

CITY COUNCIL  
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON  
FINANCE

Jointly with

COMMITTEE ON GOVERNMENTAL  
OPERATIONS

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May 30, 2014  
Start: 10:13 a.m.  
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HELD AT: Council Chambers  
City Hall

B E F O R E:  
  
JULISSA FERRERAS  
Chairperson  
BEN KALLOS  
Co-Chairperson

COUNCIL MEMBERS:  
  
I. Daneek Miller  
David Greenfield  
Ydanis A. Rodriguez  
Laurie A. Cumbo

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

Stacey Cumberbatch  
Commissioner, NYC Department of Citywide  
Administrative Services (DCAS)

Emily Small  
Acting Deputy Commissioner, Energy  
Management

Richard Badillo  
Chief Financial Officer of DCAS

Geneith Turnball  
Deputy Commissioner, Citywide Procurement

Nitin Patel  
Deputy Commissioner, Information Technology

Robert Cleary  
Assistant Commissioner, Citywide Purchasing

Dawn Pinnock  
Deputy Commissioner, Human Capital

Suzanne Lynn  
General Counsel for NYC Department of  
Citywide Administrative Services (DCAS)

Michael J. Ryan  
Executive Director, Board of Elections

Dawn Sandow  
Deputy Executive Director, Board of  
Elections

Suzanne Beddoe  
Commissioner and Chief Judge  
Office of Administrative Trials and Hearings

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

Zachary Carter  
Corporation Counsel for the City of New York

Jeffrey Friedlander  
First Assistant Corporation Counsel for the  
City of New York

Amy M. Loprest  
Executive Director  
NYC Campaign Finance Board

Rose-Ellen Myers  
First Deputy Executive Director  
Financial Information Services Agency (FISA)

2 [Gavel]

3 CHAIRPERSON FERRERAS: Good morning and  
4 welcome to the ninth day of the City Council's  
5 hearing on the Mayor's Executive Budget FY 2015.  
6 Before we get started to quickly go off topic I want  
7 to give a big shout out to the New York Rangers.  
8 Last night they beat the Montreal Canadians to  
9 advance in the Stanley Cup Finals. This is a big  
10 deal for our city. It's been 20 years too long.  
11 Agreed?

12 My name is Julissa Ferreras, and I chair  
13 the Finance Committee. This morning we are joined by  
14 the Committee on Governmental Operations chaired by  
15 my colleague, Council Member Benjamin Kallos. Today  
16 we will hear from six agencies. We will hear from  
17 the Department of Citywide Administrative Services  
18 otherwise known as DCAS. The Board of Elections, the  
19 Office of Administrative Trials and Hearings, the Law  
20 Department, the Campaign Finance Board and the  
21 Financial Information Services Agency. These  
22 hearings are a lot of work and I want to thank the  
23 Finance staff for putting them together. I want to  
24 thank Acting Director Latonya McKinney, the Division  
25 and Committee Counsel, Tanisha Edwards, Unit Head

2 John Russell, who covers all of the agencies we will  
3 hear from today, and the Finance superstars, Nicole  
4 Anderson and Maria Pagan, who pull everything  
5 together. Thank you for all of your hard work.

6 Before we get started I want to remind everyone that  
7 the public will be allowed to testify on the last day  
8 of budget hearings on June 6<sup>th</sup>, beginning at  
9 approximately 3:30 p.m. The public session will be  
10 held in this room for members of the public who wish  
11 to testify but cannot make the hearing, you can email  
12 your testimony to the Finance Division and the staff  
13 will make it part of the official record. The email  
14 address is [financetestimony@council.nyc.gov](mailto:financetestimony@council.nyc.gov).

15 Today's executive budget hearing kicks off  
16 with DCAS. The DCAS fiscal 2015 budget total \$1.14  
17 billion, which notably includes \$784 million for  
18 citywide heat, light and power. Highlights in DCAS  
19 budget include \$150 million in DCAS' capital program  
20 for citywide resiliency measures and \$787 million for  
21 agency specific facilities and protective measures as  
22 a result of Super Storm Sandy. Over \$150 million for  
23 energy efficiencies related to capital projects and  
24 an increase of \$10.8 million for city leases,  
25 bringing the total to \$96.9 million. The

2 administration's energy policy will have a  
3 significant impact on both the city's expenses and  
4 capital budget which includes, as I previous  
5 mentioned, almost \$800 million for citywide heat,  
6 light and power budget. And over \$450 million for  
7 energy efficiencies related to capital projects.  
8 During the preliminary budget hearing the Director of  
9 OMB testified that the de Blasio administration  
10 intends to continue much of the previous  
11 administration's energy policy including Plan NYC.  
12 Which is the city's long term sustainability plan.  
13 While the council supports the city's efforts to  
14 reduce the city's energy footprint, we would also  
15 like to see DCAS focus on the day to day management  
16 of city energy efficiency programs. In the council's  
17 budget response we called on the administration to  
18 put forth a comprehensive energy plan that sets short  
19 term energy efficiency goals and specifically, how  
20 these goals will be achieved. I am eager to hear  
21 from the new DCAS Commission, Stacey Cumberbatch  
22 about whether our proposal has been considered and  
23 whether they are thinking about establishing short  
24 term energy efficiency goals in our city. I look  
25 forward to hearing from DCAS to learn more about how

2 this executive budget effects its agency's operation  
3 and DCAS' management of the city's energy.

4 I'd like to acknowledge that we've been  
5 joined by Council Members Webrin and Matteo and  
6 before we hear from DCAS Commission Cumberbatch. I  
7 will turn my mike over to my co-chair, Council Member  
8 Ben Kallos for a statement.

9 CO-CHAIRPERSON KALLOS: Thank you and good  
10 morning. It is a pleasure to welcome you here today  
11 for the Fiscal Year 2015 Executive Budget Hearing.  
12 My name is Ben Kallos. That's @BenKallos, for  
13 members of the public who are Twitter savvy. I am  
14 the chair of the Governmental Operations Committee  
15 and I'm glad to be co-chairing today's hearing with  
16 my colleague, Julissa Ferreras, Chair of the  
17 Committee on Finance. I'd like to thank our Finance  
18 Analyst, John Russell, and LaTonya McKinney, the head  
19 of the department and our counsel, David Seitzer  
20 (phonetic). I'd like to pick up where we left off at  
21 the committee's preliminary budget hearing, by  
22 continuing to identify budget savings and operational  
23 efficiencies while working towards greater budget  
24 transparency. I'd also like to see some of the  
25 recommendations that he council put forth in the

2 response to the mayor's preliminary financial plan  
3 for fiscal 2015. We have a lot to talk about, so  
4 let's get started.

5 To follow up just on DCAS, we'd like to  
6 welcome Commissioner Stacey Cumberbatch. I'm really  
7 excited to work with you. Your reputation precedes  
8 you and you've done so much work previously in  
9 government and we're looking forward to the amazing  
10 things you'll be doing with your agency. We're eager  
11 to hear about many of the aspects of your  
12 department's fiscal 2015 proposed budget. Your  
13 agency is responsible for many citywide functions and  
14 insures that city agencies have the critical  
15 resources and support needed to provide the best  
16 possible services to the public. During today's  
17 hearing we will be examining the many aspects of your  
18 operations and how they impact the city's budget.  
19 Specifically, we'd like to discuss the city's energy  
20 policy, efforts to centrally manage and lower costs  
21 for the city's vehicle fleet, citywide procurement  
22 and contracting. In fact you introduced I think,  
23 seven bills on it in the last stated session and  
24 asset management. We want to talk about efforts to  
25 reduce citywide spending by leveraging the city's



2 purchasing power and implement strategies to  
3 streamline various citywide operations. We look  
4 forward to your testimony. Please proceed with your  
5 prepared remarks whenever you're ready.

6 COMMISSIONER CUMBERBATCH: Thank you very  
7 much. Good morning Chair Ferreras and Kallos and  
8 members of the Governmental Operations and Finance  
9 Committees. I'm Stacey Cumberbatch, Commissioner of  
10 the Department of Citywide Administrative Services  
11 known as DCAS. I'm joined here at the table by DCAS'  
12 Chief Financial Officer, Richard Badillo and with  
13 General Counsel Suzanne Lynn to discuss the plan,  
14 expenditures and revenues for fiscal year 15 as well  
15 as highlights of the DCAS capital plan. Thank you so  
16 much for the opportunity to appear before you today.

17 DCAS insures that city agencies have the  
18 critical resources and support needed to provide the  
19 best possible services to the public in six key  
20 areas. We provide safe, clean and efficient office  
21 space for the city's workforce through our management  
22 of 55 public buildings, 15 million square feet of  
23 owned space and over 22 million square feet of leased  
24 space. We also purchase, sell and lease real  
25 property and secure space for city agencies with a

2 focus on more efficient use of office space as an  
3 important cost saving action that also improves  
4 delivery of city services.

5           Since 2010, Asset Management worked to  
6 reduce the city's office space footprint by 1.2  
7 million square feet by June 2014. With the sale of  
8 346 Broadway and 4951 Chamber Street in the fall of  
9 2013. DCAS actually surpassed this goal six months  
10 early.

11           Human Capital. We provide civil service  
12 administration for over 200,000 city workers and all  
13 mural agencies and 44 other governmental entities.  
14 We annually test over 100,000 candidates through  
15 civil service exams. Respond to approximately  
16 130,000 calls and emails related to NYCAPS, which is  
17 the New York City Automated Personnel System, and  
18 train 17,000 city employees through 1,350 classes.  
19 We are also responsible for the creation and  
20 execution of the city's diversity and inclusion  
21 strategy and for guiding mural agencies in developing  
22 and implementing their annual diversity and equal  
23 opportunity plans.

24           We recently launched a citywide diversity  
25 initiative which rests on three strategic plans.

2 Workforce, workplace and community. This launch was  
3 accompanied by an extensive changes to our Charter  
4 Mandated Annual Agency EEO Plans. These plans which  
5 we received from all agencies now contain specific  
6 strategies, diversity and inclusion commitment  
7 statements from commissioners. Actions for targeted  
8 recruitment and development of city employees. Best  
9 practices and selection and steps to provide  
10 inclusive services to our diverse New York City  
11 communities.

12 We also purchase, inspect and distribute  
13 supplies and equipment at the lowest net cost and  
14 assist in disposal of surplus heavy equipment and  
15 goods. We purchase approximately \$1.2 billion  
16 annually in goods and services for the city through a  
17 thousand citywide requirement contracts and one time  
18 purchases. We leverage city purchasing power to  
19 obtain the most competitive pricing for goods and  
20 services by aggregating demand and consolidating  
21 contracts. We seek to maximize MWBE vendor  
22 participation by conducting outreach and regularly  
23 representing DCAS at vendor fairs. We also strive to  
24 obtain local sources for goods and services to  
25 promote the local economy.

2 We also monitor city agency fleets and the  
3 city's overall compliance with fleet purchasing laws  
4 and environmental goals. We help manage nearing  
5 27,000 light, medium and heavy duty vehicles  
6 representing over \$2 billion in assets. The fleet  
7 includes, 6,070 alternative fuel units. The majority  
8 of the city's vehicles are operated by ten agencies.  
9 However, we provide maintenance and repairs, claims,  
10 parts, leasing, auction and information management  
11 services to all 50 city agencies that operate  
12 vehicles. We pay, monitor and report on the annual  
13 heat, light power budget for the city agencies and  
14 others which total \$784 million in fiscal year 15.

15 Our primary goals are to reduce and manage  
16 energy usage, to invest in projects and operations  
17 that reduce costs and to support city agencies in  
18 these efforts. DCAS plays a central role in the  
19 effort to accomplish the city's goal of reducing  
20 energy consumption and greenhouse gas emissions from  
21 city government operations by 30% by 2017, as  
22 described in the city's long term sustainability plan  
23 known as Plan NYC.

24 Turning to our expenditures, DCAS' expense  
25 budge reflects funding of \$1.1 billion in FY15 and a

1 budgeted headcount of 1,991. The majority of our  
2 plan expenditures, \$784 million in FY15 is allocated  
3 for citywide energy expenses. DCAS continues to work  
4 closely with agencies citywide to enhance the energy  
5 performance of their facilities through a range of  
6 programs. Which include retrofitting equipment,  
7 improving operations and maintenance and training and  
8 outreach to reduce the city's energy costs. The  
9 total DCAS revenue budget is \$60.2 million for FY15.  
10 Our largest source of recurring revenue is from  
11 commercial rentals of city owned property, projected  
12 to be \$41.9 million in FY15. The major sources of  
13 rental income are from ground leases from Grand Hyatt  
14 Hotel which is \$9.5 million, Carnegie Hall \$8.4  
15 million and the Archives in Greenwich Village \$6  
16 million. Another revenue source is the sale of  
17 surplus vehicles at auto auctions. The plan revenue  
18 for auto auctions is \$4.7 million in FY15. The sale  
19 of non-vehicle citywide surplus goods at public  
20 auctions, internet and by competitive seal bids, for  
21 FY15 is budgeted at..., the budget assumes \$2.2 million  
22 in proceeds from the sale of those surplus goods.

23  
24 DCAS also receives revenues from applicant  
25 filing fees for civil service examinations. DCAS

2 anticipates collecting \$3.5 million in FY15 from  
3 these fees.

4 Turning to DCAS' new needs. Now I'd like  
5 to discuss major expense budget adjustments for DCAS  
6 reflected in the FY15 executive budget. DCAS  
7 received expense funding in four major categories.  
8 The New Vision Zero initiative, program expansions,  
9 legal and safety requirements, additional energy  
10 management staff to assist with the Plan NYC goal of  
11 reducing greenhouse gases and reducing energy use  
12 from energy efficiency. The Vision Zero Initiative  
13 is the multi-agency effort that includes DCAS's  
14 citywide fleet line of service, fleet trained city  
15 drivers in the full-day state defensive driving  
16 program. Prior to Vision Zero this was an option  
17 cost. As part of Vision Zero it will now be required  
18 for all city vehicle operators. DCAS is hiring two  
19 full time trainers to augment our existing fleet  
20 trainers for implementation of this initiative. We  
21 expect to train at least 10,000 operators per year.  
22 To meet this goal DCAS received \$120,000 to hire two  
23 trainers and \$175,000 for defense driving class  
24 training materials that are required by the New York  
25 State DMV to be distributed at each class.

2 DCAS is continually working on its fire  
3 alarm projects to insure that both fire safety  
4 equipment and systems are operable and meet the  
5 specifications of both the FDNY and the Department of  
6 Buildings. DCAS received \$270,000 for three project  
7 managers, to augment current staff who oversee the  
8 implementation of the fire safety program. This  
9 program will require the project management of the  
10 fire alarm replacement and installation of sprinkler  
11 systems. The positions funded included an engineer  
12 who will work with DDC on the design and construction  
13 of new fire alarms and sprinkler systems. The other  
14 two positions are an electrical engineer and a  
15 mechanical engineer to assist in this effort.

16 DCAS's IT line of service received an  
17 allocation of \$317,000 for three project managers to  
18 work on the following initiatives. Creation of a  
19 building management system that will assist in  
20 tracking of maintenance performed at all DCAS managed  
21 buildings. The system managers work orders and  
22 maintenance schedules for equipment throughout DCAS's  
23 building portfolio. The system will also monitor the  
24 supply inventory. Replacement of DCAS's real estate  
25 portfolio tracking system which contains information

2 for all owned or leased city properties.

3 Approximately 14,000 current property records and  
4 over 100,000 residual records of properties that were  
5 previously owned or leased. The current system is a  
6 mainframe application and would be converted to a  
7 web-based application. Creation of a document  
8 management system that would allow the agency to  
9 store documents electronically and streamline our  
10 internal operations and provide better service to our  
11 clients.

12 The Office of Citywide Procurement is  
13 working with the mayor's office and FISA to improve  
14 the use of technology in procurement activities by  
15 leveraging existing capabilities of the city's  
16 already existing financial management system and by  
17 introducing new technologies where appropriate.  
18 Office of Citywide Procurement received \$75,000 for  
19 one staff position to work on this project known as  
20 E-Procurement. One DCAS's functions is to provide  
21 security services at DCAS managed facilities to  
22 insure the safety of tenants in our buildings. DCAS  
23 received \$508,000 to hire contractual security guards  
24 for borough halls in Staten Island and Brooklyn. In  
25 addition to the contractual guards, DCAS security



1  
2 also received funding for one DCAS special officer in  
3 Staten Island to manage the contractual guards in the  
4 borough. As you know, New York State mandated all  
5 municipalities to reduce city provisional employees  
6 from its workforce. Human Capital continues working  
7 towards this goal and received an additional \$77,000  
8 for a staff position to assist in this effort. In  
9 addition Human Capital received \$110,000 for two  
10 positions in its unemployment insurance unit. The  
11 unit prepares and testifies on the city's behalf at  
12 city hearings concerning the eligibility of the  
13 complainant's ability to collect unemployment  
14 insurance. The New York State Department of Labor  
15 recently created a timeframe of ten business days for  
16 employers including the City of New York to prove  
17 whether a complainant is entitled to unemployment  
18 insurance. These additional positions will assist  
19 with a timely preparation of DCAS's cases and avoid  
20 unnecessary unemployment insurance payments.

21 As explained earlier, DCAS's energy  
22 management line of service works with city agencies  
23 to reduce greenhouse gas emissions from city  
24 government operations and improve energy efficiency  
25 following the initiative to reduce city government

2 energy consumption first introduced in Plan NYC in  
3 2007. The FY15 Executive Budget includes funding for  
4 an additional six positions and \$394,000 to help the  
5 Division of Energy Management with this effort.

6 Additional staff will work on the following programs.

7 Enhance the energy management staff's client agency  
8 engagement outreach programs, which engage a city  
9 agencies in identifying potential energy conservation  
10 projects. Perform energy bench marking at various  
11 city-owned and leased facilities as mandated by Local  
12 Law 84 of 2009. Oversee the procurement, surveying,  
13 design and installation of renewable energy and  
14 cogeneration. Clean distributor generation projects  
15 at municipal facilities throughout the city. Manage  
16 the new innovative demonstrations for energy  
17 adaptability known as idea program, which leverages  
18 the city's existing government buildings to test and  
19 evaluate emerging energy and clean tech solutions  
20 that reduce energy costs. Oversee the demand  
21 response program. This program provides economic  
22 incentives to agencies who agree to reduce energy  
23 usage at peak times.

24

25

2 For FY15 city agencies have committed to  
3 reducing 42 megawatts on peak demand days and expect  
4 to earn \$3.4 million in revenue payment.

5 I now turn to DCAS's capital plan which  
6 totals \$340 million for FY15. DCAS is funded for a  
7 number of major construction equipment and energy  
8 conservation initiatives. Highlights of our program  
9 include the following. DCAS's capital construction  
10 program for city-owned buildings in FY15 totals \$191  
11 million. Major projects include an electrical  
12 upgrade at the Brooklyn Municipal Building. A rehab  
13 of elevators at 253 Broadway and the Queens Supreme  
14 Court in Jamaica Queens. Ongoing work to renovate  
15 office space for tenants relocating from 346 Broadway  
16 and 4951 Chamber Street. Sites include One Center  
17 Street and 100 Gold Street.

18 DCAS capital program for construction and  
19 outfitting of leased of space in FY15 totals \$32.4  
20 million. Projects include relocation of the Taxi and  
21 Limousine Commission and the Office of Administrative  
22 Trials and Hearings within Long Island City,  
23 improvements to the Department of Finance's Queens  
24 Business Center in Jamaica Queens. \$104 million in  
25 capital funding is allocated for city wide energy

2 conservation projects managed in FY15. Projects  
3 include lighting upgrades, occupancy sensor  
4 installations, high efficiency motor installations  
5 from mechanical and plumbing systems, building  
6 envelope upgrades, building controls, and clean  
7 energy installations. Accelerated conservation and  
8 efficiency known as ACE Projects are also funded  
9 through capital program.

10 So in conclusion I want to thank you for  
11 the opportunity to testify about DCAS, plan  
12 expenditures and revenues for FY15 as well as our  
13 capital commitment plan and I'd be happy to take any  
14 questions at this time.

15 CHAIRPERSON FERRERAS: Thank you  
16 Commissioner Cumberbatch and I just wanted to say  
17 that I held a meeting at one of our newer schools  
18 that was just built on Northern Boulevard and 110<sup>th</sup>  
19 Street and while we were sitting there, we were  
20 having a community meeting, there's the light  
21 sensors. So if you sit too long, the lights go off.  
22 So we had someone assigned just to jump around by the  
23 sensor. So it's working and it makes sense. And I  
24 know that..., you know we're not 100% there. This is a  
25 brand new school and every opportunity that we can

2 save energy, I would hope.... I have a question..., I  
3 have several questions before I pass it over to my  
4 colleague. I know that in many conversations we've  
5 been talking to the cultural institutions, and they  
6 have energy cost savings in a lot of cases. How can  
7 you help in proactively working with that assignment,  
8 that unit of appropriation, that makes sense, so that  
9 we don't have to either send it back to the general  
10 fund or that we're doing something more accurate when  
11 it comes to funding the culturals with the energy  
12 savings.

13 COMMISSIONER CUMBERBATCH: Let's switch for  
14 a second. Our Acting Deputy Commissioner Emily Small  
15 for Energy Management.

16 DEPUTY COMMISSIONER SMALL: Hi. So our  
17 energy budget is managed centrally, so essentially  
18 what we, you know, culturals as well as other  
19 agencies don't necessarily benefit from the savings  
20 directly. But they also don't pay the penalty when  
21 they're energy goes over, which would be part of  
22 incentive program. So the way we've decided to  
23 reward energy efficiency behavior is through the  
24 creation of a number of different programs like the  
25 Accelerated Conservation and Efficiency Program which

2 DCLA actively..., the culturals actively take advantage  
3 of and we've awarded funding to them for a number of  
4 projects. Including projects at the Brooklyn Museum,  
5 New York Botanical Gardens, Bronx Zoo and the  
6 Metropolitan Museum. We also have a program known at  
7 Excel. Which is expenses for conservation and  
8 efficiency leadership which is a way for culturals to  
9 apply for funding and get the benefit of that..., those  
10 expense dollars for their projects.

11 CHAIRPERSON FERRERAS: Okay. Because that  
12 is an issue that often comes up. Especially right  
13 when we're negotiating the budget, is how can we make  
14 this more efficient? And also, especially with a lot  
15 of the infrastructure conversations that I'm having  
16 with the culturals is that a lot of the systems are  
17 not necessarily communicating effectively. So the  
18 buildings are built in different times and then now  
19 they have to figure out a way, how to be efficient.  
20 But how are you efficient when you have five  
21 different systems happening. And thinking of The  
22 Museum of Natural History and Metropolitan Art and  
23 this is part of all of our older institutions. Do  
24 you actively work with the institutions on finding  
25

2 ways where you can have an efficient system that's  
3 also cost effective?

4 DEPUTY COMMISSION SMALL: Um. With respect  
5 to energy efficiency, definitely. I mean, that's the  
6 purpose of actually creating the ACE program was to  
7 kind of reach out to agencies and help them implement  
8 projects that they'd identified that are necessary  
9 for efficiency upgrades as opposed to just us  
10 imposing the projects.

11 CHAIRPERSON FERRERAS: Right. But I'm  
12 talking about as a look to have the systems  
13 communicate, it seems like they're all taking upon  
14 themselves to figure out how you have these heating  
15 systems speak to one another. The lighting systems.  
16 Does DCAS have a role with your experience to say,  
17 well these may be best practices?

18 DEPUTY COMMISSIONER SMALL: Definitely.  
19 And that's also part of our client agency engagement  
20 program which is a whole division that actively  
21 reaches out and engages and shares best practices  
22 with other agencies. Tries to leverage the work that  
23 not only that we're doing, but the work that's being  
24 done in other agencies to improve and serve these  
25 communications. And we're actually..., that's one of

2 the purposes of a program that we're introducing in  
3 FY15 called the Preventive Maintenance Collaborative  
4 is to sort...

5 [Interpose]

6 CHAIRPERSON FERRERAS: I'm sorry I couldn't  
7 hear you.

8 DEPUTY COMMISSIONER SMALL: The program  
9 we're creating in FY15 called the Preventive  
10 Maintenance Collaborative, which is to more actively  
11 engage agencies on their operations and how they can  
12 be operating and maintaining their systems more  
13 efficiently.

14 CHAIRPERSON FERRERAS: Okay. Thank you.  
15 And Commissioner, I really appreciate you mentioning,  
16 of course, minority and women owned businesses. The  
17 council continues to be a very strong advocate in  
18 regards to this. I know that you had mentioned it,  
19 but just for the record, you might have to repeat  
20 yourself and some of your testimony, but can you talk  
21 about the overall performance regarding supporting  
22 MWBEs and are there any synergies or opportunities  
23 that you find working with SBS. Because from the  
24 perspective of a lot of small business owners, women  
25 owned and women of color, they find that they get the



2 certification but aren't necessarily ready for the  
3 contracts that are out there. So how do we have...  
4 how are we preparing the women for the contracts that  
5 are out there and not just for a certification?

6 COMMISSIONER CUMBERBATCH: So as you know,  
7 SBS and MOCS co-lead the city's M/WBE program and in  
8 that respect DCAS's like any other agency in terms  
9 of, you know, reaching out to get M/WBE participation  
10 on our contracting. So, you know, even though we do  
11 citywide requirements contracts, which represents  
12 about 25% of the overall contracting in the city.  
13 Under the more recent Local Law that was passed for  
14 WMBE participation, most of our requirements  
15 contracts involve commodities, goods. And those were  
16 exempted from that W/MBE participation. So we have a  
17 smaller portfolio of contracts. Some services  
18 contracts that we're now doing, as well as just  
19 DCAS's own purchasing for our ongoing agency  
20 operations, we, you know, seek out, through SBS,  
21 qualified W/MBE vendors to participate on  
22 solicitations that we might be putting out on the  
23 street. In terms of our statistics. I don't know if  
24 there's someone..., 53% of small..., so 53% of our small  
25 purchases for DCAS are W/MBE vendors.

