small amounts of money relative to the total contract value, would be very difficult to track, and are not the primary purpose of the procurement.

I would like to mention some steps that the City has taken to ensure that agencies purchase all goods and services that are available on the OGS List from preferred source vendors. The Department of Citywide Administrative Services ("DCAS") holds multi-year commodity requirements contracts with three of the four preferred source vendors: NIB, Corcraft, and NYSID. The City does not hold a contract with Buy OMH because Buy OMH has only two commodities approved as preferred source items on a statewide basis (oak moldings and frames for posters, prints, and original artwork), according to the OGS List. Buy OMH primarily services the New York State Office of Mental Health. Because of the nature of these requirements contracts, City agencies can quickly and easily make purchases off of these contracts to suit their needs as they arise. Utilization of these contracts has risen over the last few years, more than doubling from \$14.5

million in 2010 to \$29.6 million in 2013. Some agencies also hold their own contracts with preferred source vendors for services they frequently procure. For example, the Department of Finance holds a contract with NYSID for imaging services for parking summonses, and the Department of Probation holds a contract with NYSID for drug testing kits. In 2013, the City awarded an additional \$25 million to preferred source vendors through more than 30 agency contracts.

In addition, during Fiscal Year 2013, DCAS began a pilot program called “Punch-Out” ordering, which allows the City to capture line item detail for requirement contract catalog purchases directly in FMS. This new system links FMS users to vendors’ outside websites to make purchases; the users are then automatically redirected back to FMS when they are finished selecting the items and services they wish to purchase. DCAS plans to expand “Punch-Out” technology to preferred source contracts soon, and has already reached out to NIB to explore this opportunity. Once agencies can use this technology to buy products and services from preferred source providers, we will be able to capture line item detail for these requirement contract purchases in FMS.

One success I’d like to highlight is our collaborative relationship with NIB. In the past year, NIB has made informational presentations at two separate monthly meetings held by MOCS for all Agency Chief Contracting Officers and their staff members. City purchasing personnel also went on a site visit to NIB’s facilities last year in order to better understand the services that this vendor provides. These efforts have resulted in numerous City agencies making a large number of purchases from this vendor – from

\$3.8 million in 2010 to \$14 million in 2013, an increase of more than 200%. In Fiscal Year 2013, 17 different City agencies executed purchase orders against DCAS' requirements contract with NIB. NYSID also presented at one of these meetings about two years ago, and we are working with them to schedule a return visit. We hope to host Corcraft at an upcoming meeting as well.

Finally, I would like to suggest an additional legislative amendment that would expedite City agency purchases from preferred source vendors. Pursuant to City Charter Section 312(a), which was amended by Local Law 63 of 2011, agencies must perform an employee displacement analysis prior to releasing a solicitation (which includes agreeing on pricing with a preferred source provider) or entering into a contract renewal or extension. This requirement includes preferred source procurements. Agencies must also report all prospective contracting actions on an annual contracting plan, as required by Charter Section 312(a)(8). If an agency wants to move forward with a preferred source procurement that was not anticipated when the annual contracting plan and schedule was prepared, MOCS has to publish a notice in the City Record and on the MOCS website, and the agency has to wait 60 days to enter into the agreement. This requirement makes it extremely difficult for agencies to make purchases that they did not foresee well in advance. Government-to-government purchases, emergency procurements, contracts for legal or consulting services in support of current or anticipated litigation, and contracts for investigative or confidential services are exempt from the requirements of Charter Section 312(a) generally, and specifically the annual contracting plan and schedule requirement set forth in paragraph 8, enabling those

procurements to move more expeditiously. We recommend that the City Charter be amended to include preferred source procurements among the list of exempted procurement types under this particular provision. Doing so would make it easier for agencies to award contracts to preferred source vendors, facilitating the ease of use of these contracts.