2 CHAIRPERSON FERRERAS: That's awesome.  
3 Thank you. Maybe you should provide trainings for  
4 some other agencies. Because we're having a little  
5 bit of a challenge. So I want to go to post-Sandy  
6 resiliency plan. The council has offered to partner  
7 with the administration in order to develop a  
8 detailed plan as to how the city will use the \$150  
9 million for citywide resiliency measures and \$78.7  
10 million for agency specific facility and operational  
11 protective measures. Can you provide more detail on  
12 the post Sandy Resiliency Plan and how this funding  
13 will be used?

14 RICHARD BADILLO: Last year the  
15 administration..., sorry, Richard Badillo, CFO of DCAS.  
16 As you may recall last year the city issued a report,  
17 a Post Sandy Resiliency Report that indicated that  
18 the city was committed to taking care of its  
19 infrastructure, to help it safeguard against  
20 hurricanes, etc. And \$250 million was allocated into  
21 the budget but that budget resides in DCAS, but we  
22 don't have responsibility for that budget. That  
23 budget is just a place holder. Ultimately those  
24 funds are allocated to appropriate projects to  
25 agencies, etc., by the Office of Management and

2 Budget. But we do not have any oversight for those  
3 dollars, other than the fact that they reside in  
4 DCAS's capital budget.

5 CHAIRPERSON FERRERAS: Okay. Thank you for  
6 the clarity. So Commissioner now that you've had  
7 some time, probably not as much as you would want, in  
8 your position. Can you talk to be about DCAS's  
9 future and what you would like to see implemented as  
10 you move forward.

11 COMMISSIONER CUMBERBATCH: Well, it is now,  
12 I guess, 3 ½ months and I've put together a fabulous  
13 team that is here today. A lot of new faces at DCAS.  
14 We have so much responsibility over the back office  
15 operations for the city and so I think first my  
16 primary goal with my team is to really make sure that  
17 what we're doing works, number one. Taking a hard  
18 look at what exists, in terms of our internal  
19 processes. How do we do civil service exams? How do  
20 we develop those exams? How do we go about looking  
21 for new lease space for agencies, in terms of  
22 planning and forecasting? How do we leverage our  
23 procurement? You know working, maybe with state.  
24 Looking at other cooperative ways to buy goods and  
25 services that save money and that increase M/WBE

2 participation. So, each one of the lines of service  
3 is really taking a deep dive. Many of them have only  
4 been recently appointed in their positions. But  
5 taking a deep dive, looking at current businesses  
6 processes where there can be improvements and what we  
7 can do at the end of the day to make sure that what  
8 we provide to agencies result in better services that  
9 are provided to the public. So that's the foremost  
10 goal.

11 A longer term goal is in our area of Human  
12 Capital. A workforce analysis was done, or release  
13 last year in December that looked at the city's  
14 workforce, in terms of diversity, demographics, in  
15 terms of most importantly, where there's going to be  
16 turnover, where folks are going to be eligible to  
17 retire. And that report basically showed that in the  
18 next three to five years, something like 100,000 of  
19 the 300,000 workers in the city are eligible to  
20 retire. So that can be a tremendous turnover and we  
21 have an analysis that breaks it down and shows what  
22 titles, by agency, are more likely to turnover. So  
23 that, actually is going to provide an opportunity to  
24 develop, you know, through our civil service  
25 administration, opportunities for a whole new

2 generation of New Yorkers, a new generation that's  
3 more diverse. More inclusive to have an opportunity  
4 to have city government positions. The next  
5 generation of city government employees. So I think  
6 for us, you know, longer term, that is like a huge  
7 initiative. That we are going to want to partner  
8 with you and with non-profits, and with colleges and  
9 with CUNY, etc. To really drill down about how we  
10 can recruit young people to take the exams and to see  
11 this as a viable option. And I'm talking not just  
12 about..., I'm not really talking about the uniform, I'm  
13 talking about the non-uniform positions within the  
14 city. You know, as an opportunity.

15 CHAIRPERSON FERRERAS: Absolutely. And I'm  
16 sure my colleague, Council Member Miller is going to  
17 talk about civil service exams and timelines.  
18 Because as we get very eager for this wonderful  
19 opportunity, if we have people on queue for five  
20 years and they've made other decisions with their  
21 professional life it becomes a little difficult. But  
22 in know that he's going..., I'm hoping he's going to  
23 hammer in on that. Yes? Okay.

24 So, just as a follow-up, and you mentioned  
25 leases. During one of the budget hearings we had

2 city planning. They came before us that their  
3 offices are in horrible, abysmal conditions, and  
4 there's nowhere for them to move in this city. And  
5 they need \$3 million, but they don't really have a  
6 lease, and they don't know... So I have a very hard  
7 time passing a budget that says let me give you \$3  
8 million, so you can find lease space somewhere in the  
9 city, and because you think this is what it's going  
10 to cost you.

11 COMMISSIONER CUMBERBATCH: So the first  
12 thing there is 22 Reade, the building is not in good  
13 condition and it is a very old building. I think  
14 it's like three buildings that were combined and it's  
15 had foundational issues. The amount of money that  
16 would be required to make that building sound, is  
17 astronomical. So, in fact, it's not really a viable  
18 place for a city agency to be occupying, to be  
19 honest. You know, for the long term. So they are  
20 going out into the market to find lease space.  
21 Because we have a limited amount of government office  
22 space in downtown and one of the things that the  
23 Asset Management Department does is forecast as to  
24 what agency's need and we try to stack the few  
25 buildings that we have, that we own. Other than

2 that, our agencies to go out, through us, to find  
3 lease space. That happens all the time. Because  
4 that's..., we have a limited amount of government owned  
5 space. So they are looking for space in downtown  
6 Manhattan, close to where they are located now.  
7 Because that's access to transportation, because they  
8 have public hearings, etc. So in fact, if, you know,  
9 maybe \$3 million is not an unreasonable amount of  
10 money to..., for them to request for the lease.

11 CHAIRPERSON FERRERAS: So I would feel  
12 better and I know that \$3 million is isn't  
13 unreasonable, but from our perspective we still want  
14 to know why can't you be in a city-owned building.  
15 But you've explained that appropriately. So, what do  
16 we do with 22 Reade?

17 COMMISSIONER CUMBERBATCH: We don't know  
18 yet. We don't know yet. We have to plan to figure  
19 out what we're going to do. I mean, they're not  
20 moving out tomorrow. So.

21 CHAIRPERSON FERRERAS: Although they really  
22 want to.

23 COMMISSIONER CUMBERBATCH: No, I know. But  
24 even..., everybody wants to. But at the end of the day  
25 there's a process. And even if they find some lease

2 space today, it's going to be several months before  
3 that's all negotiated, because space has to be built  
4 out to how they need it. IT takes time.

5 CHAIRPERSON FERRERAS: Right.

6 COMMISSIONER CUMBERBATCH: So in that  
7 interim, we will then go back and we will figure out  
8 what the appropriate thing would be to do with 22  
9 Reade. Because again, no decisions have been made,  
10 but there are options, right. I mean, we don't want  
11 to expend a lot of money fixing a building that, you  
12 know, at one point doing a cross analysis, it may not  
13 make sense to fix that building for another city  
14 agency.

15 CHAIRPERSON FERRERAS: Right. It was like  
16 \$100 million.

17 COMMISSIONER CUMBERBATCH: So, we have to  
18 make some decisions. We haven't looked at it yet, in  
19 a hard way, to make a decision on what we're going to  
20 do.

21 CHAIRPERSON FERRERAS: Are there any other  
22 agencies at 22 Reade?

23 COMMISSIONER CUMBERBATCH: No, it's just  
24 city planning, right? Yes. It's just City Planning.



2 CHAIRPERSON FERRERAS: So the building is  
3 empty after City Planning moves out?

4 COMMISSIONER CUMBERBATCH: Right, there  
5 would be nobody in there. But we would try to do  
6 something. Have a plan for the building.

7 CHAIRPERSON FERRERAS: So that could  
8 potentially be on the sale queue.

9 COMMISSIONER CUMBERBATCH: It could be.  
10 I'm not..., no decision's been made in that respect.

11 CHAIRPERSON FERRERAS: Well we're follow-up  
12 and watch it close. And just for my last question, I  
13 know that you hold about \$96.9 million in leases.  
14 Which is the largest lease agreement that we have out  
15 there for the city? And what are the agencies and  
16 how much do they spend annually? So maybe the \$3  
17 million will digest a little bit better for us.

18 COMMISSIONER CUMBERBATCH: Okay.

19 RICHARD BADILLO: 141 ...,

20 CHAIRPERSON FERRERAS: Is your microphone  
21 on?

22 RICHARD BADILLO: I'm sorry. 141  
23 Livingston Street has an annual cost of \$5 million.  
24 Let's see what else we have. We have...

2 CHAIRPERSON FERRERAS: Who's in there? Is  
3 it multiple agencies?

4 RICHARD BADILLO: Multiple...

5 COMMISSIONER CUMBERBATCH: Wait, 141 is the  
6 Housing Court. Brooklyn Housing Court.

7 RICHARD BADILLO: 100 Church, \$2.6 million,  
8 40 Rector \$3.1 million, so, seeing those types of  
9 dollars is not unusual. Obviously it depends on the  
10 number of people, etc. who occupy those spaces.

11 But...

12 CHAIRPERSON FERRERAS: Could you share with  
13 the council committee the portfolio.

14 COMMISSIONER CUMBERBATCH: Absolutely.

15 CHAIRPERSON FERRERAS: We would appreciate  
16 it. Because this is part of the negotiations and the  
17 \$3 million keeps coming up. So, I really appreciate  
18 it Commissioner. I'm going to pass it over to my co-  
19 chair for questions. Chair Kallos.

20 COMMISSIONER CUMBERBATCH: Thank you.

21 CHAIRPERSON FERRERAS: I'm sorry. We've  
22 been joined by Council Members, Koslowitz, Miller and  
23 Rosenthal and Cornegy.

24 CO-CHAIRPERSON KALLOS: Thank you to my Co-  
25 Chair Julissa Ferreras for asking some great

2 questions and getting some quick answers. Based on  
3 last time, I don't want to force you into that game  
4 of musical chairs, so I'm going to try to ask  
5 questions about contracts, energy, civil service,  
6 Sandy and over regulations. So I'll start with  
7 contracts questions.

8           You're doing great things with leveraging  
9 the city's purchasing power. As you know from the  
10 preliminary budget hearing, that's an area of great  
11 interest to me. I just introduced a bill called  
12 Civic Commons which would hopefully facilitate  
13 collaborative software purchasing between cities and  
14 I can tell you that as a city council I'm also trying  
15 to facilitate that with other city's from coast to  
16 coast. So in a responsive, the council called on the  
17 administration to explore opportunities to partner  
18 with federal government, state government and other  
19 municipalities to combine the buying to development  
20 procurement strategies that take advantage of the  
21 economies of scale. Do you plan on pursuing these  
22 potential opportunities and have you identified any  
23 additional ways to leverage the city's purchasing  
24 power

2 DEPUTY COMMISSIONER TURNBALL: Yes. Good  
3 morning, my name is Geneith Turnbull, I'm Deputy  
4 Commissioner at the Office of Citywide Procurement.  
5 We actually have been already extensively using state  
6 contracts and federal contracts. We order off the  
7 GSA schedule and we also order off the OGS schedule  
8 for goods with the state. And now we are partnering  
9 and trying to do some real research on using national  
10 IPA in various communities where there are national  
11 cooperative groups to also leverage up the spending  
12 power.

13 CO-CHAIRPERSON KALLOS: I guess the real  
14 potential for cost savings isn't buying Microsoft  
15 Office at the same \$100 product rate as everyone else  
16 is on the federal or state. The real opportunity is  
17 instead of spending \$100 for giving 250,000 employees  
18 a copy of Microsoft Office, we just spend a fraction  
19 of that and just eliminate office and just paying  
20 somebody to install it on every computer, or  
21 something like that so. The real cost savings comes  
22 in in procuring software and then making sure that  
23 that software is something that can be share amongst  
24 the municipalities for free.

2 DEPUTY COMMISSIONER TURNBALL: Yes, I  
3 understand what you're getting at and I understand  
4 that you just introduced some bills on open sourcing.  
5 We haven't had a chance to review those yet, so we'd  
6 have to get back to you.

7 CO-CHAIRPERSON KALLOS: Following on that,  
8 I loved what I saw in your testimony regarding your  
9 IT portfolio. You are paying what appears to be the  
10 right amount for a total of \$317,000 you're getting  
11 three different software products. Sorry for forcing  
12 the musical chairs, I didn't mean to. But, so first,  
13 kudos, that's amazing.

14 DEPUTY COMMISSIONER TURNBALL: Well let's  
15 clarify that. So and I'll introduce Nitin Patel who  
16 is our new Deputy Commissioner for IT. The  
17 allocation is to hire project managers who will then  
18 develop the projects to acquire..., you know develop  
19 the plan to figure out what types of software we  
20 need. So that's not the purchase of the software.  
21 That's the heads that we need..., right to work...

22 CO-CHAIRPERSON KALLOS: I'm sorry I was  
23 overly optimistic, because those actually do look  
24 like prices for software. So I guess one question  
25 is, have you looked at it preliminary what the

2 license. Whether you're going to go proprietary or  
3 reopened stores.

4 DEPUTY COMMISSIONER PATEL: My name is  
5 Nitin Patel. I am the Deputy Commissioner for IT.  
6 This reposition is looking for the apportionment is  
7 what we want to do. We go to the market, do the  
8 marketing research, and find out what would be the  
9 right software that meets the needs for us. So we  
10 will know once we do the research.

11 DEPUTY COMMISSIONER TURNBALL: But we're  
12 not at that point yet. This is about building out  
13 internal capacity. So we can go out intelligently,  
14 based on what our requirements are, which we've  
15 already begun to gather. You know from our lines of  
16 business and some of the projects we want to do. So  
17 these folks would be dedicated to like really serving  
18 the market to figure out what kind of off the shelf  
19 products for example, exist for the maintenance  
20 facilities management type systems, we're looking  
21 for. You know, what would be the best product. You  
22 know, based on our requirements. So that's the  
23 intent. So we haven't even gotten to that point yet.  
24 I mean once they identify potential vendors that look  
25 like their products meet our needs then we can get

2 into, you know, what's the licensing arrangements,  
3 what's the level of service, what's the maintenance,  
4 should we be in the clouds, should we host it. We  
5 haven't gotten to that point.

6 CO-CHAIRPERSON KALLOS: Fair enough I would  
7 just encourage you and urge you to know that there  
8 are hundreds of cities facing the exact same  
9 challenges we are and you have a huge opportunity  
10 here to work collaboratively with every other city in  
11 the country to do this together. At a fraction of  
12 the cost that we're used to.

13 Moving forward on contracts, I wanted to  
14 just touch base on cost overruns. During DCAS's  
15 preliminary budget hearing we discussed energy  
16 efficiency, capital projects contracted out to the  
17 New York Power Authority for which costs have risen  
18 from about \$600 million to over \$1 billion. Since we  
19 last spoke have you identified any capital projects  
20 that have significantly exceeded its initial budget?

21 COMMISSIONER CUMBERBATCH: I'm not sure.  
22 Could you just rephrase the cost went up on our  
23 energy...

24 [Background talk]

25

2 CO-CHAIRPERSON KALLOS: It's from the Local  
3 Law 18 Report of Cost Overruns and...

4 [Background talk]

5 CO-CHAIRPERSON KALLOS: We brought it up at  
6 the last hearing, preliminary budget.

7 [Background talk]

8 CO-CHAIRPERSON KALLOS: Can't hear you.

9 DEPUTY COMMISSIONER SMALL: Increase in  
10 project or increase in our expenditures with NYPA. I  
11 guess is what I'm trying to get to.

12 CO-CHAIRPERSON KALLOS: It's for capital  
13 projects. So it's a capital project contracted out  
14 for energy efficiency that was contracted out to New  
15 York Power Authority and the cost had gone up on that  
16 from \$600 million to over \$1 billion.

17 DEPUTY COMMISSIONER SMALL: Right, so we  
18 had actually, I think you're talking about the cost  
19 of the contract itself, and we have increased the  
20 number of projects we're implementing, so it's not  
21 necessarily the cost of service but number of  
22 projects that have increased. If that makes sense.

23 CO-CHAIRPERSON KALLOS: It sure does. Do  
24 you mind providing us with documentation and the



2 change in scope so that we can understand that we've  
3 gone from perhaps one facility to ten facilities?

4 [Background talk]

5 Why the price has increased.

6 [Pause]

7 CO-CHAIRPERSON KALLOS: On the citywide  
8 procurement, DCAS is responsible for procuring a wide  
9 range of goods and services in support of many city  
10 agencies. In total, how much does DCAS spend it  
11 citywide procurement and can you talk about some of  
12 the large scale purchases DCAS makes.

13 DEPUTY COMMISSIONER TURNBALL: We've spent  
14 \$1.2 billion in the last fiscal year. And some of  
15 our large contracts have included Allied Barton  
16 Contractual Security Guards, Allied Baron Fire Safety  
17 Directors, Ashnew International Facilities  
18 Maintenance and Repair and ARI, which is a vehicle  
19 repair and maintenance contract.

20 CO-CHAIRPERSON KALLOS: Thank you. And I  
21 imagine I'm going to solicit the same answers you've  
22 given previously, but what efforts are in place to  
23 insure the city's leveraging its purchasing power to  
24 insure it's getting the best deal possible, with  
25 regard to citywide procurement and what efforts are

2 being made at DCAS to procure goods and services from  
3 local businesses so as to benefit the city's local  
4 economy?

5 ASSISTANT COMMISSIONER CLEARY: Robert  
6 Cleary, I'm Assistant Commissioner for Citywide  
7 Purchasing at DCAS. We, as was previously mentioned  
8 by Deputy Commissioner Turnball, we aggregate demand  
9 across city agencies, pursue collaborative purchasing  
10 opportunities and try to achieve the best lowest net  
11 cost for goods and services for using high quality  
12 contracts. We are also pursuing..., e-procurement was  
13 mentioned previously, we're pursuing stronger data  
14 structures that will support knowing where our money  
15 is going and doing better spend analysis to obtain  
16 new contract consolidation opportunities and  
17 negotiating opportunities and also considering  
18 working with collaborative entities, national  
19 cooperatives to obtain new opportunities to save.

20 CO-CHAIRPERSON KALLOS: Thank you very  
21 much. I'm now going to move over to real property.

22 [Pause]

23 CO-CHAIRPERSON KALLOS: I actually think  
24 the questions were asked by my co-chair, so sorry  
25 about that. Let me move onto energy. Which may

2 bring you back to the table, but we'll see. So, one  
3 of my focusses is budget transparency and trying to  
4 break out he lump sums so that we know where we're  
5 spending the dollars that come from the venture  
6 capital world and whenever people ask us for money,  
7 we always want to know what it was being spent on and  
8 how it was going to benefit the bottom line. The  
9 capital plan includes a lump sum capital project line  
10 for Accelerated Conservation and Efficiency Program,  
11 ACE, with planned commitments totaling \$136 million.  
12 Can you provide the council with a list of all energy  
13 efficiency capital projects in which DCAS is  
14 currently working and the yearly budget savings each  
15 has projected to generate.

16 DEPUTY COMMISSIONER SMALL: So we have that  
17 list for FY14 and also for FY15. The out years as  
18 planned, so I'm not sure..., we can provide the list  
19 for the coming years, but for the future years  
20 they'll be application processes for those projects.  
21 It's..., do you understand..., should I describe the ACE  
22 program. Will that be helpful?

23 CO-CHAIRPERSON KALLOS: Yes.

24 DEPUTY COMMISSIONER SMALL: Okay. So the  
25 ACE program is a new program we introduced in FY14.

2 It's the Accelerated Conservation and Efficiency  
3 Program. And what it is, is it's an opportunity for  
4 agencies with the authority to implement capital  
5 projects, to apply to us for funding, for efficiency  
6 projects. So the idea is, we can look at all the  
7 opportunities for efficiency and select the projects  
8 with basically the best return on our investment and  
9 allocate funding to the best projects. So it's a  
10 kind of continuing process. We've had two rounds of  
11 funding so far and plan to continue. I think right  
12 now we have plans through FY16 or FY17.

13 CO-CHAIRPERSON KALLOS: Thank you. With  
14 regard to still on energy, we're now conducting  
15 energy audits which are a great thing because you  
16 literally get what you measure and if we don't  
17 measure things we don't know how they're performing.  
18 Can you give us an update on DCAS's effort in  
19 conducting energy audits, citywide and do the results  
20 of these audits indicate that the city can make  
21 significant improvements in terms of energy  
22 efficiencies and if so, can you discuss what  
23 additional steps aside from what the city's already  
24 doing, the city can take to achieve greater energy  
25 efficiency.

2 DEPUTY COMMISSIONER SMALL: So, so far,  
3 we've completed about 255 audits, of which we've  
4 handed in about 157 in compliance with Local Law 87.  
5 To a certain extent their helpful in identifying  
6 potential opportunities for efficiency in buildings  
7 and identifying projects. We are, in some cases  
8 though, we're finding we're paying a lot of money for  
9 what we're getting. So we're trying to think about  
10 ways we can improve the audit process and considering  
11 alternate ways of implementing audits as opposed to  
12 the standard consultant actually level to survey.

13 So, we've had some benefits, and we are  
14 moving forward on some projects but we're also seeing  
15 how we can do better.

16 COMMISSIONER CUMBERBATCH: With respect to  
17 that, you know, we want to look at maybe revisiting  
18 the current way we do audits, because the cost  
19 benefit may not be there and there may be more  
20 sophisticated cutting edge ways to come up with the  
21 data we need about efficiency in the building or not  
22 efficiency in the building that are better. So we'll  
23 revisit that and we would definitely like to come  
24 back and talk to the council about it.

2 CO-CHAIRPERSON KALLOS: Moving away from  
3 contractors is music to my ears. With regard to the...  
4 [Background talk]

5 CO-CHAIRPERSON KALLOS: If there's a  
6 smarter way to do it and gets the results, makes me  
7 ecstatic. In the council's response to the Mayor's  
8 Fiscal 2015 Preliminary Budget, the council called on  
9 the administration to put forth a comprehensive  
10 energy plan and produce an annual New York City  
11 energy efficiency report. DO you plan on producing  
12 this report regarding the city's energy consumption  
13 and energy efficiency projects?

14 DEPUTY COMMISSIONER SMALL: So that report  
15 already exists, so there's the Annual Greenhouse Gas  
16 Inventory, which is a report on..., which includes a  
17 report for both citywide and city government and it's  
18 the Mayor's Office of Long Term Planning and  
19 Sustainability who puts out that report. They also  
20 put out a broader annual report, the Plan NYC  
21 progress status report that reports both on energy  
22 and all sustainability initiatives citywide.

23 CO-CHAIRPERSON KALLOS: Perfect. Thank  
24 you. I'm going to just briefly touch on civil  
25 service, Sandy and over regulation. At the last

2 hearing, we discussed the 344 day timeline. The  
3 lists were just..., we had hoped to get a response  
4 before then and that was something you had hoped to  
5 figure out how we could work around. And I'm also on  
6 the Women's Issues Committee and one of the issues  
7 ACS brought up is this, so it's not only just us,  
8 we're actually hearing it from other agencies, we're  
9 hearing it from constituents. People aren't able to  
10 get on. So I'm going to leave the follow-up  
11 questions to my colleague, but I just want to  
12 initially follow-up on our original questions.

13 COMMISSIONER CUMBERBATCH: I would like to  
14 introduce our new Deputy Commissioner for Human  
15 Capital, Dawn Pinnock.

16 DEPUTY COMMISSIONER PINNOCK: Good morning.  
17 With respect to the median timeframe, the 344 days,  
18 we do agree that there are opportunities for us to  
19 shave down that timeline. And Commissioner  
20 Cumberbatch and I have discussed the ways in which  
21 the Human Capital group is going to conduct an end to  
22 end review of its operation. With the examination  
23 process there are necessary steps. You have to have  
24 valid testing items. You have to have an appeals  
25 process. You have to have time to grade and to rank

2 the various order of those folks who've taken that  
3 exam, however there are still opportunities that  
4 exist to look at those timeframes that we are bound  
5 to by law or that we're just bound to by practice.  
6 So we're trying to identify those opportunities to  
7 make sure that we have a more expedited and  
8 streamline process. And also maximizing the use of  
9 our computer testing center. Taking out that human  
10 element where we have a computerized exam, we're  
11 increasing automation and then getting to certify  
12 exams a lot quicker than what we're currently doing.

13 CO-CHAIRPERSON KALLOS: What is your  
14 timeline for getting the report back?

15 DEPUTY COMMISSIONER PINNOCK: Well this is  
16 my third week.

17 CO-CHAIRPERSON KALLOS: Welcome to the  
18 team.

19 DEPUTY COMMISSIONER PINNOCK: Thank you.  
20 And so we've actually started some preliminary  
21 analysis with our internal workforce operations  
22 group. In terms of a timeline, in all honesty I  
23 would need to talk to Commissioner Cumberbatch about  
24 some of the proposals that we've started to put into  
25 place.



2 COMMISSIONER CUMBERBATCH: I mean at the  
3 end of the day, we need to do this quickly, right.  
4 Because the train has to keep running. And we know  
5 that people are waiting to take exams and we need to  
6 provide those exams in an expeditious way. So my  
7 goal with the Deputy Commissioner's group is to come  
8 up with a plan on what we can do probably, by mid-  
9 summer so we could start looking at, okay, what are  
10 we going to change in terms of our internal  
11 operations to develop exams faster. What exams, you  
12 know, and prioritize based on where the need is, what  
13 exams we should be giving sooner, you know, in terms  
14 of what exams need to be given sooner, what exams can  
15 be automated more readily. So, that's our goal.

16 CO-CHAIRPERSON KALLOS: And just to wrap up  
17 and I'll skip on other pieces. SO just to touch on  
18 overregulation. During our last hearing, as a law  
19 making body, my hope was for you guys to come back  
20 with the laws that aren't actually serving the public  
21 and are actually harming the public by making sure  
22 that they have to wait a year after they take the  
23 exams. SO if there are laws that are getting in the  
24 way, like for instance, with the city record, having  
25 an archaic publishing requirement, we're happy to

2 introduce legislation to get rid of that and so we're  
3 looking for.

4 [Crosstalk]

5 COMMISSIONER CUMBERBATCH: That would  
6 definitely be uncovered in our review, definitely.

7 CO-CHAIRPERSON KALLOS: Thank you very  
8 much. It's always a pleasure to work with your  
9 organization.

10 CHAIRPERSON FERRERAS: Thank you Chair. We  
11 will now hear from Council Member Miller.

12 COUNCIL MEMBER MILLER: Thank you Madam  
13 Chair, Mr. Co-Chair and Commissioner Cumberbatch and  
14 welcome. It's good to see you again.

15 So, my question obviously is on the Human  
16 Capital and obviously these guys have it covered and  
17 they do it so well. Thank you Ben.

18 Your headcount, overall, and I want to talk  
19 about particularly the civil service headcount that  
20 you are responsible for and the non-civil service  
21 within your purview.

22 COMMISSIONER CUMBERBATCH: I'm sorry could  
23 you just repeat that.

24 COUNCIL MEMBER MILLER: As well as the non-  
25 civil service. So I wanted to know the overall

2 headcount. Because I think that where we're trying  
3 to get to is diminishing of the civil service  
4 workforce over the past few years. So if in fact  
5 that is the case I want to be able to kind of compare  
6 some numbers.

7 COMMISSIONER CUMBERBATCH: So you'll talk  
8 about overall for the whole city?

9 DEPUTY COMMISSIONER PINNOCK: At the start  
10 of the plan, we had approximately 38,000 provisional  
11 employees. We currently stand at about 22,000 and by  
12 the end of our five year plan we stand to be at about  
13 19,000 Provisionals. The goal in terms of Long Beach  
14 was to get us to 5% which puts us at about 9,200 and  
15 that's why we're actively working to garner support  
16 for an extension of the Long Beach plan, because we  
17 have strategies that we are looking to implement  
18 namely creating a managerial exam, that we have not  
19 created in a very long time. And also as  
20 Commissioner Cumberbatch mentioned, looking at those  
21 titles where we had many provisional serving. And  
22 based on our numbers, that would bring us close to  
23 that 9,200 with that extension.

24

25

2 COUNCIL MEMBER MILLER: Okay so that was  
3 actually my next question about the Provisionals. I  
4 wanted to know about the overall permanent workforce.

5 DEPUTY COMMISSIONER PINNOCK: Right. We'll  
6 have to get back to you. Off the top of my head, I  
7 don't know right now. We'll get back to you. So you  
8 want to know, totally citywide, how many folks are in  
9 civil service titles versus how many provisional and  
10 break it down by all the different categories.

11 COUNCIL MEMBER MILLER: Yes. That is  
12 correct. And that probably can be done in an offline  
13 meeting. But it's really important to the council.  
14 It was very refreshing, almost disarming in hearing  
15 you say..., articulate your vision for a civil service  
16 system and how important the jobs that we created and  
17 those services that are delivered to communities  
18 throughout the City of New York. I have been a long-  
19 time advocate of that, but we still have to do this.

20 COMMISSIONER CUMBERBATCH: I mean there's a  
21 lot of work that we have to do but the reality is,  
22 you know, the city is one of the largest employers in  
23 New York City and anyone looking back historically  
24 knows that it was government jobs that really built  
25 the middle class of New York City and really built

2 that middle class in a lot of diverse communities in  
3 New York City and I'm the product of that. So it is  
4 really about how do we carry forward that opportunity  
5 to a next generation.

6 COUNCIL MEMBER MILLER: So on that line, my  
7 next question would be in relation to that, is the  
8 work that is contracted out that had formerly been  
9 done by civil servants and if you do not have that,  
10 that is some information that we would also like to  
11 have and be able to speak to some of those contracts.  
12 Because it has been reported that the majority of  
13 those jobs pay less than \$30,000 and are not the  
14 living wage jobs that they once were and we want to  
15 make sure that they maintain value and integrity.  
16 Not just for the goods and services that they  
17 provide, but the good that they do for the workers  
18 that stay and live here in the city. So, if you  
19 could provide that now or at another time.

20 Back to the civil service. The three in  
21 one. As we move forward, that's been a..., I know a  
22 lot of agencies that often complain that there is a  
23 rule that is usually used disproportionately and  
24 unfairly and we would like to see it disappear. What  
25 is your take on that?

2 COMMISSIONER CUMBERBATCH: And you're  
3 talking about entry level or promotional list. The  
4 use in one in three or both.

5 [Background talk]

6 GENERAL COUNSEL LYNN: I'm Suzanne Lynn,  
7 the General Counsel. This is an issue that has come  
8 up in our talks with the unions. We feel strongly at  
9 DCAS that the one in three rule as currently operated  
10 provides, or rather serves some very important  
11 functions. It gives a modicum of discretion to  
12 managers, in terms of who they choose to fill out  
13 their teams. That we feel strongly that managers  
14 need to have some modicum of discretion. That the  
15 civil service scores by which people are ranked off a  
16 list don't necessarily measure 100% of the attributes  
17 that someone might want on a team. We also have made  
18 the point publically that the tests as they are  
19 currently configured cannot test for..., or cannot  
20 predict for 100% of the functions that a person might  
21 actually need on a given job. And we've brought...,  
22 some tests are broad banded in the sense that they  
23 test for a broad ranges of skills and an agency might  
24 have a need for a person who's, let's say, a staff  
25 analyst, but on the staff analyst list you might have

2 people who have varying backgrounds. Some may be  
3 very good in budgets, some may be very good in  
4 program areas and it only makes sense for managers to  
5 be able to have a little bit of discretion to try to  
6 select the people that are right for that particular  
7 job.

8 COUNCIL MEMBER MILLER: Is that the  
9 official position, because I quite frankly, I'm  
10 disappointed. I really am. I think that mechanisms  
11 were put in place so that people would have fair  
12 opportunities and you eliminate opportunities by  
13 doing so and that's why you have competitive exams.  
14 And I do agree that there's discretions that should  
15 be allowed from management in certain areas, but it  
16 should not be so broad and it has historically been  
17 used and misused in that way, and I would just like a  
18 commitment that is something that we can take a look  
19 at in the future. And that as we bring all  
20 stakeholders responsibly to the table, that we can  
21 have some real dialogue about how do we address that  
22 and that we have the best qualified applicants there  
23 to do the job. In my last thirty seconds, I'm going  
24 to take a privilege on.

2 We talked about investment and not just in  
3 the hourly workforce but in the managerial aspect of  
4 the workforce as well. There is an initiative that  
5 the council is considering and that is a school of  
6 public policy which would relate to civil servants  
7 and accelerate through education and lifetime  
8 experience and create positions such as policy  
9 analyst and things of that nature, from within. And  
10 we think that all of us being, kind of, that product  
11 of this system, that it's a great idea. Is that  
12 something that you could support?

13 COMMISSIONER CUMBERBATCH: It sounds very  
14 interesting and intriguing and we would love to sit  
15 down and learn more about.

16 COUNCIL MEMBER MILLER: Thank you and thank  
17 you Madam Chair and Chair for the extra one minute.

18 CHAIRPERSON FERRERAS: Thank you we'll just  
19 take it away from the next. Alright. Thank you very  
20 much for your testimony today. I just wanted to say  
21 and reiterate as both my colleagues have said, you  
22 know, I'm a product of this opportunity that was  
23 given. My parents were both immigrants. My father  
24 went to work for Transit and my mother was a civilian  
25 at 1PP and today their daughter is a Council Member.



2 So it's about creating these opportunities for those  
3 potential 100,000 New Yorkers and doing it as  
4 efficiently and as quickly as possible.

5 COMMISSIONER CUMBERBATCH: And as fairly as  
6 we can.

7 CHAIRPERSON FERRERAS: Yes. Thank you very  
8 much, Commissioner. And I look forward to working  
9 with you.

10 COMMISSIONER CUMBERBATCH: And I look  
11 forward to working with you as well.

12 CHAIRPERSON FERRERAS: We will take a two  
13 minute break and then we will have the Board of  
14 Elections.

15 [Pause]

16 [Background talk]

17 CHAIRPERSON FERRERAS: So we're addressing  
18 the video, the live feed. So we'll be starting in  
19 about two minutes.

20 UNIDENTIFIED MALE: Okay thank you.

21 [Pause]

22 CHAIRPERSON FERRERAS: First I'd like to  
23 acknowledge that Malik Fedler (phonetic) and Jeffrey  
24 Carrera (phonetic) who are actually doing our live  
25 feed. So thank you very much. I know you sit there

2 along with us all these hours and of course our  
3 Sergeant Israel Martinez (phonetic) and his  
4 colleague, thank you.

5 We will now resume the City Council's  
6 hearing on the Mayor's Executive Budget FY15. The  
7 Finance Committee and the Committee on Governmental  
8 Operations just heard from DCAS. We will now hear  
9 from the Board of Elections. We have four more  
10 agencies to hear from today. So in the interest of  
11 time I will forego an opening statement and will turn  
12 the mike over to my co-chair, Council Member Ben  
13 Kallos for a statement.

14 CO-CHAIRPERSON KALLOS: I'll try to keep  
15 mine short. I just want to welcome Michael J. Ryan,  
16 Executive Director of the Board of Elections. Thank  
17 you for joining us today along with so many of your  
18 other staff. The Board is responsible for conducting  
19 all elections in the City of New York. Its fiscal  
20 2015 proposed budget totals \$108.7 million including  
21 \$55.9 million in personnel services funding to  
22 support 346 full-time positions and over 30,000 co-  
23 workers. The executive plan includes additional  
24 funding of \$32.2 million for the BOE in fiscal 2015  
25 to address estimated budget shortfalls identified

2 during the Board's preliminary hearing. In today's  
3 hearing we'll examine the board's budgetary needs for  
4 the upcoming fiscal year and discuss reforms that  
5 could improve the board's operations and potentially  
6 lead to cost savings. We will find out how the board  
7 is preparing for the upcoming elections this year and  
8 what it is doing to improve Election Day operations.  
9 We look forward to your testimony. Please proceed  
10 with your prepared remarks whenever you're ready.

11 EXECUTIVE DIRECTOR RYAN: Chair Ferreras,  
12 Chair Kallos, and members of the Council's Committees  
13 on Finance and Governmental Operations. I want to  
14 thank these committees for giving the board the  
15 opportunity to appear before you. My name is Michael  
16 J. Ryan and I am the Executive Director of the Board.  
17 Joining me here today are, Deputy Director Dawn  
18 Sandow (phonetic), seated to my immediately right,  
19 Administrative Manager, Pamela Perkins, seated to my  
20 immediate left. Also present at the hearing are  
21 General Counsel, Steven H. Richman, Acting Finance  
22 Officer Gerald Sullivan, Deputy General Counsel  
23 Rafael Savino, Director of Communications and Public  
24 Affairs, Valerie Vasquez, Director of Management  
25 Information Systems, Steve Ferguson and the

2 Coordinator of Election Day Operations, Deborah Lipow  
3 (phonetic).

4 Addressing the mayor's executive budget for  
5 fiscal year 2015. The Board is taking this  
6 opportunity to extend its gratitude to Mayor de  
7 Blasio, his administration and the New York City  
8 Council for partnering with the board to properly  
9 allocate the resources necessary at the commencement  
10 of fiscal year 2015. Should any council member  
11 require additional information, the board will  
12 provide a copy of its March 25, 2014 testimony  
13 relating to the mayor's preliminary budget. Barring  
14 any unforeseeable election events in the next fiscal  
15 year this effective budget strategy will allow the  
16 board to operate more efficiently and effectively  
17 serve the voters of the City of New York. The board  
18 recognizes the overall economic and budgeting  
19 challenges faced by the mayor and the city council.  
20 The board asks that the council approve the mayor's  
21 executive plan and consider the following additional  
22 funding requests.

23 The Executive Budget proposes a total  
24 allocation of more than \$108.6 million. The board is  
25 requesting the council and the mayor consider

1 providing additional funding in the amount of \$9.8  
2 million in the expense budget and \$500,000 in the  
3 capital budget as the proposed executive capital  
4 budget, it's presently unclear whether or not the  
5 capital funding that we have covers this additional  
6 \$500,000 ask. It may in fact be in a separate DCAS  
7 budget code, but in the event it's not, that's why  
8 we're addressing it here. But I suppose that that  
9 will clarify as the process moves forward.  
10

11 Of that money, the initial \$2.4 million is  
12 Help America Vote Act Funding, for which the board  
13 receives a 95% reimbursement. SO the board requests  
14 that the city re-appropriate for fiscal year 2015,  
15 the approximately \$2.4 million remaining from the  
16 Help America Vote Act Grant Funds. These  
17 reimbursable federal and state grants enable the  
18 board to improve poll site accessibility both on a  
19 permanent and temporary basis as well as conduct  
20 enhanced poll worker training and public education  
21 activities and as stated we do get a 95%  
22 reimbursement on that, but we have to spend the money  
23 first. Other monies are for Election Day poll worker  
24 compensation. The advent of electronic voting brings  
25 with it additional tasks and responsibilities, which

1  
2 require poll workers to work longer hours. Combined  
3 with the enhanced testing standards already  
4 implemented, an increase to the poll worker  
5 compensation is essential to enable the board to  
6 recruit and retain qualified people. Several city  
7 council members and the Asian American Legal Defense,  
8 an education fund also known as AALDEF have expressed  
9 support for this increase. The last increase in poll  
10 worker compensation occurred in August 2001 by  
11 mayoral executive order. Given the dramatic changes  
12 in the conduct of elections imposed upon the poll  
13 workers of the City of New York by federal and state  
14 law, the board requests the mayor to increase the  
15 compensation for all poll workers by \$100.00 for each  
16 election event. The board asks the council to work  
17 with the mayor to raise poll worker compensation at  
18 an estimated cost of \$7.4 million for fiscal year  
19 2015. And I must stress that it's essential for a  
20 raise so that we may attract more qualified poll  
21 workers to assist the voters at our approximately  
22 1,300 poll sites throughout the city.

23 Election Information System. We are asking  
24 for an additional \$500,000, but as stated earlier,  
25 those funds may in fact be available either in the

2 DCAS \$4 million budget line or in a \$3 million  
3 restricted budget code that is part of the mayor's  
4 executive plan. The board is requesting \$500,000 in  
5 capital funding to procure a vendor for the continued  
6 development testing documentation and implementation  
7 of the infrastructure for its Election Information  
8 System also known as EIS and mobile applications  
9 programs for fiscal year 2015. These applications  
10 will be used to provide vital information to the  
11 voting public and support Election Day operations.  
12 It will also provide the ability to immediately  
13 address and respond to emergent circumstances such as  
14 those that occurred and in the aftermath of Hurricane  
15 Sandy. Initial applications consist of a voter poll  
16 site locator, which is available on our website at  
17 [pollsitelocator.com](http://pollsitelocator.com) which allows the voters to  
18 quickly find the location of their poll site as well  
19 as other pertinent information including walking or  
20 driving directions to the poll site. Also allows an  
21 information clerk to quickly access the correct  
22 election district and assembly district for a voter  
23 and redirect a voter to their correct poll site if  
24 necessary.

2 Election Responder, which is a call center  
3 and Election Day Management system provides real time  
4 information to monitoring teams and technicians for  
5 immediate dispatch and quick resolution of poll site  
6 incidents. Allows monitoring teams and technicians  
7 to follow designated routes within their assigned  
8 zones to proactively resolve any open incident  
9 tickets and will enhance the post-election analysis  
10 to allow for future improvements.

11 Election Day worker enhancements for  
12 electiondayworker.com, allows voters to apply to  
13 become a poll worker online, reducing the manual  
14 processing and the paperwork. Allows for the poll  
15 workers to access or review training and work  
16 assignments. Provides the foundation for  
17 establishing an online portal for all poll worker  
18 activities, including scheduling of classes, training  
19 videos, quizzes and poll site management.

20 Our efforts to improve the voter experience  
21 include but are not limited to the following. The  
22 board has provided a more reader friendly reminder  
23 notice to voters in districts where there is a  
24 federal primary in 2014 and we have copies of those  
25 reminder notices for any council member that wishes



2 to see the work that we did in that regard. The  
3 board has improved communication with principles,  
4 custodians and other stakeholders by sending election  
5 information packages which includes schematic  
6 drawings, floor plans and equipment lists four weeks  
7 in advance of the federal primary. This will help  
8 insure that the poll sites are properly set up in the  
9 designated rooms and to further insure that timely  
10 opening on Election Day. Improve signage to provide  
11 immediate identification of the election districts  
12 and assembly districts at the voter sign in tables.  
13 This was specifically done in response to concerns  
14 raised primarily by the disabled community that the  
15 signage was too low and that they were not able to  
16 accurately and quickly identify where they needed to  
17 go in the poll sites, leading to confusion and  
18 inconvenience. Worked closely with the State Board  
19 of Elections and the Office of the Governor to  
20 expedite the certification process permitting  
21 significant firm wear upgrades to the electronic  
22 voting system. And I must underscore, this process  
23 usually takes upwards of 12 months and working with  
24 the governor and the State Board of Elections we  
25 accomplished these changes in four months to insure

2 that they would be ready for the November election.

3 The upgrades will reduce ballot jams and provide the  
4 ability to remove the portable memory device prior to  
5 the printing of the results tapes which will permit a  
6 timelier reporting of the unofficial results on  
7 election night.

8 We procured the services of Election  
9 Center. A nationally recognized firm in assisting  
10 local election administrators to implement best  
11 practices, primarily those note in the Bipartisan  
12 Presidential Commission Report from January of 2014.  
13 The initial focus will be improving poll worker  
14 training as poll workers are essential to the  
15 efficient operation of poll site. Improved training  
16 will necessarily improve the voting experience.  
17 Coming in September of 2014, we will be eliminating  
18 the voter cards and we are introducing improved  
19 privacy sleeves, an affidavit for live and affidavit  
20 ballots to speed the check-in process and enhance  
21 voter privacy.

22 We are also enlarging in September 2014,  
23 the privacy screens around the scanners. And that  
24 was done specifically in response to concerns  
25

2 regarding voter privacy in and around the scanner  
3 machines.

4           And in conclusion, the conduct of fair,  
5 honest and open elections is a fundamental right in  
6 our democracy. While the board is sensitive to the  
7 fiscal challenges faced by the city, the board  
8 believes that the additional funding, particularly  
9 with respect to the poll workers is essential to  
10 enhance our ability to serve the voters of the City  
11 of New York and to attract more qualified poll  
12 workers. The board assures the city council that any  
13 allocated resources will be wisely utilized and the  
14 public trust will be the guidepost. As always, my  
15 colleagues and I are available to answer any  
16 questions that you may have and are always available  
17 if anyone should need any further information.

18           CHAIRPERSON FERRERAS: Thank you very much,  
19 Executive Director Ryan. I have a question in  
20 reference to obviously the budget, but in specific we  
21 were looking at the last five years of what the  
22 elections have cost on average and they round about  
23 \$100 million. And we know that the executive budget  
24 total is at \$108.7 million. Considering the light  
25 election schedule for next year, not this year's

2 election, next year. And the fact that the board's  
3 average annual spending in the last five years has  
4 been about \$100 million. What is the potential for a  
5 budget surplus in fiscal 15?

6 EXECUTIVE DIRECTOR RYAN: I can tell you  
7 that we are looking to do things more efficiently  
8 moving forward. I'm only here since August of 2013  
9 so I haven't had a sufficient number of cycles to get  
10 through to make such a projection. But certainly, my  
11 philosophy is that we guard the money that's given to  
12 us as if I'm writing the check. So whatever  
13 efficiencies can be found within the system, whether  
14 they're our idea or they come from an outside  
15 sources, we're certainly willing to examine moving  
16 forward.

17 CHAIRPERSON FERRERAS: Well I would urge  
18 you to maybe look at some savings initiatives so  
19 that..., 2009 it was \$81 million, 2010 was \$95 million,  
20 2011 was \$102 million, 2012 was \$109 million and that  
21 was during Sandy and 2013 was \$107 million. So you  
22 know there's kind of an uptick, so if you could help  
23 or, and I know that you're only here a very short  
24 time, but we have commissioners beat you. They've  
25

2 been coming here with 13 days under their belt, to  
3 testify.

4 EXECUTIVE DIRECTOR RYAN: Right, I'm aware  
5 of that.

6 CHAIRPERSON FERRERAS: So, you know, it is  
7 a challenge for us and I need you to help me  
8 understand why we haven't identified more  
9 efficiencies in the budget and it seems that it's  
10 becoming for effective, yet we're supposed to be  
11 getting into systems that are more efficient. SO,  
12 it's very challenging for me as a finance chair to  
13 understand, and not having a clear understanding of  
14 where we're spending this money, is a problem for us.

15 EXECUTIVE DIRECTOR RYAN: When we set up  
16 election events, we try the best we can to combine as  
17 many election districts as we can. Because the  
18 scanners can deal with ballots of more than one  
19 style. What we push up against when we do those  
20 things, is longer lines. The less machines, the  
21 longer the lines. So then what we try to do is..., and  
22 you know and we're also getting requests from all  
23 different sources including elected officials.  
24 Sometimes when we combine polling sites it turns out  
25 that that's not, you know, fair to an individual

2 neighborhood. When we're looking at it from our  
3 perspective at 42 Broadway and we're looking at a  
4 map, a flat map, it seems like its okay to move this  
5 poll site and combine these two locations. And then  
6 we often get, as we did from Council Member Dromm,  
7 that we had an event together that he praised for  
8 relocating a poll site that had been combined with  
9 another back to the original location because of the  
10 topography of the area, it's very hilly and it  
11 happened to have a concentration of seniors, so we're  
12 constantly struggling with this tension of yes,  
13 coming up with efficiencies but on the other hand  
14 providing a convenient location for the voters as  
15 well.

16 CHAIRPERSON FERRERAS: So it there..., can  
17 you talk to me about the fees that have to be paid  
18 when you're in a school as opposed to you being in a  
19 church or in a community center. And I know that  
20 this have to come with your HAVA requirements in some  
21 cases, but it this an issue of cost?

22 EXECUTIVE DIRECTOR RYAN: It's really not  
23 as much cost as you would think. We pay \$75 per  
24 election district that's housed in a private poll  
25 site. Where some our costs are incurring with

2 respect to the schools and I suspect that this is  
3 going to be something that we need to address moving  
4 forward in light of the United Spinal Decision for  
5 those of you that don't know, there was a recent  
6 decision regarding ADA compliance of poll sites.  
7 Considering the fact that the vast majority of our  
8 poll sites are schools, you know we have to work very  
9 closely with the Department of Education to make sure  
10 that those schools are accessible. So we pay \$75 per  
11 election district for a private site. So if they  
12 have four, it's a \$300 dollar day. It's not a big  
13 windfall for the private site. Now, keep in mind  
14 that if they are a 501(c) (3) they have to be a poll  
15 site if we so designate them, you know, timely in  
16 May. So basically we're barely offsetting their  
17 expenses. So we try wherever possible to use the  
18 schools for exactly that reason. Not only that, they  
19 typically are..., you know, the public schools are  
20 typically in a centralized location within a given  
21 neighborhood. Everybody knows where they are and  
22 then they are easy to find. But given the age of  
23 some of the buildings, we're not always able to do  
24 that.

2 CHAIRPERSON FERRERAS: Right. So I want to  
3 go over to election results. In talking about  
4 efficiencies and trying to get a timely information.  
5 You know, we're all elected officials and there's  
6 nothing more nerve wracking than that night and when  
7 you're waiting for those numbers.

8 EXECUTIVE DIRECTOR RYAN: Right.

9 CHAIRPERSON FERRERAS: So can you explain  
10 to me the recent steps you have taken to improve  
11 Election Day closing procedures and results.

12 EXECUTIVE DIRECTOR RYAN: This is actually  
13 a big deal. The way the system used to work was the  
14 PMD, the Portable Memory Device. We had a primary  
15 PMD and a backup PMD. The results tapes would get  
16 printed off of the primary PMD and as a result, you'd  
17 have to wait..., the entire system would have to wait  
18 until all of these result tapes would print and then  
19 we could remove the primary PMD and get that to the  
20 police department so that they could bring it back to  
21 the various police precincts for ultimate uploading.  
22 We met with the governor's office and the State Board  
23 of Elections and we conferred with our vendor. To  
24 say, hey look, is there some way that we can do this  
25 better? Whether it meant a high speed printer or



2 some way that we could change the protocol. When the  
3 vendor looked into it deeper, they were able to  
4 figure out that there is in fact a memory card within  
5 the system that allows for the operation of the  
6 system that has sufficient room to store a data file  
7 containing the results. So the protocol is now  
8 changed at the end of the night, which will be fully  
9 in effect for the September primary. Because we're  
10 going to have to do the training for that over the  
11 summer. When they close the polls, they hit the  
12 button. It's done. The data goes from the primary  
13 PMD to the backup and the card within the system  
14 simultaneously. At that moment the primary PMD can  
15 be removed and get into the stream of commerce,  
16 wherever it's got to go. For ultimate uploading.  
17 And then we'll be able to print the results tapes  
18 from the internal memory card which will  
19 significantly speed up the time in which results are  
20 available to the public, unofficial results. If we  
21 take a next step moving forward and it seems like  
22 this process occurs, you know, in smaller increments  
23 than I or anyone else would like. The next step in  
24 the process would necessary be figuring out a way  
25 that we could uniformly upload the information

2 directly from the poll sites and that to deal with  
3 datacon activity and other things, and wireless  
4 capability and all that. But in the meantime, if we  
5 just do this one step, you know, we'll get a good  
6 sense in September how much quicker November's going  
7 to be. And I think it's going to be..., you know,  
8 everyone's going to be pleasantly surprised.

9 CHAIRPERSON FERRERAS: So in your opinion,  
10 how are the trainings going of poll workers? Because  
11 I feel like, you know, obviously we go visit  
12 different sites and every site seems to have their  
13 own quirks and their own level of professionally  
14 trained workers and some of the others. So what are  
15 you doing to help this process of getting better  
16 quality training or that people absorb the training a  
17 little bit more effectively.

18 EXECUTIVE DIRECTOR RYAN: Well first of  
19 all, we certainly recognize that there are  
20 deficiencies in the current training system. You  
21 know, but one of the things that we did was we  
22 brought in Election Center. And their first...,  
23 they're going to meet with us, I believe on the  
24 fourth or the fifth of next week, they're first  
25 coming in. And their primary task initially, is

2 going to be to evaluate how we do training. And help  
3 us develop a better training protocol moving forward.  
4 One of the things...