As you can see, the Administration shares your concern about using preferred source vendors and is continually working to increase the City's purchasing from the New York State OGS List of Preferred Source Offerings whenever appropriate. We believe that the actions that the City has already taken, along with the ideas I have proposed here today, will help meet this shared goal. Finally, we would welcome the opportunity to work with the Council staff to make some technical changes to the bill that we believe are necessary to clarify the goals and purpose of this proposed legislation.

I am now available to answer any questions you may have.

Thank you.



FOR THE RECORD

Ronald P. Romano
President and Chief Executive Officer

CORPORATE OFFICES:

11 Columbia Circle Drive, Albany, NY 12203
Phone: (518) 463-9706 Fax: (518) 463-9708

NEW YORK CITY SALES OFFICE:

352 Seventh Avenue, Suite 201, New York, NY 10001
Phone: (212) 889-6618 Fax: (212) 545-1316

November 18, 2013

On behalf of more than 2,500 city residents working on Preferred Source contracts, NYSID commends the New York City government network for 35 years of procurement through its member agencies.

Preferred Source procurement satisfies government purchasers' obligation to comply with New York State Finance Law Article XI, Section 162. The intent of the law is clear: **to direct the normal procurement activity of state and local governments to benefit New Yorkers with disabilities through employment.**

This employment enhances the livelihoods of city residents with disabilities, a segment of New York's population with the highest rate of unemployment.

NYSID manages 200 contracts in the metro NY area. Numerous city and state government agencies have long contracted for services with NYSID member agencies, from Mayoral agencies to the City University system.

On any given day, custodians are cleaning city government buildings, commuter areas, city council offices, and educational facilities. At least one of these contracts has been in place for 20 years, which is a testament to the customer's satisfaction regarding the work done by New Yorkers with disabilities.

At the same time, document imaging, secure document destruction, mailing, and messenger service workers are on the job, all through NYSID Preferred Source contracts. NYSID contract numbers attest to a strong relationship with city government agencies in support of their procurement needs. This is especially commendable given current budgetary constraints.

Preferred Source jobs help turn lives around from public assistance programs to taxpayer rolls, providing pathways to employment through government procurement support:

- In 2013, those jobs translated to 1.8 million annual hours worked, and an impressive \$28 million in wages to deserving workers within metro New York.
- Those jobs span a diverse population of city residents with disabilities. Of NYSID's 200 New York City contracts, more than 65% of those employed represent minority populations and disabled veterans.

Here are a few personal stories of city residents who are currently employed on NYSID Preferred Source contracts.

- Ana Cortorreal works in the Janitorial Services division of Fedcap Rehabilitation Services located in Manhattan. She came to Fedcap for career training after experiencing barriers to employment due to deafness. Ana quickly became a key team player on a custodial team servicing the Long Island Rail Road within Penn Station. Her exemplary work performance was recognized in 2013 with NYSID's highest people-centered award.
- Albert Papino was one of the first employees hired by ShredAbility, a company started by AHRC New York City in January 2011. It was his first job at the age of 28 because Albert is autistic. Over time, his work performance and productivity have soared, in addition to his self-confidence and independence. Albert exemplifies the power of gainful employment in realizing personal growth.

Ana and Albert are truly representative of the customer service provided each day by city residents with disabilities in support of government procurement.

Creating jobs in New York is a concern in which we share responsibility. City agency procurement budgets help secure employment, especially for this most deserving population of workers. Going forward, NYSID hopes to continue being of service to City government to empower New Yorkers through employment and help support New York.

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1009-A Res. No. _____

in favor in opposition

Date: 11/18/13

(PLEASE PRINT)

Name: Cardi Green

Address: 1 Centre St 18th Flr NY, NY

I represent: DCAs

Address: 1 Centre St NY NY

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1009-A Res. No. _____

in favor in opposition

Date: 11/18/13

(PLEASE PRINT)

Name: Ezra Polonsky

Address: _____

I represent: MAYOR'S OFFICE CONTRACT SERVICES

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

in favor in opposition

Date: 11/18

(PLEASE PRINT)

Name: Andrea Fick

Address: _____

I represent: Mayor's Office Contract Services

Address: 20 Broadway

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