5 [Interpose]

6 CHAIRPERSON FERRERAS: I was just saying I  
7 wish we could be part of that evaluation.

8 EXECUTIVE DIRECTOR RYAN: Well certainly.  
9 But I'm being serious about this. They have to  
10 examine all aspects. I do not anticipate that  
11 they're just going to sit in our offices and talk  
12 only to us. One of the things that they have told  
13 us, that is a deficiency throughout the country, is  
14 an ineffective process to debrief poll workers and  
15 poll site coordinators post-election to find out what  
16 the problems were. So we do it, umm, but it's  
17 cumbersome and we don't always use the information as  
18 effectively as we can. So we're looking for them to  
19 help us in that debriefing process and quite frankly  
20 having an outside independent kind of group do it,  
21 may in fact, enhance the information that we get from  
22 the folks. So we're looking at that as well, but I  
23 would also expect that all of the stakeholders should  
24 ultimately be a part of that process including the

2 city council and anyone else that wants to weigh in  
3 on it. The idea is to fix it not to be proprietary.

4 CHAIRPERSON FERRERAS: Yes, and you know,  
5 not only from the city council perspective, but any  
6 elected official, I think there's some space so that  
7 we can express our concerns would be...

8 EXECUTIVE DIRECTOR RYAN: I mean, and the  
9 way I look at it is, every one of you folks up there  
10 represent a large swath of people. And that's the  
11 most effective way for us to get our information. So  
12 anyway that we can integrate all the stakeholders  
13 into the process, we're certainly open to and we  
14 wouldn't be arrogant enough to think that we have  
15 cornered the market on creative thinking.

16 CHAIRPERSON FERRERAS: Okay. Can you...,  
17 before I turn it over to my colleague and co-chair,  
18 Kallos. Can you go over next year's election  
19 schedule? The challenges that you're expecting.

20 EXECUTIVE DIRECTOR RYAN: Well we have...,  
21 before we get to next year we have the June primary.  
22 And there's challenges associated with that because  
23 we're going to be going from petitions to primary to  
24 petitions to primary.

25 CHAIRPERSON FERRERAS: Right.

2 EXECUTIVE DIRECTOR RYAN: And so we're  
3 going to have a primary here now in June and then a  
4 primary in September. So we're going to be very  
5 busy, you know, for the next several months and then  
6 after that we have obviously the general election in  
7 November, which typically a gubernatorial election is  
8 our second most widely attended election. Second  
9 only to a presidential. So this is going..., it's  
10 definitely going to be a busy year for us. We're  
11 hoping that by bringing in Election Center now and  
12 getting them integrated into the training process,  
13 that that will help us conduct better training,  
14 certainly not perfect, for July and August, but  
15 better. One of the things that I envision moving  
16 forward is for us to completely change the way we do  
17 the training. And I envision, and I think it's going  
18 to be part of this process, that we will have a  
19 standardized kind of video concept to the training.  
20 Where all of the information that needs to get to the  
21 poll workers will be in a video, interactive video  
22 format. And that the trainers at the different  
23 classes will be more like facilitators. So that we  
24 can insure that there is a uniform message and a  
25 uniform training of all the basic information that

2 needs to get to the poll workers. Rather than simply  
3 relying on the vagaries of an individual's skills  
4 that day or in general. So if we have them just  
5 engaging and doing a question and answer period, and  
6 also engage in a more interactive more hands on  
7 approach with respect to the voting machines. And I  
8 would like to point out that that went a little bit  
9 by the wayside last year because of the pressure of  
10 timing of trying to train people on the lever  
11 machines and also train them on the DS200. So we had  
12 less hands on than usual. So we're going to go back  
13 to at least the level of hands on training that we  
14 had before the last election cycle and hopefully  
15 significantly exceed that.

16 CHAIRPERSON FERRERAS: Well, thank you for  
17 your response. Clearly we..., anytime that you can do  
18 more, and when you think you've done enough, you  
19 still need to do a little bit more. There is also,  
20 and I represent a very diverse, just like Council  
21 Member Dromm, who you mentioned earlier, a diverse  
22 district with a lot of language barriers and a lot of  
23 issues. A lot of first time voters, we're working  
24 really hard in helping people become naturalized and  
25 become voters. And any opportunity that we can

2 engage with first time voters and let them know their  
3 rights. Often time I feel like a lot of the  
4 challenges when I've gone to the poll sites, is you  
5 know, voters not knowing their EDs and ADs and the  
6 poll worker saying, go to the next table, go to the  
7 next table, go to the next table. And I know that we  
8 get the cards in the mail that lets us know exactly  
9 where we should be. But that's another opportunity  
10 where we can engage with voters saying, don't leave  
11 that poll site without them telling you where you  
12 belong. You know, someone will speak your language  
13 there. Or whatever the know your rights are, I would  
14 really urge you to engage in as many opportunities  
15 and that's probably the last time, I think before  
16 election day that you really interact with the voter,  
17 is with that card, if I'm not mistaken. But I would  
18 suggest that we look at best practices in informing  
19 voters of their rights before they go into the poll  
20 sites.

21 EXECUTIVE DIRECTOR RYAN: One of the things  
22 that I would like to point out, and we have been  
23 building on something that Ms. Sandow and Ms. Perkins  
24 started before I arrived. But certainly we've upped  
25 it a little bit. We have a limited English

2 proficiency working group and we meet with various  
3 stakeholders prior to Election Day, to make sure, and  
4 when I say we, I mean all of us. We sit down and we  
5 go over with them, various things that we can do to  
6 improve things moving forward as well as recruiting  
7 qualified bilingual poll workers regardless of the  
8 language. We need them as well. Again, sometimes  
9 funding becomes an issue. For example, last year we  
10 had a shortage of Korean interpreters and we reached  
11 out to the mayor's office and they tried their best  
12 to help us. But the best they could do was find us a  
13 service that provided interpreters at \$40.00 an hour.  
14 Well for a 15 hour day when you have a \$200 per day  
15 budget. It presents challenges. But certainly, you  
16 know, we as a society, not only the Board of Election  
17 have to make sure that everyone who is an eligible  
18 voter has the opportunity to vote.

19 CHAIRPERSON FERRERAS: And one of the  
20 things that becomes a challenge is..., and I saw this  
21 happen is, you know, when you have this language  
22 barrier, you're trying to say your name, they're  
23 looking for you on a roster. What's asked? Let me  
24 see an ID?

25 EXECUTIVE DIRECTOR RYAN: Right.



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CHAIRPERSON FERRERAS: And that's not part of the voting process and it can be very discouraging and people need to know that they don't have to have an ID to vote. And I think you get lost, you know, unfortunately, lost in translation and it is a barrier that is being created and poll workers need to be told, you know, write it down on a piece of paper. Don't ask for ID. And I know that it's kind of a second nature thing that you want to be able to find their names. But that's a challenge for many of our communities. But I thank you, and I'm going to pass it over to my co-chair.

EXECUTIVE DIRECTOR RYAN: And the other thing along those lines to speed things up. We're working on implementing..., I know this doesn't sound like a particularly ground breaking idea, but we're going to be working on implementing alpha tabs to speed up the process when the names are being looked up, which will hopefully reduce voter frustration, you know, streamline the process and also reduce the frustration of the poll workers in trying to find people's names when a line is building up.

2 CHAIRPERSON FERRERAS: Yes. Thank you.  
3 We've been joined by Council Member Greenfield,  
4 Torres and Cohen.

5 CO-CHAIRPERSON KALLOS: Thank you for your  
6 testimony. I'd like to invite my co-chair from the  
7 Finance Committee to join the Governmental Operations  
8 Committee. It seems like this is very interesting  
9 items where you have serious interest and you may  
10 have missed her in the preliminary budget hearing.  
11 The Executive Director and Board of Elections brought  
12 a very creative piece of equipment and I invite you  
13 to go take a tour at the Board of Election. They'd  
14 love to show it off. It's quite impressive. There  
15 were certain budget implications that I'd rather not  
16 rehash now.

17 [Laughing]

18 CO-CHAIRPERSON KALLOS: But I think you  
19 would enjoy.

20 [Background talk]

21 CO-CHAIRPERSON KALLOS: Fair enough. In  
22 the interest of the fact that today is Friday. The  
23 Shavuot is coming. It tends to be coming on our  
24 Friday's when we tend to have hearings. I'd like to  
25 yield the floor briefly to my colleague, Council

2 Member David Greenfield to make a brief remark and  
3 ask for questions.

4 COUNCIL MEMBER GREENFIELD: Thank you Mr.  
5 Chairman. I appreciate the yielding of the floor on  
6 the time. I just wanted to acknowledge, you know, I  
7 think we in the council are a fierce oversight  
8 function that we provide, certainly nobody in my  
9 opinion provides better oversight than our Chair, Ben  
10 Kallos, who of course is an election lawyer. Which  
11 is good news for him, but bad news for you, because  
12 he knows what he's talking about. But I think that  
13 he's tough but fair. And I will say that since we  
14 last spoke, since the preliminary budget, I think  
15 that you folks have made progress. And I think that  
16 needs to be acknowledged. I'm a big believe that in  
17 government, things are either getting better or  
18 they're getting worse. I think they're getting  
19 better. I still think we have a ways to go. I think  
20 specifically, the ballot counting, the reduction of  
21 the ballot jams, the firing of an individual who  
22 apparently wasn't very good at his job in terms of  
23 finance. I just would encourage you that in  
24 replacing that person you should do a true statewide  
25 search to find the best qualified person for that

2 position. I think overall, we are making progress.  
3 I want to commend you on that, and I certainly am  
4 supportive of raising the wages of those folks who  
5 work on Election Day for \$7.4 million. At the same  
6 time I think, a little more cost cutting, pull out  
7 that scalpel, I think you might be able to find a few  
8 more bucks as well.

9 So, I thank you for moving in the right  
10 direction. I thank both chairs for their leadership.  
11 But especially Chair Kallos, because he's especially  
12 dedicated to this particular craft. So, we're  
13 grateful for that as well. Thank you.

14 EXECUTIVE DIRECTOR RYAN: Council Member  
15 Greenfield, I'd also like to thank you for your input  
16 and your counsel on these matters in helping us in  
17 that direction, as well.

18 COUNCIL MEMBER GREENFIELD: Thank you and  
19 good Shavuot. See you on Sunday at the Israel Day  
20 Parade.

21 CO-CHAIR KALLOS: At the Met Council  
22 Breakfast, a small plug, please join us on 5<sup>th</sup> Avenue  
23 as we walk down for the Israel Day Parade. Back to  
24 budget. What..., I'm big on transparency, it's a  
25 closely held secret but it happens to be true. What

2 are the projected costs for the primary and general  
3 elections in fiscal year 2015? Can you give us  
4 breakdowns on how you're going to use the funds, be  
5 it printing, poll workers, transportation, and the  
6 privacy screens? Whether or not the new privacy  
7 screens are being repurposed from somewhere else or  
8 whether we're buying new ones or we're engaging a  
9 provision of a contract or what not in order to save  
10 money there.

11 EXECUTIVE DIRECTOR RYAN: On the privacy  
12 screens, we're going to be using HAVA funds to do  
13 that. With respect to the individual breakdown of  
14 costs, that is certainly something that we can  
15 provide to you offline. WE did not bring, you know,  
16 a line item by line item. But if you tell me, Chair  
17 Kallos, the specific items again we can take them  
18 down and I can provide them to you with relative  
19 dispatch later today.

20 CO-CHAIRPERSON KALLOS: To follow on the  
21 general love fest started by Council Member  
22 Greenfield, recently the Board of Elections has  
23 agreed to use city time, and this is actually a good  
24 thing, for a timekeeping system. Can you talk about  
25 the plans for City Time implementation and can you

2 estimate the potential savings through cost avoidance  
3 as a result of this plan.

4 EXECUTIVE DIRECTOR RYAN: The plan is that  
5 our staff met yesterday with members of DCAS, OPA and  
6 FISA for four hours, to really start to button down a  
7 good tight timeframe moving forward. We expect that  
8 we will have three locations including the general  
9 office, operational by mid-summer. And the balance  
10 of the process should be completed by the end of this  
11 calendar year. In December of 2014. With respect to  
12 potential savings, we haven't analyzed that yet. And  
13 it's a little bit of a moving target, in that the  
14 OCR's, the paperwork, that was previously provided to  
15 us, by OPA to process the paper time cards, was  
16 recently stopped being produced by OPA and we have to  
17 produce those in-house. So in order to do a more  
18 complete analysis of the savings moving forward,  
19 we're going to have to get a handle on what the OCR  
20 production costs would be over the course of time.  
21 But certainly, again, Mr. Sullivan, who's been the  
22 Acting Director of Finance, has a real good handle on  
23 that stuff. And those are numbers I'm certain that  
24 we could get to you in relatively short order.

2 CO-CHAIRPERSON KALLOS: So in terms of...  
3 along the lines of the love fest, I want to give a  
4 little bit of tough love, so, did you receive a  
5 letter from me on April 2<sup>nd</sup> regarding follow-up from  
6 our first hearing in February regarding the DOI  
7 report.

8 EXECUTIVE DIRECTOR RYAN: Yes I did.

9 CO-CHAIRPERSON KALLOS: And so we've been  
10 meeting on a monthly basis since then.

11 EXECUTIVE DIRECTOR RYAN: Yes we have.

12 CO-CHAIRPERSON KALLOS: Okay so I'm going  
13 to go through that punch list.

14 EXECUTIVE DIRECTOR RYAN: Okay.

15 CO-CHAIRPERSON KALLOS: As quickly as  
16 possible. And so what I'm looking for is either the  
17 date certain or we're not there yet, or what have  
18 you. But let's do it as quickly as possible.

19 EXECUTIVE DIRECTOR RYAN: Okay.

20 CO-CHAIRPERSON KALLOS: So, you submitted a  
21 corrective action plan to both this body and the DOI,  
22 but I found it to be non-compliant. When will we get  
23 a new DOI corrective action plan or at least pieces  
24 of it in piece mail?

25

2 EXECUTIVE DIRECTOR RYAN: Well I think that  
3 we've been working on that moving forward. There are  
4 certain things that we have complied with. The  
5 elimination of the voter cards, is one thing. And as  
6 we discussed, our board works more like a legislative  
7 body, so I need a vote of six, a minimum vote of six  
8 commissioners. SO to do a comprehensive soup to nuts  
9 plan is a little bit difficult, but we certainly are  
10 attacking these things item by item.

11 CO-CHAIRPERSON KALLOS: So let's..., I'll go  
12 to the specific items. So I'll get to that question,  
13 so, umm, the regular performance evaluations. When  
14 do those start?

15 EXECUTIVE DIRECTOR RYAN: They started.  
16 Three of the boroughs are substantially complete. By  
17 that I mean, 95% or better complete. That would be  
18 Staten Island, Brooklyn..., Staten Island, the Bronx  
19 and Queens. The two larger boroughs are underway.  
20 They had some challenges associated with things that  
21 they were doing separate and apart from that.

22 CO-CHAIRPERSON KALLOS: When do you expect  
23 to have those done and when will we see those  
24 performance evaluations?  
25



2 EXECUTIVE DIRECTOR RYAN: I would say that  
3 the two other boroughs should be done by the end of  
4 the month. This month. Of June. And we're almost  
5 done with the central office. We're about 96%, 97%  
6 complete with the central office.

7 CO-CHAIRPERSON KALLOS: So great. That's  
8 one item to check off and I would have appreciated  
9 just getting is part of the compliance plan. Just  
10 saying this is something we're going to do and we're  
11 going to do it June which is along the lines of what  
12 we've been asking for. So, we will see copies of the  
13 performance evaluations or at least the results in  
14 June or a status update. You're now subscribed to  
15 the Social Security Death Master File.

16 EXECUTIVE DIRECTOR RYAN: Yes.

17 CO-CHAIRPERSON KALLOS: When did that  
18 happen?

19 EXECUTIVE DIRECTOR RYAN: I think we got  
20 the software back in February. And we've been  
21 working the list. It was 88 million records. Just  
22 to be clear.

23 CO-CHAIRPERSON KALLOS: So when did it  
24 actually go into effect?

2 EXECUTIVE DIRECTOR RYAN: It is in the  
3 process of going into effect as we speak.

4 CO-CHAIRPERSON KALLOS: When will it be  
5 fully implemented?

6 EXECUTIVE DIRECTOR RYAN: Well, it is fully  
7 implemented. We're doing it as we go along. We had  
8 the central office staff do the searches for the two  
9 largest boroughs, that being Manhattan and Brooklyn.  
10 Basically to work out the kinks and find out what  
11 challenges were faced by manipulating the data. I  
12 mean that in a positive way.

13 CO-CHAIRPERSON KALLOS: So, you're using it  
14 on an ongoing basis?

15 EXECUTIVE DIRECTOR RYAN: Yes. And we  
16 receive weekly electronic updates that we're  
17 integrating into our overall system. Keep in mind  
18 that we also..., on those issues we also receive the  
19 same information from the state on the deaths. So  
20 there's some overlaps. So what we're trying to do is  
21 just make sure that we're not having our staff do  
22 double work. By looking at the same data twice.

23 CO-CHAIRPERSON KALLOS: The readable font  
24 size on ballots. What month did that happen?

25

2 EXECUTIVE DIRECTOR RYAN: That happened  
3 just after the first of the year. I think it was the  
4 second meeting of January in the middle of January.  
5 And what we did there, is we are not going to print  
6 more than three languages on any one ballot. So that  
7 will provide more real estate on the ballot and  
8 obviously give us more room to bump up the font size.

9 CO-CHAIRPERSON KALLOS: Have you  
10 standardized hiring and screening process and  
11 provided this publically to the community?

12 EXECUTIVE DIRECTOR RYAN: The answer to  
13 that question is no. We had met, I guess it was  
14 about three weeks ago. I received a letter from  
15 Commissioner Peters from DOI, indicating some  
16 recommendations as to what DOI's thoughts were in  
17 terms of how we should standardize. That was a  
18 letter dated May 19<sup>th</sup>. Last week owing to a  
19 potential guar rum problem, the commissioner's  
20 meeting was not had. This Tuesday I expect to  
21 address that issue with the commissioner on this  
22 coming Tuesday and I will be happy to report back  
23 whatever the results are, along those lines.  
24 Documentation has been forwarded to all of the  
25 commissioners, however.

2 CO-CHAIRPERSON KALLOS: If you could  
3 forward that to me as well and my committee and I'll  
4 follow-up question on that later. Have the  
5 commissioners considered civil service exams for  
6 employees for which that would be appropriate?

7 EXECUTIVE DIRECTOR RYAN: No.

8 CO-CHAIRPERSON KALLOS: What is the  
9 timeline on bringing that to commissioners?

10 EXECUTIVE DIRECTOR RYAN: I will talk to  
11 them about that in the context of the overall hiring  
12 practice. So we'll talk about that on Tuesday.

13 CO-CHAIRPERSON KALLOS: Okay so that's  
14 June. Where are we on the report on ballot security  
15 in Manhattan and corrective actions? I believe you  
16 sent a letter to myself and Council Member David  
17 Greenfield.

18 EXECUTIVE DIRECTOR RYAN: Yes. Umm, on the  
19 report, I guess that one's on me. I thought that we  
20 had moved past that issue based on the prior  
21 conversation.

22 CO-CHAIRPERSON KALLOS: What was the date  
23 that that was completed?

24 EXECUTIVE DIRECTOR RYAN: We do an  
25 evaluation right after the election cycle. So that

2 was completed in December. It's all part of our  
3 post-election protocols. It happens every election  
4 cycle and now we have a new Deputy Chief in Manhattan  
5 and we expect to continue to make improvements moving  
6 forward.

7 CO-CHAIRPERSON KALLOS: Had there been any  
8 reports of any employees being required to engage in  
9 political activity and if so, has that been  
10 investigated and have those folks that required such  
11 activity been terminated?

12 EXECUTIVE DIRECTOR RYAN: During my tenure,  
13 no. Prior to my tenure, yes. And I'm aware of at  
14 least one circumstance in the past where an employee  
15 was terminated for engaging in such behavior.

16 CO-CHAIRPERSON KALLOS: Are you currently  
17 posting all openings?

18 EXECUTIVE DIRECTOR RYAN: No. That is part  
19 of the DOI letter, Commissioner Peter's letter that I  
20 received on..., dated May 19<sup>th</sup>.

21 CO-CHAIRPERSON KALLOS: Are you providing  
22 background checks on the staff that were recommended  
23 by the DOI report?

24 EXECUTIVE DIRECTOR RYAN: Again that was an  
25 issue that was discussed in the meeting that we had

2 and if the chair may recall, Commissioner Peters  
3 indicated that it was more important that we take  
4 this first step in terms of evaluating the hiring  
5 practices and that once that was done, he would take  
6 that as a good and positive sign to work on us with  
7 other issues. But certainly that's not something  
8 that we can do unilaterally. We would require the  
9 cooperation of DOI on that.

10 CO-CHAIRPERSON KALLOS: Timeline. Is an  
11 end of year thing? Is this five years from now, is it  
12 next month, August? When do you think you're going  
13 try the timeline?

14 EXECUTIVE DIRECTOR RYAN: From a personal  
15 perspective I would like to see that done as quickly  
16 as possible. One of the concerns that I have is  
17 working with DOI to determine what categories of  
18 employees require background checks and what don't  
19 and specifically, I'm concerned about the large swath  
20 of our temporary workforce that comes in from June to  
21 December and whether or not DOI thought that that was  
22 a group of people that needed to be investigated.  
23 Because that would present a hardship.

24 CO-CHAIRPERSON KALLOS: Do you want to set  
25 a potential timeline for summer or fall or winter?

2 EXECUTIVE DIRECTOR RYAN: I would say that  
3 we could come back to you in September and talk about  
4 that, because we have a couple of elections that we  
5 also have to work on as we're moving forward.

6 CO-CHAIRPERSON KALLOS: Where are you on  
7 eliminating buff cards?

8 EXECUTIVE DIRECTOR RYAN: Eliminating buff  
9 cards. I'm happy to report that the cancelled cards  
10 from Queens have been taken away by Shred ability  
11 and...

12 CO-CHAIRPERSON KALLOS: What month?

13 EXECUTIVE DIRECTOR RYAN: Last week.

14 CO-CHAIRPERSON KALLOS: Congratulations.

15 EXECUTIVE DIRECTOR RYAN: And I believe  
16 Brooklyn was done, I think yesterday. So we're  
17 moving forward on those issues and once we get all of  
18 the cancelled cards, that we've kept forever and  
19 ever. We're then going to move to the active cards  
20 that we are not required to keep for more than two  
21 years. So that process is ongoing as we speak.

22 CO-CHAIRPERSON KALLOS: When will this  
23 process be completed for the first rounds of just  
24 eliminating the old buff cards that were identified  
25 by DOI?

2 EXECUTIVE DIRECTOR RYAN: I would expect...  
3 well actually they were all identified by DOI,  
4 because we're only required to keep them for two  
5 years. So it's..., you know, we're also talking about  
6 probably upwards of 10 million records that need to  
7 be disposed of. One of the delays in this process, I  
8 will tell you, was that DORIS, the Division of Record  
9 Information Services had received information that we  
10 were planning on doing this and they asked us  
11 specifically, Commissioner O'Toole asked us to slow  
12 down so that they could evaluate the buff cards for  
13 potential historic value. And that slowed us down a  
14 little bit. They decided that they are not of  
15 historic value. But a positive thing came out of  
16 that delay. We have a myriad of real historic  
17 documents. Ledgers and things going back to the  
18 early 1900s that are sitting nicely in our  
19 warehouses. But should really be part of the public  
20 viewing process. And we are engaging in a process  
21 ultimately of turning those records over to DORIS so  
22 that they can include in the city archive.

23 CO-CHAIRPERSON KALLOS: So what is the date  
24 certain that the buff cards will be removed and done  
25 with?



2 EXECUTIVE DIRECTOR RYAN: Like I said, it's  
3 an ongoing process. It's kind of hard to tell  
4 because it's a little bit of a moving target, but I  
5 can tell you that at least every week, some records  
6 will be going to Shredability to..

7 CO-CHAIRPERSON KALLOS: But in terms of...  
8 let's just say, what is your timeline for 80% of the  
9 records or 90% of the records?

10 EXECUTIVE DIRECTOR RYAN: I'd like them to  
11 be gone by the end of the year and I'm saying that  
12 long because I don't know how much of an interruption  
13 will occur as a result of the upcoming election  
14 cycles and that obviously is our primary focus is to  
15 make sure the elections get taken off, come off  
16 properly, I should say.

17 CO-CHAIRPERSON KALLOS: I'm just going  
18 through the thing..., through the punch list that you  
19 received. So it seems like you're moving full ahead  
20 on the timekeeping with the City time. Based on your  
21 testimony it sounds like you're professionalizing the  
22 training using the election center folks, so that  
23 seems all along and so that will be fully implemented  
24 in time for this coming June primary?

2 EXECUTIVE DIRECTOR RYAN: A portion of it.  
3 But it's going to be part of an ongoing process.  
4 They're going to learn some stuff when they do the  
5 audit, and then they're going to come back to us with  
6 recommendations.

7 CO-CHAIRPERSON KALLOS: The privacy screens  
8 will be in time for September?

9 EXECUTIVE DIRECTOR RYAN: September, yes.

10 CO-CHAIRPERSON KALLOS: And filtering write  
11 in voters?

12 EXECUTIVE DIRECTOR RYAN: We're working on  
13 that. We expect that that will be implemented for  
14 the September primary. There were some difficulties  
15 associated with that in terms of the technology  
16 working properly and we're working with the vendor to  
17 make the tweaks necessary to make sure that nothing  
18 slips through the cracks.

19 CO-CHAIRPERSON KALLOS: We're closing in on  
20 the end of the punch list. During the preliminary  
21 budget hearing you indicated that many positions were  
22 posted as PDFs. I made the request that they be  
23 posted on the website in computer readable format.  
24 Did that happen?

25 UNIDENTIFIED FEMALE: Yes.

2 EXECUTIVE DIRECTOR RYAN: Oh it did happen.  
3 Okay, I was..., I forgot that, yes it did.

4 CO-CHAIRPERSON KALLOS: Can you send the  
5 link please.

6 EXECUTIVE DIRECTOR RYAN: Pardon.

7 CO-CHAIRPERSON KALLOS: Can you send us the  
8 link?

9 EXECUTIVE DIRECTOR RYAN: Yes.

10 CO-CHAIRPERSON KALLOS: Are they also being  
11 posted at NYC.gov?

12 EXECUTIVE DIRECTOR RYAN: Not yet.

13 CO-CHAIRPERSON KALLOS: Can they please be  
14 posted at NYC.gov.

15 EXECUTIVE DIRECTOR RYAN: That's going to  
16 be part of the package that I present to the  
17 commissioners. That's also included in Commissioner  
18 Peter's letter, that's going to be considered by the  
19 commissioners on Tuesday.

20 CO-CHAIRPERSON KALLOS: And during the  
21 preliminary, starting actually as early as February,  
22 I asked about having the Arabic numeral birthday  
23 printed on the voter roll, so that when somebody sees  
24 a person who may be the wrong age showing up, the can  
25 either challenge that person or have them take an

2 affidavit ballot and correct their voter  
3 registration. Will the Arabic numeral birthday so  
4 that when somebody sees me they don't see my birthday  
5 as 1981 they'll actually see that I'm 33 and look at  
6 me and say, you look like you're in your twenties.  
7 Are you sure you're a council member and ready to  
8 vote?

9 EXECUTIVE DIRECTOR RYAN: Nobody accuses me  
10 of that anymore. But, that will be in place for  
11 September. And that's part of the alpha tabbing of  
12 the books, we're looking to overhaul the poll books.

13 CO-CHAIRPERSON KALLOS: How many..., are you  
14 currently cancelling deceased voters using the Social  
15 Security Index?

16 EXECUTIVE DIRECTOR RYAN: Yes. That  
17 process is underway. I can get you the up to date,  
18 hot off the presses, information later today.

19 CO-CHAIRPERSON KALLOS: Perfect. Ballot  
20 printing in New York City or DCAS, either or. Where  
21 are you on getting it printed more locally? I know  
22 we're currently being printed in New York State,  
23 which is great, but it would be great to bring those  
24 jobs more locally.

2 EXECUTIVE DIRECTOR RYAN: Where we're at  
3 with that is we worked with DCAS and there presently  
4 is an RFP out there and we're waiting for responses.  
5 The current ballot printing contract expires December  
6 31, 2014. So a new contract has to be in place for  
7 2015 and I suspect as part of that process we'll get  
8 some responses and to the extent that those responses  
9 involve local vendors, the plan is to not rely on one  
10 or two vendors, but to give the board the choice of  
11 using three vendors, up to three vendors  
12 simultaneously. If we get, you know, three  
13 sufficient responses, so that we can, you know, have  
14 back-ups, if one vendor fails we'll have another  
15 vendor to go to. And we'll spread the love, I  
16 suppose, if you want to call it that, out to more  
17 than one vendor.

18 CO-CHAIRPERSON KALLOS: I think that's  
19 today's theme. Poll workers certification by task.  
20 Is that being included in the current training  
21 system?

22 EXECUTIVE DIRECTOR RYAN: It's not being  
23 included in the current training system for June, but  
24 it is definitely going to be part of the evaluation  
25 process that is being conducted by Election Center

2 and if that certainly is one of the best practices  
3 that they tell us can work for the City of New York,  
4 we will implement those recommendations.

5 CO-CHAIRPERSON KALLOS: I see these gray  
6 cards. I like the design. Something we talked about  
7 is making sure that, it is probably not necessary for  
8 this, but making sure that by the general election  
9 people are instructed in their materials not to vote  
10 down the line. That they don't have to do that.

11 EXECUTIVE DIRECTOR RYAN: That will be  
12 certainly a theme that's incorporated into the  
13 training. And if I might piggyback on that, I mean,  
14 I'm sure everybody that's part of the election  
15 process receives a voter information guide. And we  
16 have been roundly criticized, and I think justifiably  
17 so, for the voter guide. What we're going to be  
18 doing for the upcoming general election. The notices  
19 will go out in August, we will be providing the voter  
20 guides in the languages required by the individual  
21 election districts. So that whole messy, kind of,  
22 you know, six lines with all the different languages  
23 all over it, is going to be different. Every  
24 language is going to be separated into its own  
25 section of the voter guide. So you'll have an

2 English, you know, Spanish, Bengali, Korean, Chinese  
3 sections. With a..., you know, in those election  
4 districts where those languages are required, with a  
5 table of contents written in the language so that  
6 they can refer themselves. And I think that that's  
7 the notice that the we handed up to the council, is  
8 an indication of how much better and how much more  
9 clear the information is being imparted to the  
10 voters. And I think that that although a relatively  
11 minor thing on the one hand, is a substantial  
12 improvement moving forward. And if that's a portent  
13 for what we should expect with the new voter guide.  
14 I think I'm very very encouraged in that light.

15 CO-CHAIRPERSON KALLOS: Rounding up on my  
16 final questions. This is the items that I said I'd  
17 be asking follow-up questions for. Will you bring a  
18 recommendation to commissioners that all central  
19 office and borough office jobs be publically posted  
20 on-line?

21 EXECUTIVE DIRECTOR RYAN: That again is  
22 part of Commissioner Peter's letter. That was one of  
23 the recommendations attached to his letter which I  
24 believe Chair Kallos also received a copy of,  
25 includes a form posting of how the job notices should

2 be posted and where in the various online  
3 applications they should be posted.

4 CO-CHAIRPERSON KALLOS: So when will you be  
5 recommending this?

6 EXECUTIVE DIRECTOR RYAN: I said it's going  
7 to be discussed with the Commissioners on Tuesday.  
8 Coming up at, whatever date it is, June 3<sup>rd</sup>, I  
9 believe it is.

10 CO-CHAIRPERSON KALLOS: That is amazing.  
11 Thank you. The following question will you bring a  
12 recommendation to the Commissioners that all central  
13 office and borough office hires who fill managerial  
14 positions earn more than \$80,000 a year, be directly  
15 involved with city contracts, or work on sensitive  
16 computer programs, be subjected to background checks  
17 by DOI as several other non-mayoral agencies do?

18 EXECUTIVE DIRECTOR RYAN: I believe that  
19 that's the right starting point. And then we need to  
20 have the conversation ultimately with DOI, how far  
21 beyond that, it extends.

22 CO-CHAIRPERSON KALLOS: When will that...,  
23 [Interpose]

24 EXECUTIVE DIRECTOR RYAN: All of these  
25 issues I believe are part of the same issue with



2 respect to the DOI conversation. I don't think I'm  
3 in a position right now to say when I will bring that  
4 to the commissioners. In this sense, we have a first  
5 hurdle to get over, and the first hurdle was  
6 Commissioner Peter's letter with respect to the  
7 hiring and job postings. The second piece of it is,  
8 I need more insight from DOI as to exactly what, you  
9 know, that's entailed, for us to implement that. And  
10 we're just not there yet, in terms of our  
11 communication with DOI. But I think once we get past  
12 this first hurdle there should be, you know, an  
13 opportunity to have further discussions with them.

14 CO-CHAIRPERSON KALLOS: I just want to  
15 follow-up on my previous question. I'm looking for  
16 from you, as Chair to Executive Director, is that you  
17 personally in your position as Executive Director  
18 will recommend to the commissioners that all central  
19 office and borough jobs be publically posted online.  
20 Will you make that recommendation?

21 EXECUTIVE DIRECTOR RYAN: Yes.

22 CO-CHAIRPERSON KALLOS: Perfect. Thank  
23 you.

24 EXECUTIVE DIRECTOR RYAN: I cannot  
25 guarantee what the commissioners will..., how they'll

2 receive it, but certainly that will be the  
3 recommendation.

4 CO-CHAIRPERSON KALLOS: Please share with  
5 the commissioners if they are watching now, I hope  
6 so, that we will be..., the public, all of New York  
7 City and hopefully my colleagues in the state and the  
8 press will be watching their vote on Tuesday. And if  
9 they feel for whatever reason that they do not need  
10 to publically post, then I am hereby requesting all  
11 of the commissioners come in to this body to explain  
12 their votes.

13 EXECUTIVE DIRECTOR RYAN: Okay.

14 CO-CHAIRPERSON KALLOS: That being said, I  
15 just want to say, I am incredibly excited to be the  
16 Governmental Operations Chair, while you are  
17 Executive Director and I want to complement you, the  
18 commissioners, your staff, your counsel, everyone  
19 here today. We just went through this punch list  
20 that was ridiculously long part of a response to a  
21 DOI report that was almost 100 pages with over 40  
22 recommendations and we're not even in our first six  
23 months and it seems like you've made major progress  
24 on all of that, so I just want to say thank you very  
25 much and... ahh.

2 EXECUTIVE DIRECTOR RYAN: But I will say  
3 that it is clearly a collective effort. Not only  
4 myself, and the managers, Dawn and Pam sitting here  
5 at the table, but the entire staff and the Board of  
6 Commissioners as well. But I also, just to piggyback  
7 on the last point that you made, although the  
8 background checks issue is out there, we do comply  
9 with COIB in terms of financial disclosure. So all  
10 of our financial disclosures have been submitted in  
11 accordance with COIB. So we're doing that and then I  
12 think that the next, you know, would be likely the  
13 background checks.

14 CHAIRPERSON FERRERAS: Thank you. Now we  
15 will hear from Council Member Rodriguez.

16 COUNCIL MEMBER RODRIGUEZ: Thank you Chair.  
17 Two years ago we have a congressional election. In  
18 13 and there was a lot of questions about how the  
19 process took place. And there were letters sent to  
20 the federal government asking for investigation.  
21 Last minute change of bilingual poll workers for non-  
22 bilingual in area where most of the voters, they were  
23 bilingual. Most of the people, I can tell you, in  
24 the Latino community, feel that that election did not  
25 protect the voter rights. What are you doing this

2 year, to guarantee that the process will be  
3 different?

4 EXECUTIVE DIRECTOR RYAN: Well first, we  
5 are going to be appropriately assigning to the extent  
6 that we have them available, the appropriate number  
7 of bilingual poll workers and also I believe that we  
8 are just shy of being 100% filled in terms of our  
9 allocated slots for interpreters. The other thing  
10 that I can say is that we have met with at least one  
11 somewhat concerned individual from the 13<sup>th</sup>  
12 Congressional District, that being Senator Espada and  
13 we...

14 [Background talk]

15 EXECUTIVE DIRECTOR RYAN: I'm sorry,  
16 Senator Espaillat. Sorry, I apologize. Senator  
17 Espaillat, yes. The problem was, I was I always  
18 confused with Adriano Espaillat and you know, I  
19 finally figured out that it was the same person. But  
20 I met with the Senator face to face, along with Ms.  
21 Sandow and members of his campaign staff to address  
22 these issues and they were obviously very concerned  
23 that history not repeat itself, this go around. And  
24 I anticipate that we will continue to be in close  
25 communication with both campaigns, you know,

2 Congressman Rangel and Senator Espaillat's campaign  
3 to make sure that the election in that district is  
4 conducted fairly.

5 COUNCIL MEMBER RODRIGUEZ: That's very  
6 important because as someone when the presidential  
7 election took place and Al Gore lost election and I  
8 came to rally in front of federal plaza saying that  
9 the republican steal election. Being involved in  
10 that two years ago, congressional election, I can  
11 tell you that I say that I would never say that  
12 again. Because for me, the outcome of that election  
13 did not show a transparency and held the reputation  
14 of work that should be committed to those, so I  
15 really appreciate anything that you can do to protect  
16 the voter's right.

17 EXECUTIVE DIRECTOR RYAN: Yes. I  
18 appreciate that and just to be clear. To clarify my  
19 prior statement. There are four candidates in that  
20 district, so we'll be working with all of the  
21 campaigns, not excluding anyone. Our, you know,  
22 responsibility could be as inclusive as possible and  
23 as I stated earlier, separate and apart from the 13<sup>th</sup>  
24 District which is obviously important, we are having  
25

2 a limited English proficiency working group meeting.  
3 Valerie, when is that?

4 [Background talk]

5 EXECUTIVE DIRECTOR RYAN: Monday, this  
6 coming Monday, I will be meeting with various  
7 stakeholders from the different language communities  
8 to make sure that we do whatever we can for all of  
9 the effected language groups, not only for this  
10 election cycle but moving forward, each election  
11 cycle.

12 COUNCIL MEMBER RODRIGUEZ: What will do  
13 different, like when it comes to releasing the report  
14 saying the two years in that particular election, the  
15 night of election the number came out saying that  
16 one, that the person who was elected was in front  
17 like by 20% margin, and at the end the result was 800  
18 votes.

19 EXECUTIVE DIRECTOR RYAN: Well I wasn't  
20 here two years ago when that happened. But I can  
21 tell you that immediately after the first of the year  
22 in February, we started having internal meetings  
23 regarding the 13<sup>th</sup> Congressional District because we  
24 recognize that whether the problems were born of  
25 reality or perception, certainly there are people

2 that felt that they did not get the appropriate  
3 attention and we want to make sure that that doesn't  
4 happen again. Like is said, there might have been  
5 instances where it was actually happening, or other  
6 instances where it was perceptively happening but  
7 either way, you know, my father used to say, whether  
8 you commit the sin of omission or commission, that  
9 really doesn't matter much. So we want to make sure  
10 that that doesn't happen again.

11 DEPUTY EXECUTIVE DIRECTOR SANDOW: Hi. Dawn  
12 Sandow, Deputy Executive Director. I'd also like to  
13 explain to you that two years ago we relied on the  
14 return of canvas. We no longer use the return of  
15 canvas, we use the portable memory devices to upload  
16 the unofficial results. And that has been since the  
17 federal primary in 2012.

18 COUNCIL MEMBER RODRIGUEZ: Great. And you  
19 know, the return come as it was another one that  
20 changed that big percentage from that. SO you know,  
21 I believe, first of all there's a new leadership. I  
22 think that we all are accountable and that shows that  
23 your leadership being sure that the voter right is  
24 protected. That's what we should be expecting and  
25 that's all we would like to see on June 25<sup>th</sup>.

2 EXECUTIVE DIRECTOR RYAN: And in terms of  
3 the count there was, and Dawn brings up a good point,  
4 but just to clarify on it. There was a change in  
5 state law that no longer requires the Board of  
6 Elections to fill out those hand filled out returns  
7 to canvas and what's going to happen is they're going  
8 to fill out a much more simplified form and the  
9 results tape is going to be annexed to the form. So  
10 there's no more hand calculating. And that will,  
11 hopefully, it's our view that that will substantially  
12 reduce any clerical errors that may lead to a wrong  
13 vote count.

14 COUNCIL MEMBER RODRIGUEZ: What about like,  
15 when the process, after the election is over, the  
16 affidavit and the voter vote by affidavit. What can  
17 you do different to be sure that just because, let's  
18 say, if the voter signed different, immediately that  
19 vote is disqualified even though you can have an  
20 affidavit saying that that was the person who voted.  
21 Like if there's so many little details for which  
22 someone's vote gets disqualified.

23 EXECUTIVE DIRECTOR RYAN: Well it's..., my  
24 understanding is that it is a state election law that  
25 disqualifies some of those votes. But one of the



2 major things that we could do, which is part of a  
3 longer effort, is to clean up the voter rolls. You  
4 know, get the deceased folks off, keep up with the  
5 people that move, and the more that we get accurate  
6 information on the voter rolls, the less that we're  
7 going to have people voting by affidavit. So, you  
8 know, unfortunately it's a problem that's much bigger  
9 than an individual community, but the more we do a  
10 better job at cleaning up the voter rolls, the less  
11 affidavits we'll have, the less affidavits we have  
12 the less opportunity we'll have for these kinds of  
13 things.

14 COUNCIL MEMBER RODRIGUEZ: Thank you.

15 CHAIRPERSON FERRERAS: Thank you Council  
16 Member Rodriguez. Thank you for your testimony  
17 today. This committee, both of our committees, we  
18 have some follow-up questions. We'll get them to  
19 you. We need you to respond as soon as possible, so  
20 that we can have them for our budget negotiations.

21 EXECUTIVE DIRECTOR RYAN: We appreciate  
22 that and again, you know, thank you all and Chair  
23 Kallos as well. We've worked very closely on these  
24 issues and I presume we will do so moving forward.

2 If past is prologue, that is certainly the case. And  
3 thank you again.

4 CHAIRPERSON FERRERAS: Thank you. Thank  
5 you for coming today. We are going to take a one  
6 minute break so we can change some paperwork here.  
7 And then we will hear from OATH. Thank you.

8 [Pause]

9 CHAIRPERSON FERRERAS: We will now resume  
10 the council's hearing on the executive budget FY15.  
11 The Finance Committee and the Committee on  
12 Governmental Operations just heard from the Board of  
13 Elections. We will now hear from Office of  
14 Administrative Trials and Hearings. We have three  
15 more agencies to hear from today. So in the interest  
16 of time I will forego an opening statement and will  
17 turn the mike over to my co-chair, Council Member  
18 Kallos for a statement. Chair.

19 CO-CHAIRPERSON KALLOS: Thank you Chair  
20 Ferreras. Council Member Ben Kallos. It's a  
21 pleasure to have OATH before us. And in my purview  
22 we have oversight over 13 agencies. So I wish we  
23 could do all 13 in one day. The Office of  
24 Administrative Trials and Hearings OATH, is an  
25 independent agency that conducts administrative

2 hearings for city agencies, boards or commissions.  
3 OATH oversees the operations of four tribunals. The  
4 OATH tribunal, the Environmental Control Board, the  
5 Department of Health and Mental Hygiene Health  
6 Tribunal, and Taxi and Limousine Commission Tribunal.  
7 These tribunals hold more than 400,000 hearings  
8 annually on a diverse range of issues. OATH's  
9 proposed fiscal 2015 expense budget totals \$35.3  
10 million to fund the four tribunals including personal  
11 services funding of \$27.5 million to provide for 250  
12 full time positions. OATH generates revenue for the  
13 city through the collection of fines issued by  
14 tribunals for various violations. Revenues totaled  
15 \$135.7 million in fiscal year 2013. This will be the  
16 first time we have heard from OATH in this budget  
17 season so we look forward to your testimony. Please  
18 proceed whenever you are ready.

19 COMMISSIONER BEDDOE: Thank you very much.  
20 Good afternoon Chairs Ferreras and Kallos and members  
21 of the Committees on Governmental Operations and  
22 Finance. I am Suzanne Beddoe, Commissioner and Chief  
23 Judge of the Office of Administrative Trials and  
24 Hearings. And it's certainly a pleasure to come  
25 before you today to discuss OATH's fiscal year 2015

2 executive budget. Today I will be speaking about the  
3 services OATH provides. And some important changes  
4 that have occurred in the last year. Let me begin by  
5 providing you with some background, although Chair  
6 Kallos has addressed some of these points.

7 The New York City Office of Administrative  
8 Trials and Hearings is the largest municipal  
9 administration court in the nation. OATH oversees  
10 the operations of four different tribunals and  
11 handles a wide variety of cases conducting over  
12 400,000 hearings annually.

13 Effective July 3, 2011, OATH took over the  
14 management of the administrative tribunals that had  
15 been operated by the Taxi and Limousine Commission or  
16 TLC and the Department of Health and Mental Hygiene  
17 DOHMH. The transfer increased the number of cases  
18 which OATH handles by approximately 150,000 annually.  
19 OATH's four divisions currently consist of the OATH  
20 Tribunal, the Health Tribunal, the OATH Taxi and  
21 Limousine Tribunal and the Environmental Control  
22 Board also known as ECB.

23 As an independent administration court,  
24 OATH's sole mission is to provide fair and timely  
25 hearings to everyone who appears before our judges.

2 OATH wants to eliminate barriers to obtaining  
3 convenient hearings and aims to encourage  
4 participation in the administrative justice process.  
5 It has done this by implementing Access to Justice  
6 Initiatives that make it easier for New Yorkers to  
7 have their day in court. Through growth and change,  
8 OATH has attained a superior level of service and has  
9 focused on implementing innovative programs with the  
10 goal of creating truly user friendly courts. I  
11 invite you to review OATH's annual report for  
12 details, but let me give you a quick summary of  
13 changes that have occurred last year.

14           During calendar year 2013, OATH launched  
15 its new agency website. For the first time all of  
16 OATH's tribunals are accessible on one site. The  
17 site is exceedingly simple to navigate, it uses large  
18 recognizable icons to help visitors understand the  
19 many options that are available to them when  
20 contesting violations they have received from city  
21 enforcement agencies. A key goal is to provide  
22 procedural information in easy to understand plain  
23 language format. The website also contains  
24 interactive features including eight different  
25

2 informational videos that serve to demystify hearing  
3 processes at OATH's various tribunals.

4           The website also has an ECB ticket finder.  
5 It's an application which enables the general public  
6 to search for violations that have been filed at  
7 OATH's Environmental Control Board. The ECB ticket  
8 finder allows users to view, download and print  
9 copies of violations, find hearing information, see a  
10 violation status, and easily pay violations online.  
11 Searches can be conducted by name, address or  
12 violation number. And in this way, the ECB ticket  
13 finder gives the public access to important  
14 information which not only allows people to better  
15 defend themselves but also gives the general public  
16 information about quality of life cases that have  
17 come to ECB that may affect them or their  
18 neighborhood.

19           ECB currently offers various convenient  
20 options to property and small business owners who  
21 wish to contest the alleged violations they receive  
22 from the city's enforcement agencies. These include  
23 hearings online, by mail and over the phone. In  
24 2013, ECB expanded its hearings by phone unit to be  
25 able to provide the respondent with the option of

2 having an instantaneous hearing with a judge over the  
3 phone. And of course if the respondent is not ready  
4 to proceed when he or she calls ECB the respondent  
5 still has the option of scheduling the hearing by  
6 phone on a future date and time that's convenient for  
7 them.

8 At the Health Tribunal which was  
9 consolidated into OATH in July 2011. We have  
10 continued to increase transparency and access to  
11 justice by giving New Yorkers new ways and more  
12 places to contest alleged violations. OATH  
13 implemented hearings by phone, hearings online, and  
14 its virtual hearing program all of which use  
15 technology and innovative ways to create efficiency  
16 for the city and the general public. Virtual  
17 hearings were implemented as a way to expand the OATH  
18 Health Tribunal to the outer boroughs. While keeping  
19 cost low for the city. The program allows DOHMH  
20 inspectors to testify using webcam technology  
21 provided by OATH, saving both DOHMH and respondents  
22 time and expense since neither party has to travel  
23 far to attend a hearing.

24 In July of 2011 when OATH took over the  
25 Health Tribunal from the Department of Health. There

2 was only one health tribunal office located in Lower  
3 Manhattan. I'm proud to report that in 2013 OATH  
4 finalized the expansion of the health tribunal to all  
5 five boroughs. Now restaurant owners and other  
6 business owners who choose to come in for an in  
7 person hearing can come to the office in the  
8 neighborhood where they live and work. It should  
9 also be noted that OATH has been able to complete  
10 this expansion with minimal cost to the city, by  
11 leveraging office locations already used by OATH  
12 Environmental Control Board.

13           During the second half of FY14, OATH has  
14 been working to insure that its databases and case  
15 management systems have been programmed to handle new  
16 fixed penalty schedules that have been adopted by the  
17 health department. As the term implies, the fixed  
18 penalty schedule sets fine amounts for each violation  
19 and eliminates the penalty range thereby increasing  
20 transparency for restaurant owners.

21           In 2013 the OATH Tribunal, this is the  
22 tribunal which hears many civil service disciplinary  
23 cases and other matters. Developed and deployed a  
24 new electronic case management system that furthers  
25 the agency's efforts to reduce waste and modernize



2 operations at all of its tribunals. The OATH  
3 tribunal now has a capacity to duly record and store  
4 in one electronic case file, the hearing recordings,  
5 all case related documents and evidence that's  
6 presented at a hearing. Replacing paper files with  
7 electronic ones brings the OATH Tribunal into the  
8 21<sup>st</sup> Century while saving city space and resources.  
9 In addition the new system allows city agencies with  
10 the ability to file cases with the tribunal  
11 electronically. And allows the parties who appear  
12 before the OATH Tribunal and the members of the  
13 public, of course, to view the tribunal's weekly  
14 calendars online.

15 Now with respect to headcount. The  
16 agency's headcount increased by two from 248  
17 employees in FY2013 to 250 in FY14. With respect to  
18 OATH's revenue, as an administrative court,  
19 violations that are handled by OATH do not carry  
20 criminal charges however, they may carry civil  
21 penalties. When the facts show that a violation has  
22 occurred, OATH judges apply monetary penalties as  
23 mandated by the applicable laws. The amounts of  
24 these fines are established by the enforcement  
25 agencies that issue the violations. Planned revenue

2 for FY2015 from the payment of these fines is as  
3 follows: \$89.26 million for ECB, \$30 million for the  
4 Health Tribunal and \$7.47 million at the Taxi and  
5 Limousine Tribunal. There is a \$5.72 million  
6 decrease in planned revenue from the current fiscal  
7 year to fiscal year 2015. However, because OATH does  
8 not control policies or practices at the enforcement  
9 agencies, revenue projections are outside of OATH's  
10 purview. And of course, any decreased caseload at  
11 OATH in 2015 will be the direct result of decrease  
12 issuance by the city's agencies that write violations  
13 returnable to one of OATH's divisions.

14 With respect to the budget. OATH's  
15 proposed executive budget for FY2015 is \$35.3  
16 million. Which represents an increase of \$169.5  
17 thousand from the current fiscal year's budget for  
18 lease expenses associated with our move of our  
19 headquarters to 100 Church Street and utility charges  
20 for our new Brooklyn office location. Of the \$35.3  
21 million, \$27.5 million is PS or Personal Services.  
22 And \$7.8 million is OTPS.

23 In conclusion I would like to thank you for  
24 your support of OATH and I look forward to our  
25

2 continued cooperation and I'd certainly be happy to  
3 answer any questions that you may have at this time.

4 CHAIRPERSON FERRERAS: Thank you and good  
5 afternoon Commissioner. Thank you for your patience,  
6 I know we were running a little bit behind time. So  
7 I have three different areas that I'd like to focus  
8 in on.

9 COMMISSIONER BEDDOE: Okay.

10 CHAIRPERSON FERRERAS: I know that you  
11 mentioned it in your testimony and while I know that  
12 you don't have any specific influence on the  
13 decrease. From our perspective where I at least you  
14 know and I'm sure my colleague will share, that we're  
15 hoping that it's because of efficiencies in the  
16 health department and working with restaurants where  
17 we may see some of the decrease. Because I know that  
18 it's been brought up in other hearings about being  
19 more considerate of restaurants in providing warnings  
20 before the actual fines. But I know that's not your  
21 purview, so. We're hoping that that's where that  
22 comes from.

23 I wanted to talk about revenue. I know  
24 that OATH generates revenue from the city through the  
25 collection of fines which you have stated. Can you

2 talk about some of the trends you anticipate with  
3 regards to revenue generated by the three tribunals?

4 COMMISSIONER BEDDOE: Well with respect to  
5 the trends, a lot of the trending would really happen  
6 at the enforcement level. The trends that we see are  
7 really reflective of the number of tickets that any  
8 particular agency would issue and of course the  
9 quality of those tickets. Whether they are viable  
10 tickets or they're defective.

11 CHAIRPERSON FERRERAS: Can we focus in on  
12 the qualities. Because of course from our  
13 constituent's perspective there's always issues with  
14 tickets and that were unjustly given. SO from your  
15 perspective is there any agency that's stronger at  
16 giving..., at issuing more appropriate tickets or are  
17 there..., agencies that you see come up more often with  
18 issues.

19 COMMISSIONER BEDDOE: That's a very  
20 difficult question to answer with any specificity  
21 because, we for example at ECB there are thirteen  
22 different issuing agencies, all writing numerous  
23 types of cases. We see a wide, wide variety of those  
24 cases and it's very hard to discern which particular  
25 agencies do better at issuing violations. We can

2 certainly look and give you some sense of the  
3 dismissal rates for those. And that's something that  
4 we can get back to you on.

5 CHAIRPERSON FERRERAS: I would appreciate  
6 that. If you could get that to both of our  
7 committees on the dismissal rates so that we can then  
8 follow-up and for oversight in the future.

9 Umm, and I just wanted to go back to the  
10 health..., well in my suggestion alluding to the  
11 decrease being in health or DOHMH. Do you foresee  
12 any impact that this will have to your budget or to  
13 your offices in the Health tribunal will we recognize  
14 a decrease?

15 COMMISSIONER BEDDOE: Now when you say  
16 decrease, do you mean the decrease in the issuance of  
17 the ticket?

18 CHAIRPERSON FERRERAS: So, from our council  
19 perspective having spoken to various other  
20 commissioners, we are recognizing and it could be a  
21 total assumption, but we're recognizing that the  
22 process of issuing less fines and more..., or less  
23 summons and more warnings before the summons is what  
24 we will see he decrease in DOHMH. Now from your  
25 Health Tribunal perspective you will therefore, you

2 will have less people coming. What if any, is the  
3 impact that that will have on the Health Tribunal.

4 COMMISSIONER BEDDOE: Well it would have an  
5 impact as you point out just in terms of the volume.  
6 The volume of cases that we would see. We would also  
7 have an impact in terms of the fines imposed in the  
8 revenue for two reasons. First of all, there will be  
9 a decrease in the number of cases altogether but  
10 there is a new penalty scheme that I'm sure the  
11 Department of Health has testified about or will  
12 testify about, that when restaurant owners come in  
13 and they score a certain number of points, if they  
14 don't meet that threshold number, the fines that they  
15 have accrued are forgiven. And so you will see that  
16 there may be restaurant owners who may receive a  
17 violation but because the accumulation of points in  
18 association with those violations doesn't add up to a  
19 specific bench mark those fines will be waived. And  
20 so you'll see an impact in revenue from both of those  
21 functions.

22 CHAIRPERSON FERRERAS: So my next question  
23 is on tribunal consolidation. The council has a  
24 proposed legislation kind of working its way through  
25 the council that would move the parking violations

2 bureau from the Department of Finance to OATH. What  
3 are your thoughts on the proposed legislation? What  
4 if any efficiencies have been realized through the  
5 consolidations of other agencies and do you  
6 anticipate any other tribunal to be consolidated with  
7 OATH?

8 COMMISSIONER BEDDOE: Well with respect to  
9 the consolidations that have already happened. For  
10 example with the Taxi and Health. The real issue  
11 there was one of first of all public confidence, a  
12 fairness, and what we wanted to insure was that the  
13 issuing agency was not also the agency that was  
14 adjudicating the tickets. So you don't have the  
15 enforcement agency playing issuer and judge. So the  
16 separation of those functions and the bringing of that  
17 hearing to an independent body that has no interest  
18 in either of the parties creates a fair playing  
19 ground, a level playing ground where everyone can  
20 have their day in court. That was the whole premise  
21 of the consolidation. And I think it's worked very,  
22 very well. Separating those functions.

23 Now when you talk about Department of  
24 Finance, they're a separate entity from the  
25 enforcement agencies, you know, that write the

2 tickets. So it's NYPD, or Department of  
3 Transportation writing those tickets, it's being  
4 heard at a different agency. SO you already have  
5 those separations of functions so I'm not entirely  
6 sure what would be gained per se. If you ask me the  
7 question with respect to something like the  
8 Department of Consumer Affairs I would have a  
9 different answer for you.

10 CHAIRPERSON FERRERAS: So I'd like to hear  
11 the answer for the Department of Consumer Affairs.

12 COMMISSIONER BEDDOE: Well I think there is  
13 some merit to considering that because you still have  
14 those joint functions and I think that there may be...,  
15 whether it comes to OATH or some other body, umm, a  
16 better result than having the enforcer be the  
17 adjudicator.

18 CHAIRPERSON FERRERAS: Okay. Thank you  
19 very much. And thank you for the clarity. There are  
20 those that are of the thought that the Department of  
21 Finance is about revenue, right. So if the revenue  
22 generating body of the city that deals with our  
23 revenue is also adjudicating parking tickets, their  
24 interest isn't necessarily for fairness, it's about  
25 we'll lower your ticket..., which is what's happening



2 and a lot of our constituents are concerned..., well  
3 we're lower your ticket \$5.00. So it's not really  
4 about looking at the merit of the ticket but more of,  
5 we'll lower it \$5.00 or we can't do anything with  
6 this, so that's the debate that's happening now in  
7 the council. So I just put that in your horizon  
8 because that may be coming your way.

9 COMMISSIONER BEDDOE: I understand. Thank  
10 you.

11 CHAIRPERSON FERRERAS: Very good. I'm  
12 going to pass it over to my co-chair, Chair Kallos.

13 CO-CHAIRPERSON KALLOS: Thank you very much  
14 for joining us. I loved your testimony. I also  
15 loved the presentation in your annual report. I  
16 think it's noteworthy that you've reduced wait time  
17 for decisions from 96 days to 5 days.

18 COMMISSIONER BEDDOE: Yes.

19 CO-CHAIRPERSON KALLOS: That is huge to get  
20 any administrative law judge to turn around a  
21 decision that quickly. I dealt with an arbitrator at  
22 the small claims court and that's incredibly fast. I  
23 don't even know how you got it in the mail that  
24 quickly. You've reduced average wait time for appeal  
25 decisions from 147 days to 92 days. Increased the

2 types of cases that can be contested online, by  
3 phone, by mail from 300 to more than 650. So how are  
4 you appreciating such quick turnarounds on your  
5 decisions and appeals?

6 COMMISSIONER BEDDOE: Well with respect to  
7 the turnaround time. The Environmental Control Board  
8 which is where we had the biggest backlogs, had a  
9 tremendous backlog of cases both in the appeals area  
10 and in its regular live hearings. Over the course of  
11 several years we put in place new operational  
12 procedures to insure not only the turnaround time but  
13 the accountability for the turnaround time. And  
14 we've reduced it incrementally over several over the  
15 past couple of years, we initially got it down to 30  
16 days. So everything across the agency was 30 days.  
17 In the past year we have reduced it to between five  
18 to seven days. And that is again across the agency,  
19 all five boroughs, and all office locations. These  
20 were operational changes that were implemented by  
21 myself, by my team and we're very, very proud of that  
22 accomplishment.

23 CO-CHAIRPERSON KALLOS: I am eager to try  
24 to get as much consolidation into your agency as  
25 possible and anyone who isn't consolidated, if we can

2 sponsor or support or introduce legislation to create  
3 some sort of interagency task force so that others  
4 can appreciate your savings. One question is, with  
5 the increase in types of ways that things can be  
6 attested. Do you have measurements of what the  
7 results are with regard to cases whether they're  
8 contested online, phone, mail, whether or not the  
9 results differ by the content type.

10 COMMISSIONER BEDDOE: The overall benchmark  
11 for the live hearings. So if you come in person for  
12 example...

13 [Background talk]

14 COMMISSIONER BEDDOE: I'm looking at ECB.  
15 We usually use a benchmark across the agency when we  
16 look at the decisions, the dismissal rate versus the  
17 in violation rate of 60/40. That's usually how it  
18 breaks down. The 60 being in violation, 40%  
19 dismissed. And if we benchmark that against the  
20 alternative hearing types. You know, hearings by  
21 phone, hearings by mail, online hearings. The  
22 benchmark is quite similar. You find..., I'm looking  
23 at FY13 and we are looking at a 52% in violation rate  
24 and 47% almost 48% dismissal rate. So it's fairly  
25 close.

2 CO-CHAIRPERSON KALLOS: Are the  
3 efficiencies related to the new case management  
4 system that you rolled out?

5 COMMISSIONER BEDDOE: In large measure.  
6 Yes. That is part of it.

7 CO-CHAIRPERSON KALLOS: The case management  
8 system is Law Manager.

9 COMMISSIONER BEDDOE: That is our newest  
10 case management system. At the Environmental Control  
11 Board we have a case management system, umm, it's  
12 called Nyserve. Law Manager is the new electronic  
13 case management system at the smallest of our  
14 divisions. The OATH Tribunal.

15 CO-CHAIRPERSON KALLOS: How did you guys  
16 develop this full disclosure on the software  
17 developer, so I'm just curious how you guys developed  
18 this system? The nyserve system.

19 COMMISSIONER BEDDOE: Nyserve was before  
20 your time and before my time, quite frankly. It was  
21 a long standing project, umm, that we inherited when  
22 I joined the Environmental Control Board it was in  
23 its sort of nascent phase. I rolled it out. We  
24 can't keep paper files and we can't keep track of  
25 thousands and thousands of sheets of paper. So we

2 rolled out this electronic case management system  
3 called Nyserve and suddenly things weren't getting  
4 lost. We could find evidentiary packets, you know we  
5 have the digital recordings here. We didn't have to  
6 go to cassette tapes. I mean literally cassette  
7 tapes. So that was a huge, huge benefit for us.  
8 Most recently, the OATH Tribunal, which never really  
9 had the same backlogs and problems of efficiencies,  
10 but nonetheless was lagging behind in technology.  
11 Its case management was really a large access  
12 database and so what we decided to do was to adopt  
13 and adapt the Law Manager program which the law  
14 department uses and it was modified for use at that  
15 tribunal. And I think that it's also going to give  
16 us a lot of benefit because we have for the first  
17 time, one consolidated file, with the recording, the  
18 evidence and of course, cutting down on paper and the  
19 transfer of papers is always a benefit.

20 CO-CHAIRPERSON KALLOS: So it sounds like  
21 you have two separate and distinct systems. You have  
22 Law Manager and Nyserve. Is there any move to  
23 modernize Nyserve or are you fine leaving it where it  
24 was originally created for.

2 COMMISSIONER BEDDOE: Nyserve has evolved.  
3 When we took over the Taxi & Limousine Tribunal we  
4 didn't have, or TLC didn't have a robust case  
5 management system. So we, instead, there was an  
6 initiative to create yet a new system for that  
7 tribunal. I said wait a second, the case management  
8 functions and the process is very similar to what we  
9 have at ECB. Why don't we adapt Nyserve for Taxi and  
10 we did that? And for less than \$1 million we got an  
11 entirely new case management system that's working  
12 beautifully. Its web based. And it's an adaptation  
13 of the Nyserve that you find at the Environmental  
14 Control Board. What's also nice about it, is that  
15 the functionality is very similar. So people who  
16 work at the Taxi Tribunal and work at ECB don't have  
17 to learn two new systems. So it's sort of  
18 integrating systems.

19 CO-CHAIRPERSON KALLOS: Did that \$1 million  
20 go in-house development or was it for a vendor.

21 COMMISSIONER BEDDOE: It was split. We did  
22 some in-house project management and we had to hire  
23 developers because we don't have that resource in-  
24 house.

2 CO-CHAIRPERSON KALLOS: Does the City of  
3 New York own that code?

4 COMMISSIONER BEDDOE: I don't know who owns  
5 that code. I think we do. I think we own the code.

6 CO-CHAIRPERSON KALLOS: Would you be kind  
7 and respond later to the Governmental Operations  
8 Committee and Finance Committee on the status of the  
9 code and whether or not that code can be released to  
10 the world as it were, so that every other  
11 municipality in the world can use this amazing  
12 product you have and then when they make  
13 improvements, we can get those back too.

14 COMMISSIONER BEDDOE: That's interesting.

15 CO-CHAIRPERSON KALLOS: Yes. There was  
16 legislation that was introduced yesterday on it.  
17 Following along the technological..., you're speaking  
18 my language. What percentage of cases are being  
19 resolved via the, I love this, one-click adjudication  
20 system.

21 COMMISSIONER BEDDOE: We have..., we rolled  
22 out one-click at the various tribunals. We call it  
23 one-click because the idea is you fill out the form  
24 online you hit submit and its one click and you've  
25 submitted your case. For the Environmental Control

2 Board, we have been getting roughly 6,000 of these  
3 online. It represents a very small percentage of  
4 ECB's overall adjudications. We are seeing a much  
5 bigger uptick when it comes to appeals. So for  
6 example, we receive almost 20%, 21% of all of ECB's  
7 appeals are received online. At the Health Tribunal  
8 over 40% of the appeals are received online through  
9 the one-click process. But we continue to make  
10 efforts to let people know that this is available.  
11 Restaurant owners, you know, business owners. Look,  
12 you don't have to lock up, you don't have to get a  
13 babysitter. You can actually sit at your office, get  
14 online and submit your defense and have it  
15 adjudicated.

16 CO-CHAIRPERSON KALLOS: I want to just  
17 follow up on..., so there are all these ECB fines.  
18 It's hard to get through a Governmental Operation  
19 Committee without mentioning our previous chair, the  
20 now Manhattan Borough President, Gail Brewer. In  
21 2011 she had the Independent Budget Office  
22 investigate and according to the IBO between 2007 and  
23 2009 there was \$439.7 million in uncollected ECB  
24 fines. What is that number now and what can we do to  
25 collect those outstanding fines?



2 COMMISSIONER BEDDOE: Just by way of  
3 background, the way that the Environmental Control  
4 Board works, and remember as an administrative court  
5 we try to keep a separation of the adjudication and  
6 the application of fines from being a collections  
7 agency. So the way that it works at the  
8 Environmental Control Board is once a case goes into  
9 default and there is nonpayment or whether the case  
10 has been adjudicated, a penalty imposed and the fine  
11 hasn't been paid. Periodically, those cases are  
12 collected, they are docketed with the civil court, so  
13 we get a judgment and those judgments are then  
14 submitted on a monthly basis to the Department of  
15 Finance for collection. Once those docketed cases  
16 are submitted to the Department of Finance, we are  
17 not really involved in the process any further. We  
18 have in fiscal year 2013, we sent over approximately  
19 \$211 million almost \$212 million in uncollected fines  
20 to the Department of Finance. But I am afraid I am  
21 not in a position to comment on collections functions  
22 or processes, once it goes to the other agency.

23 CO-CHAIRPERSON KALLOS: Thank you very  
24 much. I think that's all the questions that we have  
25 and, this is great and look forward to working with

2 you. I'm sorry it took so long to get you before our  
3 joint committees and I seriously mean it, I'd love to  
4 do some sort of best practices session with you and  
5 expand what you're doing to the other city agencies.

6 COMMISSIONER BEDDOE: I look forward to it.

7 CO-CHAIRPERSON KALLOS: Thank you.

8 CHAIRPERSON FERRERAS: Thank you very much.

9 COMMISSIONER BEDDOE: Thank you.

10 CHAIRPERSON FERRERAS: We will take a two  
11 minute break and then..., we've been joined by Council  
12 Member Laurie Cumbo and we will now..., I'm sorry..., and  
13 Council Member Johnson. Thank you for coming and  
14 testifying today. We'll take a two minute break and  
15 follow with our next agency.

16 COMMISSIONER BEDDOE: Thank you very much.

17 [Pause]

18 CHAIRPERSON FERRERAS: We will now resume  
19 the city council's hearing on the mayor's executive  
20 budget for FY2015. The Finance Committee and the  
21 Committee on Governmental Operations just heard from  
22 the Office of Administrative Trials and Hearings. We  
23 will now hear from the law department. We have  
24 already heard from three agencies and have two more  
25 to go. So in the interest of time I will forego an

2 opening statement and turn the mike over to my co-  
3 chair, Council Member Ben Kallos for his opening  
4 statement. Chair Kallos.

5 CO-CHAIRPERSON KALLOS: Thank you to my co-  
6 chair for letting me do all these opening statements.  
7 They are actually a lot of fun. I would like to  
8 welcome back the Corporation Counsel, Zachary Carter.  
9 I figure that you have more time under your belt than  
10 the last time we saw you at preliminary budget.

11 The New York City Law Department is  
12 responsible for all the legal affairs of the city.  
13 The department's proposed budget for fiscal year 2015  
14 totals \$167.9 million including \$109.7 million to  
15 support 1,353 budget positions across departments, 17  
16 legal divisions and 3 support divisions. In today's  
17 hearing we will discuss many of the aspects of the  
18 department's budget, its operational performance and  
19 how the law department is handling the various  
20 judgments and claims against the city. We will  
21 further examine the department's approach to some  
22 high profile cases and how this approach may differ  
23 from the previous administration. We'll also ask  
24 about any major cases in which the city is seeking to  
25 recover payments from contractors who have either

2 overbilled or under-delivered on contracts with the  
3 city. We look forward to your testimony. Please  
4 proceed with your prepared remarks whenever you are  
5 ready.

6 CORPORATION COUNSEL CARTER: First let me  
7 introduce my colleagues. To my right is Jeff  
8 Friedlander, who is the First Assistant Corporation  
9 Counsel. To my left, is Foster Mills who's our  
10 managing attorney, to his left is Muriel Goode-  
11 Trufant who's our EEO Officer. In the front row we  
12 have Celeste Koeleveld who's the Executive Assistant  
13 for Public Safety and our chief litigating attorney  
14 Larry Kahn and last but not least, Executive  
15 Assistant for Government Policy, Thomas Giovanni.

16 I've submitted a marks already so I'll  
17 dispense with an opening statement and we can go  
18 directly to questions.

19 CHAIRPERSON FERRERAS: Well thank you,  
20 that's a first. On my ninth day of budget hearings.  
21 So I'm going to go right into ECTP. The de Blasio  
22 administration recently put a freeze on the \$2  
23 billion emergency communication transformation  
24 project. The city's large scale effort to transform  
25 and consolidate the city's 911 emergency dispatch

2 system. Two of its major contractors, Verizon and  
3 Hewlett Packard have already agreed to pay back tens  
4 of millions of dollars because of delays in costs  
5 overruns. What is the law department's role in  
6 reviewing the problems with this project? Is the  
7 department currently engaged in efforts to recover  
8 additional unearned payments from ECTP contractors?  
9 And can you talk about any other efforts to recover  
10 unearned payments made to contractors working on  
11 other major city projects?

12 CORPORATION COUNSEL CARTER: Sure, as you  
13 probably know. The mayor, actually the first deputy  
14 mayor, several weeks ago announced that there was  
15 going to be a review of the long term 911 project to  
16 determine whether or not it was achieving its  
17 objectives and whether or not the costs overruns...,  
18 and to determine what the reasons were for the cost  
19 overruns. And there was going to be a searching  
20 examination after that. The mayor has announced  
21 today that in addition there's going to be a search  
22 and review of the 911 system altogether. The issues  
23 with respect to the specific providers that were the  
24 subject of litigation, are kind of baked into that  
25 entire package. And so we will play a role in

2 reviewing the roles of these vendors, but as part of  
3 the broader investigation.

4 CHAIRPERSON FERRERAS: Now do you see kind  
5 of an oversight of all of our contracts, citywide?  
6 Because I know that this is very specific, and their  
7 roll out was very specific to this issue. Are there  
8 other issues in the pipeline that you see?

9 CORPORATION COUNSEL CARTER: I think that's  
10 all going to be part of this review. Because this is  
11 not obviously a..., at its core it's not a legal issue.  
12 It's a communications and technical issue. And so  
13 you're going to have a broad interdisciplinary look  
14 at the process of contracting whether we are getting  
15 the best value for the investment, whether we're  
16 going to have a system that works. Whether or not  
17 you're going to have system that permit agencies to  
18 communicate in real time in emergencies. And so  
19 that's going to be a broad interdisciplinary approach  
20 which is why I think the mayor ultimately determined  
21 that it was going to be a broad and searching review  
22 of the entire system.

23 CHAIRPERSON FERRERAS: Okay thank you. I  
24 want to go over to Stop and Frisk. Last year the  
25 council passed significant reforms that impacted the

2 city's Stop and Frisk policy including Local Law 71  
3 of 2013 would strengthen the city's ban on biased  
4 based profiling. Can you speak about this law? How  
5 this law has impacted your department and whether you  
6 have seen any uptick in racial profiling lawsuits  
7 against the city.

8 CORPORATION COUNSEL CARTER: I have not,  
9 and I'll defer to others. I'm not aware of any  
10 measurable uptick. But we have not done an analysis  
11 of that, but the year is young. But there have been  
12 a substantial reduction in the number of stops, year  
13 over year. And certainly the current police  
14 commissioner does not consider Stop and Frisk as a  
15 centerpiece of his law enforcement initiative. So  
16 there certainly has been an overall reduction.

17 CHAIRPERSON FERRERAS: Well I appreciate  
18 your response. Because I know that when we were  
19 debating this legislation that was one of the big  
20 issues that was consistently brought up. That this  
21 would create crisis, and that everyone was going to  
22 be suing. So to get this update is important and I  
23 appreciate it.

24 Affirmative litigation. The financial plan  
25 includes revenue projections totaling \$9.8 million in

2 the current fiscal year from affirmative litigation.  
3 What are some of the major cases in which you are  
4 currently working on?

5 [Background talk]

6 CHAIRPERSON FERRERAS: I'm sorry, if you  
7 could just identify yourself again. And, thank you.

8 FIRST ASSISTANT COUNSEL FRIEDLANDER: I'm  
9 Jeff Friedlander. First Assistant Corporation  
10 Counsel. There are major and minor cases being  
11 worked on. One of course is the ECPT which we've  
12 been involved in and now that has been folded, and as  
13 Zack said, to the larger picture. There are cases  
14 where we attempt to recover monies where insurance  
15 companies would owe the city money. So there are  
16 quite a number of cases that the division is engage  
17 in. Including, collecting fines, unpaid fines that  
18 are due and owing to the city. So when taken as a  
19 whole...

20 CHAIRPERSON FERRERAS: Can you give us an  
21 example when you say unpaid fines. Because fines  
22 mean different things for every agency. So from your  
23 perspective what are the top ones that you are  
24 finding that you have to collect fines.

25



2 FIRST ASSISTANT COUNSEL FRIEDLANDER: Well  
3 when large..., when there are..., I don't have a specific  
4 fine non-payer but in terms of fines and monies owed  
5 to the city, we can get you a list of what those are.

6 CHAIRPERSON FERRERAS: If you could follow-  
7 up with both of our committees we would appreciate  
8 it.

9 CORPORATION COUNSEL CARTER: I would like  
10 to clarify something as well. The \$9.8 million  
11 number that you are referring to is a baseline  
12 number. And we won't know until much, much later in  
13 the fiscal year whether we're going to make \$9.8  
14 million or we're going to make much more, or we're  
15 going to make something less. This is what we start  
16 out the year with. It doesn't represent particular  
17 cases. It's just what OMB thinks, knowing the  
18 history of the law department over the past 30 to 40  
19 years, what we would normally bring in in a  
20 particular year.

21 CHAIRPERSON FERRERAS: Yes, I appreciate  
22 it. I just wanted to get specifics and of course  
23 we'll sit here next year and we'll go back to the  
24 \$9.8 million and see how much better we did.

2 Okay. I want to talk about the Bronx Police  
3 Unit and then I'll hand it over to my co-chair. The  
4 preliminary plan includes funding for a new Bronx  
5 Police Defense Unit to address the high volume of  
6 Bronx cases brought against the police department in  
7 state court. Why is this unit necessary? And what  
8 are its goals?

9 CORPORATION COUNSEL CARTER: Well I guess  
10 the goals are...,

11 CHAIRPERSON FERRERAS: I'm sorry can you  
12 just grab a mike.

13 CORPORATION COUNSEL CARTER: I'm sorry.  
14 The principal goal is to be able to assign a group of  
15 dedicated Assistant Corporation Counsel to this area.  
16 So that these cases can be given the kind of handling  
17 that's necessary to make sure that we separate those  
18 cases that need to be vigorously defended from those  
19 in which reaching a voluntary resolution is  
20 appropriate. And it's important in order to  
21 discourage frivolous suits, that we establish a  
22 capability of defending these cases either through  
23 motion practice or trial. And we've had a  
24 substantial success in being able, in the cases that  
25 do not have merit, of making motions to dismiss those

2 cases and having them granted in a substantial  
3 proportion. So in that..., in our experience, some of  
4 it antidotal but we think that over time we'll have  
5 statistics that will bear this out, that there are  
6 counsel who habitually represent plaintiffs in  
7 certain categories of cases who may be encouraged by  
8 the historic inability to defend these cases  
9 vigorously. They are now..., we are seeing signs that  
10 they are being discouraged from bringing frivolous  
11 actions.

12 CHAIRPERSON FERRERAS: Can you walk me...,  
13 what is the volume that triggers a separate unit?  
14 Because obviously you've identified that this is an  
15 issue, so as compared to the rest of the city, what  
16 was the volume and why this unit..., is it that it's  
17 three times more, is it that it's ten times more.

18 CORPORATION COUNSEL CARTER: I don't have  
19 the historic numbers at my fingertips. But we'd be  
20 more than happy to provide you the statistics.

21 FIRST ASSISTANT COUNSEL FRIEDLANDER: If  
22 they haven't been already.

23 CORPORATION COUNSEL CARTER: We have, we  
24 can provide them to you. What we saw in the Bronx  
25 was that the uptick in new cases brought was much,

2 much greater than in the other boroughs. That's why  
3 we concentrated on the Bronx.

4 CHAIRPERSON FERRERAS: Thank you. If you  
5 could just provide those numbers for this committee  
6 so we have a better understanding that maybe other  
7 boroughs may create the same uptick so that we know  
8 that we should be prepared for something like this to  
9 be created somewhere else also.

10 CORPORATION COUNSEL CARTER: We're watching  
11 that.

12 CHAIRPERSON FERRERAS: Okay, very good.  
13 And now I'll pass it over to my co-chair, Ben Kallos.  
14 Chair Kallos.

15 CO-CHAIRPERSON KALLOS: Thank you. Welcome  
16 back. I'm going to follow-up with a question from  
17 the preliminary budget. As we discussed Local Law 18  
18 of 2012 requires the city to give the council  
19 quarterly reports on significant cost overruns and  
20 capital projects. The most recent report identified  
21 cost overruns and potential cost overruns that total  
22 close to \$4 billion from \$6 billion in previously  
23 allotted contracts. Has your office had the  
24 opportunity to review this report?

2 CORPORATION COUNSEL CARTER: Yes, I've had  
3 an opportunity to review the report.

4 CO-CHAIRPERSON KALLOS: Great. When will  
5 we get a response?

6 CORPORATION COUNSEL CARTER: I believe in  
7 relative short order. First of all when you look at  
8 the report it provides information that is  
9 interesting. How much of that information is useful  
10 in forming our litigation decisions and more  
11 importantly, whether it's useful in informing the  
12 decisions of agencies that are entering contracts  
13 with various vendors, contractors, is yet to be seen.  
14 Because the sample is still relatively small. I mean  
15 there are lots of..., I mean, when you look at the  
16 schedule that you will see in a column that  
17 represents the percentages of cost overrun, you're  
18 going to see a fair range. You're going to see  
19 outliers that, what you might consider to be unusual,  
20 but may have credible explanations. And then you're  
21 going to have some smaller ones that appear to be the  
22 kind of cost overruns that are predictable in  
23 construction contracts. That are generally resolved  
24 through the adjustment process.

2 CO-CHAIRPERSON KALLOS: When can we expect  
3 the response?

4 CORPORATION COUNSEL CARTER: The response  
5 as to what precisely? I'm sorry.

6 CO-CHAIRPERSON KALLOS: So I'm an attorney.  
7 I also have a background in finance, so when I'm  
8 doing my budget versus actuals, which I do quite  
9 often when I'm running multiple companies all over  
10 the world. I generally will look at things and then  
11 when something's gone over the budget, I immediately  
12 pull it especially when it even hits as low as 10%  
13 and then will actually go back to the contract and  
14 then at that point, I'd either contract the vendor  
15 and say, you're overbilling us and get that money  
16 back. Or when they say no, we don't want to, that's  
17 generally where we will bring in counsel and figure  
18 out what our options are. So you're our counsel, and  
19 there's \$4 billion I need you help protect.

20 CORPORATION COUNSEL CARTER: Sure,  
21 understood. There are basically two separate issues.  
22 We can give you the raw numbers now. We can provide  
23 you a chart that will give you a schedule of  
24 contracts, by agency that will show you the  
25 percentage of...

2 [Interpose]

3 CO-CHAIRPERSON FERRERAS: So I think we  
4 have the same document there. So we definitely have  
5 that. But what do we do with it? How do we act on  
6 it and save taxpayers \$4 billion?

7 CORPORATION COUNSEL CARTER: We'll that's  
8 what we're trying to decide now ourselves. Because  
9 we have to look at these numbers. We have to look at  
10 the explanations that we're offered. We have to have  
11 conversations with these agencies to test whether or  
12 not these explanations are credible. There are going  
13 to be some depending on whether it's a construction  
14 contract for instance. Whether or not it is at a  
15 percentage of overrun that is predictable given the  
16 nature of the contract and frankly, the unpredictable  
17 nature of construction. If it's a plumbing contract.  
18 Did they anticipate bedrock or groundwater? And does  
19 that account for a 20% increase in the cost of the  
20 contract. I mean those are the getting into the  
21 weeds, kinds of things that we have to determine that  
22 the numbers don't tell you just looking at the chart.

23 CO-CHAIRPERSON KALLOS: How soon could we  
24 just have a sit-down? I have sit-downs with some of  
25 the agencies I work with often and literally meet

2 with the Board of Elections more than once a month.

3 I'd love to sit down with your agency to just go over

4 those numbers and get a sense of it. And figure out

5 what we can do in terms of improving our city's

6 contracting standards so that...

7 CORPORATION COUNSEL CARTER: As soon as you  
8 are available.

9 CO-CHAIRPERSON KALLOS: I'm free after  
10 this. Thank you very much for taking this seriously.

11 The next thing is, we just had OATH come in and they

12 mentioned that in fiscal year 2013 there was \$212.1

13 million in uncollected ECB fines. Just one of their

14 multiple agencies for which they end up doing fines.

15 Those are reduced to judgment and referred to the

16 Department of Finance. How many of those find their

17 way to Law Department and what does Law Department to

18 by way of collections.

19 [Background talk]

20 FIRST ASSISTANT COUNSEL FRIEDLANDER: A  
21 number of them do. But as I said to your colleague

22 earlier, we do attempt to collect the unpaid fines.

23 Now...

24 CO-CHAIRPERSON KALLOS: Can you speak in to  
25 the mike.



2 FIRST ASSISTANT COUNSEL FRIEDLANDER: On  
3 larger delinquencies we would go into court to  
4 collect those fines. And we also do employ  
5 collection agencies which work for the city and do  
6 routinely go after those who have not paid and  
7 collect those monies. We could get those figures for  
8 you if you'd like.

9 CO-CHAIRPERSON KALLOS: I would so..., yes  
10 please. So requested. We'd definitely like to see  
11 how many fines are being referred to collection  
12 agencies and I'd also love to identify which  
13 collection agencies. And then is there any due  
14 diligence. We had a problem in this city sewer  
15 service. With one of my colleagues. I believe one of  
16 my colleagues, Dan Garodnick was engaged in that  
17 issue. I would love to make sure that any collection  
18 agencies that we are working with do not have any  
19 complaints. Does the Law Department do anything to  
20 insure that the collection agencies being used to do  
21 violate the rights of New Yorkers?

22 FIRST ASSISTANT COUNSEL FRIEDLANDER: Our  
23 Affirmative Litigation Division monitors the  
24 activities of those that we contract with. So, I  
25 will give you the names of the agencies, the amounts

2 collected and if there have been any complaints, I  
3 will let you know that as well.

4 CO-CHAIRPERSON KALLOS: If it's impossible  
5 to include in whatever annual report you provide,  
6 just what your affirmative litigation does with  
7 collection agencies in monitoring them that would be  
8 incredibly important to me. I fall incredibly  
9 sympathetically for our consumers who are faced with  
10 this and just want to make sure that they are not  
11 subject to any improper situations.

12 In the budget we noticed that the judgment  
13 and claims budget totals \$674 million in fiscal year  
14 2014, but it's projected to reach \$782 million by  
15 fiscal year 2018 which is quite an uptick. Why is  
16 there such a significant uptick?

17 CORPORATION COUNSEL CARTER: That budget  
18 estimate comes from OMB.

19 CO-CHAIRPERSON KALLOS: Please use the  
20 microphone.

21 CORPORATION COUNSEL CARTER: That budget  
22 calculation comes from OMB. It does not originate  
23 with the law department. I think that that question  
24 would unfortunately have to be best directed to them.

2 FIRST ASSISTANT COUNSEL FRIEDLANDER: I  
3 think..., there are parts of that number that we have  
4 no knowledge of. So that's an OMB number.

5 CO-CHAIRPERSON KALLOS: Can you provide us  
6 with your numbers so that we can forward that onto  
7 OMB and request that we spend that money somewhere  
8 else.

9 CORPORATION COUNSEL CARTER: We don't  
10 project future years of JNC ourselves. We have no  
11 sort of ability to do that. We give OMB the numbers  
12 of the payouts that we make as we make them.

13 FIRST ASSISTANT COUNSEL FRIEDLANDER: So  
14 they extrapolate from past performance.

15 CO-CHAIRPERSON KALLOS: So the follow-up  
16 question is, the City Council Finance Division has  
17 made multiple requests to OMB for a breakdown of  
18 judgment and claims payouts by agency and by category  
19 for the last several years, which precedes me and  
20 precedes this administration. And they have never  
21 received it. Would you be kind enough, as a part of  
22 the new administration, a friendlier administration  
23 to please provide this information to the city  
24 council?  
25

2 FIRST ASSISTANT COUNSEL FRIEDLANDER: We  
3 don't have it. We'd have to ask OMB.

4 CORPORATION COUNSEL CARTER: We will  
5 certainly...

6 CO-CHAIRPERSON KALLOS: Can you speak into  
7 the microphone.

8 CORPORATION COUNSEL CARTER: We can work  
9 with OMB to endeavor to provide you that information.

10 CO-CHAIRPERSON KALLOS: I appreciate that  
11 and thank you, to the extent that OMB refuses, I  
12 would ask that the Law Department...

13 CORPORATION COUNSEL CARTER: I doubt that  
14 they will refuse.

15 CO-CHAIRPERSON KALLOS: But I would ask  
16 that the Law Department in any situation since you  
17 are the originator of such information, that it does  
18 not necessarily have to come from OMB.

19 CORPORATION COUNSEL CARTER: Sure.

20 CO-CHAIRPERSON KALLOS: The last question  
21 is the continuation of the, it's the Siebel Project,  
22 S-I-E-B-E-L, how do you pronounce that?

23 [Background talk]

24 CO-CHAIRPERSON KALLOS: The executive plan  
25 includes baseline funding of \$1.5 million beginning

2 in fiscal year 2015 for the continuation of this  
3 project. Can you tell us about the project and the  
4 rationale for its continuation?

5 CORPORATION COUNSEL CARTER: The project  
6 has to do with the Law Department placing its  
7 personnel into various agencies. Some of our larger  
8 clients, in order to assist them in finding documents  
9 and data that we need for litigation. And we have  
10 found that placing these folks in these agencies is  
11 very, very helpful for timely discovery responses in  
12 our litigation. And that's why we're doing this.

13 CO-CHAIRPERSON KALLOS: Sounds great. I  
14 actually recommend to most companies and corporations  
15 that the best thing they can do is actually have an  
16 in-house counsel because an in-house counsel is  
17 always better than the outhouse counsel.

18 Anyway, thank you for all of your hard  
19 work. I'd like to call upon Council Member Cumbo.

20 COUNCIL MEMBER CUMBO: I want to thank both  
21 of my co-chairs. I wanted to ask you in terms of...  
22 this is a question that I've been searching to get  
23 some serious clarity on. I met with my District  
24 Attorney Ken Thompson this morning and have had a  
25 series of conversations in terms of wrongfully

2 convicted cases. And wanted to know, because I see  
3 in the statements that you provided in terms of this  
4 issue. How does your division deal with or does it  
5 deal with wrongfully convicted and..., my main question  
6 that I want to get clarity and understanding is...,  
7 where do the resources when these cases are  
8 overturned, where does this level of money come from?

9 CORPORATION COUNSEL CARTER: First of all  
10 the cases that you characterized as wrongful  
11 conviction cases. They come to us by way of  
12 individual lawsuits. From plaintiffs who are...

13 COUNCIL MEMBER CUMBO: So they come to you  
14 all?

15 CORPORAITON COUNSEL CARTER: They come to  
16 us if we are sued. If the city...

17 COUNCIL MEMBER CUMBO: Alright, I'm at the  
18 right place now.

19 CORPORATION COUNSEL CARTER: If the city or  
20 the police department or individuals are sued, they  
21 will sue under various causes of action. You know,  
22 false arrest, malicious prosecution, and federal  
23 claims under Section 1983 of the Civil Rights Laws.  
24 And so, among the factual claims. Well what it may  
25 be, that as a result of these allegedly wrongful

2 acts, that they were convicted and they were innocent  
3 of the crimes for which they were convicted. We then  
4 work with our client agencies, and more often than  
5 not, the police department, and the individual  
6 officers who may have been charged or Assistant DAs.  
7 To gather as much information to make a judgment  
8 about whether or not..., what our defenses may be or  
9 not. And the strength or weaknesses of the claims of  
10 the plaintiffs. And we work with the police  
11 department consistently in these cases in order to  
12 make those judgments.

13 COUNCIL MEMBER CUMBO: This is a very  
14 serious issue in the borough of Brooklyn.  
15 Particularly the Scarcella cases that I believe right  
16 now our District Attorney is looking at anywhere  
17 between 50 to 100 cases at this time. And I believe  
18 that six have been overturned at this moment. How  
19 does the city plan to absorb the cost associated with  
20 individuals that have served 10, 20, 30 years of  
21 their lives that they've lost. How does the city  
22 plan to..., because many of these cases can range from  
23 \$6 to \$30 million, and I guess my concern is that, so  
24 many of these individuals, many of whom I've met  
25 with, want their cases overturned. They want their

2 lives restored back to them. But I guess there's  
3 this challenge between overturning those cases and  
4 the city having the resources in order to compensate  
5 individuals for the pain, loss and suffering. But  
6 what we don't want to have happen is that these cases  
7 are potentially slowed down because of the lack of  
8 resources that could or could not be..., or the issue  
9 of resources.

10 CORPORATION COUNSEL CARTER: The pace of  
11 litigation is not going to be effected by whether or  
12 not the city has sufficient resources to pay claims  
13 that we recognize to be valid claims. Or that result  
14 from litigation through trial. So that is not what's  
15 going to slow down a litigation. The litigation  
16 process is more often than not slowed down by a fact  
17 investigation and the discovery process. And the  
18 motions that have to be made in order to test whether  
19 or not the plaintiffs can meet legal standards.  
20 That's what slows down the process. But our role to  
21 some extent is limited. To the extent that we are  
22 participants in this process, it's when a claim is  
23 made, a civil claim is filed, either in state or  
24 federal court and we make a judgment about whether  
25 that claim is actionable or not and we either defend



2 it or we resolve the claim. But in terms of the  
3 fixes, the operational fixes, if you learn, for  
4 instance as a result of a claim being made that it  
5 indicates that there may be an issue with respect to  
6 an individual officer or an operation with the police  
7 department. That is something that we will work with  
8 the police department, in terms of coming up with  
9 some sort of corrective action or reform. But  
10 ultimately that is not in the heartland of the  
11 responsibility of the Law Department.

12 COUNCIL MEMBER CUMBO: I just want to ask  
13 one final question on this issue. I wanted to know  
14 has there..., because to my knowledge..., I've been on  
15 the earth a brief period of time..., I believe that  
16 this level of cases that are going to be overturned,  
17 is going to be unprecedented, in my opinion. Perhaps  
18 there have been boroughs that have overturned cases  
19 of the wrongfully convicted before unbeknownst to me.  
20 And that's very possible, but wanted to know, has  
21 there been any discussion in terms of the fact that  
22 there is going to be a real onslaught of cases that  
23 are going to be presented that are going to have very  
24 serious financial implications for the City of New  
25 York.

2 CORPORATION COUNSEL CARTER: Well first of  
3 all I think that is..., that may be premature. I mean,  
4 I too, know the District Attorney from Brooklyn quite  
5 well and discussed these matters with him and  
6 particularly in the area of cases that involve that  
7 single officer. There is a broad..., a rather large  
8 number of cases in which his name is attached, but in  
9 which he may not have played a substantive role. And  
10 what Ken Thompson's office is in the process of doing  
11 now, is in effect separating the chaff from the  
12 grain. Separating those cases in which this officer  
13 may have had meaningful involvement and then focusing  
14 on those to determine whether or not there was any  
15 misconduct in those cases that may have affected the  
16 integrity of the trial process so that, that in a way  
17 that may have resulted in a wrongful conviction. But  
18 at this stage, I think the District Attorney would be  
19 the first to say, it's a little early to determine  
20 whether or not there's a broad number of cases within  
21 that group that will..., where it will ultimately be  
22 determined that there was a wrongful conviction or  
23 some smaller subset.

24 COUNCIL MEMBER CUMBO: Okay. Thank you.

2 CHAIRPERSON FERRERAS: Thank you Council  
3 Member Cumbo. And that you counsel. Thank you all  
4 for testifying today and we will wrap up this agency.  
5 And we'll take a two minute break and hear from CFB.

6 [Pause]

7 CO-CHAIRPERSON KALLOS: I'd like to thank  
8 my co-chair, it seems that we are closer to on time  
9 than this committee has ever run before. So thank  
10 you for that. We'd like to welcome the Campaign  
11 Finance Board's Executive Director, Amy Loprest and  
12 her staff.

13 The New York City Campaign Finance Board  
14 was created in 1988 as an independent non-partisan  
15 city agency. The CFB has three primary mandates,  
16 administering the campaign finance program,  
17 publishing the voter guide and overseeing the debate  
18 program. According to the city charter, the Campaign  
19 Finance Board's budget request is to be included  
20 without change in the Mayor's Executive Budget. The  
21 board's proposed fiscal 2015 expense budget totals  
22 \$12.3 million. Including \$1 million for campaign  
23 matching funds and \$7.6 million for personal services  
24 funding to support 91 full-time positions. I must  
25 add that I for one wouldn't be here without your

2 organization. You are one of the few public finance  
3 options there is in this country that the Supreme  
4 Court has not struck down and I appreciate everything  
5 that you do. And I think you are an example of some  
6 our best practices though as a perfectionist I feel  
7 there is always room for improvement. So this is the  
8 first time we've heard from the campaign finance  
9 board this budget season. We look forward to your  
10 testimony. Please proceed with your prepared  
11 remarks. Whenever you are ready.

12 DIRECTOR LOPREST: Okay, thank you very  
13 much. Good afternoon Chairs, Council Members Kallos  
14 and Ferreras and all the committee members. I'm Amy  
15 Loprest, Executive Director of the New York City  
16 Campaign Finance Board. And I'm joined today by Sue  
17 Ellen Dodell our general counsel, and Eric Freedman,  
18 our Assistant Executive Director for Public Affairs.

19 I want to start by thanking the council for  
20 your continued support of the Campaign Finance  
21 Program and for the opportunity to testify today on  
22 our budget for fiscal year 2015. The election year  
23 was an exciting and busy time for the CFB. Our  
24 administration and the matching funds programs helped  
25 insure that the voices and concerns of New Yorkers

2 not special interest, drove the conversation during  
3 the 2013 elections. The CFB dispersed \$38.2 million  
4 in public funds to all candidates. In races for the  
5 city council, \$11.3 million in matching funds helped  
6 129 candidates decrease their reliance on large  
7 contributions and get their messages before the  
8 voters. The city allocated \$51 million to the  
9 Campaign Finance Fund for matching fund payments for  
10 the fiscal year of 2014. Following the election the  
11 CFB returned \$12 million in undistributed matching  
12 funds to the general fund.

13           The Campaign Finance Act requires the CFB  
14 to prepare a report of the effects of the matching  
15 funds program and our work on the 2013 elections.  
16 That report must be submitted to the mayor and the  
17 city council by September 1<sup>st</sup>. Work on that report  
18 is underway. But it's clear from our preliminary  
19 analysis that once again, candidates in New York City  
20 overwhelmingly finance their campaigns through a mix  
21 of small contributions and public matching funds.  
22 New York City's political system was well prepared  
23 for the influx of outside spending that has been such  
24 a challenge recently in other parts of the county.  
25 Our robust disclosure rules and online searchable

2 database provided voters with a wealth of information  
3 about which groups spent money to influence the  
4 outcome of city elections and how they did it. No  
5 other jurisdiction in the country provided voters  
6 with more timely information about outside spending  
7 than New York City did for the 2013 elections.

8 Our analysis strongly suggests that public  
9 funds continue to provide sufficient resources to  
10 candidates to communicate their own messages despite  
11 an unprecedented \$15.9 million spent by outside  
12 groups in 2013. Per office, the total public funds  
13 provided, exceeded outside spending. In fact four  
14 members of this council won election despite massive  
15 independent spending campaigns against them. It is  
16 clear that outside spending will continue to play a  
17 large role in city elections. It is also clear that  
18 our campaign finance system is strong enough to  
19 endure.

20 A major focus of our work for the coming  
21 year will be the overhaul of our post-election audit  
22 program for the 2013 election cycle. To make the  
23 audits smarter and more efficient. We already have  
24 made significant progress by completing a  
25 comprehensive risk analysis of our existing audit

2 program, so that auditors can focus their review on  
3 the most risk intensive items. During the election,  
4 our staff accelerated reviews of campaign bank  
5 statements and established an electronic filing  
6 process for back-up documentation. Streamlining the  
7 process of repairing and submitting documents.

8 In the coming months we will continue to  
9 identify and implement improvements for our audit  
10 program. Pursuant to New York City Charter Section  
11 1052(c), the board submitted its budget for fiscal  
12 year 2015 to the Mayor on April 7, 2014. And per the  
13 charter, it was included in his executive budget.  
14 Our budget is attached to the testimony.

15 The board's fiscal year of 2015 budget is  
16 \$12.3 million. This reflects a significant decrease  
17 from fiscal year 2014. We reduced operating costs  
18 where possible and reduced our staff count slightly  
19 from the election year. Our OTBS budget has  
20 increased slightly to account for planned and ongoing  
21 technological improvements, and an increasing voter  
22 engagement and further easing the disclosure and  
23 record keeping process for campaigns. The board  
24 always strives to maximize the value of New Yorker's  
25 investment in elections. That starts with the

2 matching funds program and continues through our work  
3 publishing comprehensive campaign finance  
4 information. Pushing for a modern election system  
5 and engaging in helping voters cast an informed  
6 ballot.

7 Our mission is to provide New Yorkers with  
8 fair elections that diminish the possibility for  
9 corruption and put the concerns of voters first. As  
10 always the CFB looks forward to working closely with  
11 the council to further this mission. Thank you for  
12 your time and I'm happy to answer any questions.

13 CHAIRPERSON FERRERAS: Thank you very much  
14 for your testimony. As stated in your opening  
15 testimony the expense budget totals \$12.3 million,  
16 including \$1 million for campaign matching funds and  
17 \$7.6 million for person service funding the 91 full-  
18 time positions. How do changes in the election  
19 cycle, meaning how busy they are or how many  
20 candidates there are, impact the agency's need for  
21 personnel resources.

22 DIRECTOR LOPREST: Generally we increase by  
23 having more seasonal staff during election years. We  
24 try to deal with the uptick in election work with  
25 seasonal staff rather than full time staff. Our full



2 time staff has increase over time as new mandates  
3 have been added to our work, voter assistance,  
4 managing the doing business regulations, dealing with  
5 the disclosure of independent expenditures, but we  
6 try to manage our budget by increasing and decreasing  
7 based on seasonal staff.

8 CHAIRPERSON FERRERAS: So it's your  
9 seasonal staff who deal with compliance of campaign  
10 finance rules. Or are they assigned more so, I would  
11 assume that's your full time.

12 DIRECTOR LOPREST: Well the full-time  
13 staff, because our largest unit is our auditing and  
14 enforcement staff. They comprise the largest of  
15 component of our staff and they have to..., and they're  
16 full time because they work not only in reviewing  
17 compliance during the election, but also they perform  
18 the audits after the election. So 18 months of a  
19 seasonal employee is not enough time to have them  
20 both prepare..., work on the election and then also  
21 finish the post-election audits.

22 CHAIRPERSON FERRERAS: Do you see any  
23 savings on FY15 since the election cycle is expected  
24 to be less active. IF that's the right term. Do you  
25 see savings potentially in next year's budget?

2 DIRECTOR LOPREST: Well the personnel  
3 services, I think that we've reduced our seasonal by  
4 two this year. There probably won't be much of a  
5 change in the personnel budget. Certainly, we..., the  
6 OTBS budget is vastly decreased obviously, the  
7 biggest decrease is from the public funds. You know  
8 in 2014 we asked for..., we had \$51 million budgeted  
9 for the election and this year only \$1 million.  
10 That's where the biggest savings also. Also savings  
11 from not printing and distributing the voter guide,  
12 which is quite an expensive proposition. So that's  
13 part of the vast large decrease in our budget for  
14 this year. And then also, we try very hard to keep  
15 our OTPS budget lean, and get efficiencies where we  
16 can. This year it's slightly increased because we're  
17 going to try and frontload some improvements in our  
18 technology to help candidates in the future. To  
19 improve our NYC Votes voter tool, that we prepared.  
20 So doing all those projects in this first fiscal year  
21 of the non-election cycle.

22 CHAIRPERSON FERRERAS: I'm sure many  
23 candidates are looking forward to that because when  
24 you add technology to your processes it helps getting  
25 the 5:00 rush to run to your offices to deliver

2 documents, it makes it a lot more efficient and it  
3 just makes more sense and that we are kind of on par  
4 with that. And I'm sure my colleague who's stepped  
5 right into the big shoes of our former chair on  
6 technology and those conversations to make  
7 efficiencies better. Even from a campaign staffing  
8 perspective. Because you actually have to find  
9 someone to run down here.

10 So, in know that you mentioned the voter  
11 guide so I wanted to kind of focus in on that. Can  
12 you tell us how exactly the voter guide expense is  
13 calculated. I know you have it at \$328 million. And  
14 do you produce an electronic version of the voter  
15 guide? Which is included in your budget of \$328  
16 million. I was going to say that's a very expensive  
17 voter guide.

18 And have you considered providing voters  
19 with the ability to opt out of the paper voter guide.

20 DIRECTOR LOPREST: Okay, well let me try to  
21 answer all those questions. Okay, so this year we  
22 budgeted about just a little under \$400,000 for the  
23 voter guide. And the reason that's in the budget is  
24 because the charter requires us to produce a voter  
25 guide in any year that there's an election. So if

2 there is a special election, then an election in the  
3 fall, we would have to produce a voter guide even if  
4 it's for a single council district and that's why  
5 it's so much less than a citywide voter guide. Which  
6 costs about \$10 million. The voter guide is produced  
7 in three formats. There's the print guide that's  
8 mailed to every household with a registered voter  
9 once before the primary and once again before the  
10 general election. There is an online voter guide  
11 that is available to anyone who has access to a  
12 computer. There is a video voter guide which is  
13 aired on various television ads, but also is linked  
14 in the electronic voter guide. And in 2013 for the  
15 first time, we created this voter app called NYCVotes  
16 that included the information from the print and  
17 online voter guide in a mobile application that  
18 voters could look at on a hand-held device. I'm  
19 trying to think...

20 CHAIRPERSON FERRERAS: Does the charter  
21 prohibit you from being able to have an option when  
22 voters can vote out of the print?

23 DIRECTOR LOPREST: The..., there are two  
24 answers to that question. For candidates, obviously  
25 the participation in the voter guide is optional but

2 it's a great benefit to the voters to have as many  
3 candidates. And we've always had very, very good  
4 participation in the voter guide. The charter  
5 doesn't really allow us to allow people to opt out of  
6 getting the print guide and also because the guide...,  
7 we get our information about who to mail from the  
8 Board of Elections. We use their mailing lists. It  
9 wouldn't make sense to really for us to keep an opt  
10 out list because that information changes and it's  
11 hard to match people up, so you might wind up sending  
12 it to them at their new address because now they  
13 updated the registration and they have a new address  
14 and they would say, oh I opted out. We did do a  
15 pilot program and after 2009 to allow people to opt  
16 out of different language additions if they wanted  
17 to. Because we print the voter guide in English,  
18 Spanish, Chinese, Korean and Bengali. So we allowed  
19 people to opt out but we actually have established a  
20 more efficient way to print and distribute those  
21 languages more targeted to people who are really in  
22 need of those based on political science developed  
23 surname analysis, so we've sent to the voters in  
24 Queens and Brooklyn, based on this Chinese and Korean  
25 surname analysis, the voter guide.

2 CHAIRPERSON FERRERAS: Okay. I'm going to  
3 give it over to my chair. My co-chair, Chair Kallos  
4 for questioning and then we'll wrap up. Thank you.

5 CO-CHAIRPERSON KALLOS: And after me will  
6 be Council Member Cumbo who has quite a number of  
7 questions. So let me start off with the voter guide.  
8 Have you previously made a voter guide in off-cycle...,  
9 in non-municipal elections years?

10 DIRECTOR LOPREST: Yes. So there's..., we  
11 print a voter guide when there is a ballot  
12 initiative. So for many years there, there was every  
13 single year a citywide ballot initiative. So we  
14 reprinted the guide all of those years. We also do  
15 print when there's an off cycle election so I think  
16 that the last one, and I might get this wrong. I  
17 think it was in 2011 there was an off cycle city  
18 council election in council district 28 I believe.

19 CO-CHAIRPERSON KALLOS: Donovan Richards.

20 DIRECTOR LOPREST: No. Not in special  
21 elections, but when there's an off cycle election on  
22 the date of the general election, so when there's a  
23 special election say in the spring and then they have  
24 a conforming election in the fall, it's that's  
25 conforming election in the fall that we sent the

2 voter guide for. There's not enough time to send a  
3 voter guide.

4 CO-CHAIRPERSON KALLOS: That was Elizabeth  
5 Crowley.

6 DIRECTOR LOPREST: No. I think it was  
7 Ruben Wills. I think it was District 28.

8 CO-CHAIRPERSON KALLOS: Sorry for the  
9 guessing game. So, for \$328...

10 DIRECTOR LOPREST: [Laughing] I'm sorry I  
11 didn't get what your question was, whether I was  
12 saying the wrong council district or the wrong  
13 council person.

14 CO-CHAIRPERSON KALLOS: I had 49 left to  
15 go. So the \$328,000, that's set aside for, in case  
16 there's a city office that comes us.

17 DIRECTOR LOPREST: Yes.

18 CO-CHAIRPERSON KALLOS: How much more  
19 would..., so does the voter assistance commission that  
20 is responsible for this guide have a mandate outside  
21 of city elections for voter information.

22 DIRECTOR LOPREST: We do have..., our voter  
23 assistance..., in 2010 the charter was amended to merge  
24 the voter assistance commission and their functions  
25 into the Campaign Finance Board so now we do have a

2 mandate to educate and engage voters in all  
3 elections. And we..., but that does not extend to  
4 print and mailing the voter guide. But we do that in  
5 a number of different ways. And we have had, I guess  
6 since 2010, an online kind of mini-voter guide and we  
7 will obviously have that again for this year for the  
8 federal and state elections that are happening that  
9 link to various resources across the state, that have  
10 voter profiles..., candidate profiles, I'm sorry. It's  
11 for voters to use. Also one of the projects we're  
12 working on is expanding that mobile app to include  
13 elections that are not municipal elections.

14 CO-CHAIRPERSON KALLOS: How much full  
15 disclosure when I was summering at Johnathan Banks  
16 Chief of Staff I was with him when we introduced  
17 legislation on the state that would have required  
18 printed voter guide on a state level. And to the  
19 extent they can't do it for the rest of the state and  
20 to the extent that I get to be Governmental  
21 Operations Chair which is a huge privilege. How much  
22 would it cost or could it be done within your current  
23 budget to provide a similar electronic voter guide to  
24 what is currently provided to city candidates to  
25 state candidates running within New York City.



2 DIRECTOR LOPREST: To do..., I'd have to  
3 think about..., it's a different kind of process. To  
4 think about you know, what would be entailed. We  
5 probably..., to obviously producing it, putting it...,  
6 you know having it online doesn't cost that much.  
7 You know having a web presence is not that expensive.  
8 It's having the staff and the capability to collect  
9 all the information from all the various candidates.  
10 Having it translated into the required languages.  
11 And then posting it. So, umm, it would be..., I mean I  
12 think that those are the two main costs. Staffing  
13 and translation are the two main costs to that.  
14 Translation is quite expensive. IT's a large portion  
15 of the money that's spent on the voter guide. I  
16 mean, obviously mailing is the most, highest part of  
17 it. But translation is quite expensive.

18 CO-CHAIRPERSON KALLOS: To the extent that  
19 it would be considered a friendly concept, I'd love  
20 to have an estimate on that. You mentioned a lot  
21 about software. I think I've asked every single  
22 agency that's come up about this concept of free and  
23 open source software. We introduced a number of  
24 bills yesterday. In fact seven of them related to  
25 that. Or at least technology packages. Is there any

2 opportunity for you to release your software free and  
3 open source?

4 DIRECTOR LOPREST: You know, I'm so glad  
5 you asked that question. Because I feel that over  
6 the past three weeks been becoming an expert in what  
7 it means to be open sourced software.

8 CO-CHAIRPERSON KALLOS: Blame Art Chang.

9 DIRECTOR LOPREST: But as you..., I don't  
10 know if I've said this before. But the software that  
11 is created the mobile application, is..., we're in the  
12 process of open sourcing that software code if that's  
13 the correct way to say that. And so there's a number  
14 of decisions to be made. But we're about to..., that  
15 will be open sourced. And the only other significant  
16 package of software we have is C-Smart. And so we  
17 haven't..., we'll start small with this application and  
18 then if that's okay, what that means to make the rest  
19 of the software open sourced.

20 CO-CHAIRPERSON KALLOS: I think it would be  
21 a tremendous gift from the City of New York and New  
22 York City Campaign Finance Board because if you do  
23 release it under Free and Open Sourced license New  
24 York State could start using it before its own  
25 implementation and every other state and city in the

2 country would be able to use it and you would also  
3 benefit from their own improvements. So thank you  
4 for having that vision and moving forward with that.

5 With regard to the voter assistance  
6 commission, one other question. The city council in  
7 2004, I believe, passed the YAVRA, the Young Adult  
8 Voter Registration Act. I believe this is something  
9 that would fall under the VAC's purview. How has New  
10 York City and the Department of Education for those  
11 of you watching online or in the audience it requires  
12 that a voter registration form be distributed to  
13 every high school senior along with their diploma,  
14 their high school diploma? What has been compliance  
15 over the years?

16 DIRECTOR LOPREST: Every year we work with  
17 the Department of Education to insure that they have  
18 the voter registration forms that they need and that  
19 they have..., that they are mailing them with the  
20 diplomas. Unfortunately, this..., unlike the other  
21 city agencies that are required to distribute voter  
22 registration forms as part of their mandate under  
23 Local Law 29 which I don't know which year. Sorry.  
24 That requires about 20 different city agencies to  
25 distribute voter registration forms. The voter

2 registration forms that are distributed under the  
3 Department of Education mandate are not coded. So  
4 it's hard to track when they're returned. But we are  
5 actually working with a group of..., you know, with our  
6 staff and with a group of good government people to  
7 try and improve both the distribution on the city  
8 agency level and in the Department of Education. We  
9 definitely have a large number of programs directed  
10 towards youth voters. The most prominent one being  
11 our Youth Poet Laureate Program. But we have on  
12 staff, a youth voter coordinator who conducts  
13 programs throughout the city in high schools. Not  
14 only to just hand them the voter registration form  
15 but also to engage them and explain to them the  
16 importance of registering and voting.

17 CO-CHAIRPERSON KALLOS: In the previous  
18 administration, did the New York City Finance board  
19 have direct knowledge that the more than 60,000 high  
20 school seniors who graduated all received the voter  
21 registration card with their diplomas.

22 DIRECTOR LOPREST: Do I know for sure  
23 whether all 60,000 received their...

24 CO-CHAIRPERSON KALLOS: Do you have  
25 anything upon which you can rely because, according

2 to the Board of Elections last year they did not  
3 distribute the number of voter registration cards  
4 that would be required by the Department of Education  
5 to have distributed to their seniors.

6 DIRECTOR LOPREST: I guess the reason..., and  
7 I'd have to look into this more but..., the diplomas  
8 are mailed by each school. So it's not like a whole  
9 bunch go to the Department of Education and are  
10 mailed. The diplomas are mailed by schools. So we  
11 talked about this last year with Council Member  
12 Brewer. I think that we..., we know that with our  
13 conversations with the Department of Education,  
14 they're committed to their mandate and that they're...,  
15 but we will do more..., we are trying to do more to  
16 make sure that not only that they physically get this  
17 document, because that's important. And I'm not  
18 diminishing the importance of that. But that they  
19 use it. So like when you get it in the mail with  
20 your diploma, you know, here's my diploma. That's  
21 the important thing. And oh what's this other stuff  
22 they sent. A letter from DOE or whatever. You know,  
23 we want to make sure that we engage, you know..., we  
24 work with the Department of Education to really  
25 engage these students so that they do actually know

2 the importance of voting and fill out that  
3 registration form and mail it back.

4 CO-CHAIRPERSON KALLOS: You will not find a  
5 stronger ally on this than I. I have three more  
6 questions before I turn it over.

7 In January you advertised for a Chief of  
8 Staff position. Is this a new position? Was a  
9 person hired for this and why are you staffing up off  
10 cycle?

11 DIRECTOR LOPREST: Okay. It is a new  
12 position. But not really. The title is new. The  
13 Chief of Staff filled a line that was left vacant  
14 when the Deputy Executive Director retired last year.  
15 She retired right in the beginning of the, right in  
16 February of 2013. Right before our busiest season.  
17 We did advertise for a Chief of Staff at that time.  
18 We were unable to find a suitable candidate and then  
19 the election, you know, during the election, to hire  
20 up in the middle of the election is hard. So we re-  
21 advertised that position and hired a Chief of Staff  
22 who started in April. She's right here, Kitty Chan,  
23 sitting right there. And she..., the purpose, you know  
24 we no longer have a Deputy Executive Director,  
25 instead the Chief of Staff is going to help us

2 prepare for the 2017 elections. Improve our  
3 processes and work with our staff.

4 CO-CHAIRPERSON KALLOS: So that was one  
5 example. I guess the general question is, why are  
6 you staffing up in the off cycle?

7 DIRECTOR LOPREST: I mean one of the  
8 reasons is because we have to prepare for 2017. All  
9 of those improvements that need to be done to make  
10 the 2017 election cycle seamless for candidates, need  
11 to be done in the out years. Also at the same time  
12 we have a big bulk of our work is performing the  
13 audits for the 2013 elections and so we need to hire  
14 the vacancies that are existing in, you know, the  
15 audit units and enforcement units.

16 CO-CHAIRPERSON KALLOS: So a perfect Segway  
17 into audits is, can you give us an update on the  
18 Board's efforts to meet audit deadlines,  
19 specifically. How many audits from 2009 cycle were  
20 not completed within eighteen months and how many are  
21 still outstanding now, five years later?

22 DIRECTOR LOPREST: Okay. As you know, the  
23 act sets deadlines for the board to issue the audits  
24 or notice of violations. Those deadlines are  
25 extended when campaigns ask for an extension to

2 respond to requests or the information that they've  
3 submitted is insufficient. And the audit staff sends  
4 an additional request to them. Also, those deadlines  
5 don't apply in cases that involve potential campaign  
6 related fraud, potential other criminal activity, or  
7 activity that may constitute a breach of  
8 certification or other potential significant  
9 violations. To date 227 audits for the 2009 election  
10 were completed in compliance with those deadlines.  
11 So every audit that's been completed, has been  
12 completed in those deadlines. 182 audits had  
13 extended deadlines that were extended basically for  
14 the campaigns request or their failure to submit  
15 sufficient information that required us to ask for  
16 additional information. Included in that number are  
17 17 audits that had serious issues. So their deadline  
18 was suspended. 89 audits were issued within eighteen  
19 months of the conclusion of the 2009 election. 21  
20 had their notice of violation issued by that date.  
21 So there's like 110 audits of the 232 were issued in  
22 that strict eighteen months. Even though 182 had  
23 extended deadlines. There are five audits remaining  
24 from the 2009 elections.



2 CO-CHAIRPERSON KALLOS: Of how many  
3 candidates?

4 DIRECTOR LOPREST: 232.

5 CO-CHAIRPERSON KALLOS: Of the five  
6 remaining audits, how many candidates have the  
7 remaining audits?

8 DIRECTOR LOPREST: its five campaigns. I'm  
9 sorry, maybe I'm not understanding your question.

10 CO-CHAIRPERSON KALLOS: So I, based upon  
11 reasonable information, I believe there is one  
12 candidate which has three campaigns that are still  
13 being audited from 2009.

14 DIRECTOR LOPREST: No, okay..., for the 2009  
15 elections, there are five campaigns. The candidate  
16 of whom you speak ran in three elections, 2009 being  
17 one of them and then the other two elections are also  
18 still outstanding.

19 CO-CHAIRPERSON KALLOS: Fair enough. Thank  
20 you very much. What steps does the CFB take pre-  
21 election to speed post-election audits?

22 DIRECTOR LOPREST: Okay so, we are..., you  
23 know I mean..., so I just recited all those numbers. I  
24 mean obviously one of the things we really try is as  
25 you said, there's always room for improvement. We're

2 always trying to do better. Obviously we try and we  
3 take our commitment to audit, timely very seriously.  
4 But we also want to be efficient without sacrificing  
5 the rigorous oversight that the public expects. For  
6 2013 we've done a number of things to help speed the  
7 audits. One of the biggest is that we asked  
8 campaigns for their bank statements at the beginning  
9 of 2013 so that..., for the, what we call, the out year  
10 of the election cycle. So that we could perform bank  
11 reconciliations and see if they're in compliance with  
12 disclosure requirements ahead of time and kind of  
13 stem any possible problems earlier. It allowed us to  
14 provide meaningful feedback to the campaigns. And  
15 gave them opportunities to cure issues before the  
16 election cycle and fix their record keeping going  
17 forward. And, you know, as an upside for the public,  
18 you know that corrected disclosure, before the  
19 election. So that was provided better and more  
20 accurate disclosure. We did that for 183 campaigns.  
21 And we also in the post-election period are working  
22 closely to do two things. One, as I said that  
23 extension. 182 candidates got extensions. We're  
24 working very closely with the campaigns to reduce the

2 number of extensions so that the audits will be done  
3 more timely.

4 CO-CHAIRPERSON KALLOS: We've notice.

5 DIRECTOR LOPREST: You know obviously there  
6 are things that happen that require longer  
7 extensions. But that's one of the..., but a burden on  
8 us, put a burn on the campaigns, try and make them  
9 more efficient. We hope that, you know, the  
10 campaigns will be active participants in this desire  
11 to make the audits more efficient. And our goal  
12 always is to finish the audits in a more timely  
13 manner.

14 CO-CHAIRPERSON KALLOS: Do you feel the CFB  
15 has sufficient resources to meet the statutory audit  
16 deadlines?

17 DIRECTOR LOPREST: Yes. I mean I think  
18 that we..., part of it is just doing the audits more  
19 efficiently rather than throwing more people at them.

20 CO-CHAIRPERSON KALLOS: Does the CFB impose  
21 penalties prior to the election? And how many and  
22 for how much?

23 DIRECTOR LOPREST: We are able to assess  
24 penalties before the election. But in all penalties  
25 have a maximum of \$10,000. But the bulk of the

2 enforcement work is done post-election. In the past  
3 we've imposed penalties pre-election, but we did not  
4 do any in the 2013 election. We also review  
5 campaigns compliance before making public funds  
6 payments. And so those campaigns not found in  
7 compliance don't receive public funds.

8 CO-CHAIRPERSON KALLOS: To what extent if  
9 any is your office engaged in efforts to convince the  
10 state to adopt campaign finance. Has your office had  
11 discussions with state entities regarding campaign  
12 finance reform?

13 DIRECTOR LOPREST: We have done a lot. I  
14 mean, yes we've done..., last year we testified before  
15 both the State Senate Election's Committee on  
16 considering public financing on the state level. We  
17 testified before the independent democratic caucus.

18 [Background talk]

19 DIRECTOR LOPREST: I always say the name  
20 wrong. I apologize. We also testified twice before  
21 the Moreland Commission. Before they made their  
22 recommendation to have public financing on the state  
23 level. WE are helping working..., providing assistance  
24 and guidance to the State Board of Elections as they  
25 implement their pilot program for state controller

2 this year. So yes, we've been very active. And I  
3 think it's a great idea.

4 CO-CHAIRPERSON KALLOS: Thank you for  
5 answering all of my questions in such detail and for  
6 again all of the great work. I think like some of  
7 the other agencies we've had here today, yours is one  
8 that has exemplary best practices and is creating  
9 democracy. So thank you. I'd like to recognize  
10 Council Member Cumbo.

11 COUNCIL MEMBER CUMBO: Thank you. I want  
12 to thank the Chairs for this hearing. Thank you very  
13 much for your testimony. I have a series of  
14 questions. So I'll just go through them one by one.

15 The first one is in our testimony you  
16 stated that there was an unprecedented \$15.9 million  
17 spent by outside groups. So this was something that  
18 had not happened previously. And so I want to know  
19 do you feel that the Campaign Finance Board  
20 adequately educated and trained candidates on  
21 everything that they needed to know about this  
22 unprecedented outside spending activity. Are there  
23 any plans in the works to make candidates more aware  
24 of everything they know to be in compliance as it  
25 pertains to outside spending?

2 DIRECTOR LOPREST: Umm, you know as I've  
3 said before, obviously with everything, there's room  
4 for improvement. The 2013 election was the first  
5 year in which there was disclosure of independent  
6 expenditures. But I think certainly all anecdotal  
7 evidence from the past is that the \$15.9 million was  
8 unprecedented. That being said we did do an  
9 extensive outreach program for independent spenders  
10 to inform them of the new requirements and  
11 disclosures. I think that we can do a better job now  
12 that we know some of the issues that will arise. Do  
13 a better job of the candidate training side. It was  
14 included in candidate materials, but I think we can  
15 do a better job and based on our experience knowing  
16 what kind of things that can happen and give a better  
17 training to candidates. And we are working on  
18 improving our training for the 2017 election.

19 COUNCIL MEMBER CUMBO: So you stated that  
20 there was training that was done to those that would  
21 be actually partaking in doing independent  
22 expenditures and so that there was training that was  
23 done there.

24 DIRECTOR LOPREST: Yes we did. We had a  
25 number of trainings for people..., for individuals and

2 entities who would be independent spenders on what  
3 the requirements were and how to file..., use our  
4 filing software. The new requirement of disclosure  
5 was mentioned in our candidate trainings and in our  
6 candidate materials, but not in a way that was..., we  
7 think that we can do..

8 [Interpose]

9 COUNCIL MEMBER CUMBO: So you would say  
10 that it was mentioned, but it was not very  
11 comprehensively explained to candidates but that it  
12 was more comprehensively explained to those partaking  
13 in the independent expenditure.

14 DIRECTOR LOPREST: Yes. Because our focus  
15 was..., because it was a new mandate, to make sure that  
16 those making independent expenditures knew that this  
17 mandate existed. Where it never did before. And  
18 that they, and that they knew that it existed and how  
19 to use the software to make their disclosure timely.

20 COUNCIL MEMBER CUMBO: Do you find it  
21 ironic that the candidates are the ones that then get  
22 fined while those that participated in the  
23 comprehensive training are not.

24 DIRECTOR LOPREST: Well, entities that do  
25 not follow the independent disclosure rules can be

2 fined and if they do not follow the rules they would  
3 be fined.

4 COUNCIL MEMBER CUMBO: Can you talk about  
5 the fines in general. Umm, in the last campaign  
6 cycle. Not this one that just past, what percentage  
7 of candidates were actually fined? And I want to  
8 know also, where do the fines actually go and they  
9 benefit whom?

10 DIRECTOR LOPREST: I'd have to get the  
11 exact number. It's probably about 50% of the  
12 campaigns were fined in the 2009 election cycle. But  
13 I will get you the actual...

14 COUNCIL MEMBER CUMBO: 50% you would  
15 estimate of the candidate were actually fined?

16 DIRECTOR LOPREST: Yes. But that includes  
17 some very small fines for what I would call, parking  
18 ticket kind of violations. You know, filing a  
19 disclosure came in late, that kind of small penalty,  
20 but I'll get you the full information. The fines are  
21 collected by our office and returned to the general  
22 fund.

23 COUNCIL MEMBER CUMBO: Can you talk to me  
24 about what that general fund is?

25 DIRECTOR LOPREST: The city's general fund.



2 COUNCIL MEMBER CUMBO: Okay.

3 DIRECTOR LOPREST: I'm sorry not to be  
4 clear.

5 COUNCIL MEMBER CUMBO: I thought you meant  
6 an internal fund.

7 DIRECTOR LOPREST: No, a general fund of  
8 the city. We return it to OMB.

9 COUNCIL MEMBER CUMBO: Do you know how much  
10 you collected in that cycle.

11 DIRECTOR LOPREST: I don't know but I  
12 happen to know because we just sent back the full  
13 years of penalties so some of them may be from other  
14 election cycles. We sent back about \$144,000 just  
15 this week.

16 COUNCIL MEMBER CUMBO: Now in the documents  
17 that I have here, there's not really much that talks  
18 about your revenue in that way in terms of ways that  
19 you make money. So I wanted to know as well with the  
20 level of funding that in brought in. You have about  
21 \$7 million that goes to personnel. Of that \$7  
22 million it's about 91 people on staff?

23 DIRECTOR LOPREST: Yes.

24 COUNCIL MEMBER CUMBO: What percentage of  
25 that 91 people are lawyers, individuals that are

2 actually..., that are utilizing your resources in order  
3 to attract that \$144,000 that you receive, I guess,  
4 in campaign fines and violations. What percentage  
5 are actually actively seeking legal..., that are  
6 actively engaged in legal activity to actually  
7 receive..., or to actually prove that candidates had...,  
8 that are going to court or going..., that the campaign  
9 finance board actually has to go to court or they  
10 have to be involved in litigation or they have to  
11 actually collect the fines. What percentage of your  
12 staff is actually engaged in that activity?

13 DIRECTOR LOPREST: Well. I'm not sure.  
14 You can tell me if this doesn't completely answer  
15 your question. About 58% of the staff.

16 COUNCIL MEMBER CUMBO: 15 or 50.

17 DIRECTOR LOPREST: 50% of the staff.

18 COUNCIL MEMBER CUMBO: 50?

19 DIRECTOR LOPREST: 50% of the staff is  
20 engaged in work that is..., I would call compliance.  
21 So either it's in..., you know, from the candidate  
22 services to help campaigns explain to our audit staff  
23 who does the reviews, to our legal staff who does the  
24 actual enforcement, both administrative enforcement  
25 and litigation enforcement if that becomes necessary.

2 Obviously it's not just to recover penalties. We  
3 actually hope that our training and education  
4 minimizes the amount of penalties in that. So we  
5 spend a lot of time reviewing and enforcing, but also  
6 we spend much of our time making sure that the public  
7 funds are distributed appropriately on valid match  
8 able contributions and are used appropriately. So a  
9 lot of the money is insuring that the public's  
10 investment in the matching funds program is  
11 appropriately safeguarded.

12 COUNCIL MEMBER CUMBO: So, the city spends  
13 about \$3.5 million in making sure that the 50% of the  
14 candidates that participate in the matching funds  
15 program. That they are actively, I guess, fining or  
16 engaging in litigation or participating in an  
17 activity to make sure that the city receives the  
18 approximate \$144,000 in fines as they did in the last  
19 cycle.

20 DIRECTOR LOPREST: Well, there's also..., we  
21 make sure that if public funds are not spent  
22 appropriately that they are repaid. So that if a  
23 campaign is found to not have spent the money  
24 appropriately that that money is given back to the  
25 city or if they have money left over that that money

2 is given back to the city. I also..., we are also  
3 enforcing the campaign finance act against not only  
4 candidates who receive public funds, but also all  
5 candidates who are running for city office who are  
6 subject to the same contribution limits and  
7 prohibitions as candidates who join the matching  
8 funds program. We spend that money to safeguard the  
9 \$38 million that is spent to insure the public's  
10 trust in democracy. And so that staff is engaged in  
11 insuring that that \$38 million that's paid out, is  
12 paid appropriately. It's not that that money is  
13 spent just to recover penalties. It's to make sure  
14 that that \$38 million was dispersed appropriately.

15 COUNCIL MEMBER CUMBO: Understood. I want  
16 to add in terms of that, in terms of a comment, if  
17 50% of the candidates are receiving some level of  
18 fine. And on the candidate side which I understand,  
19 the whole process of a fine and the audit is so  
20 lengthy and takes away so much from the day to day of  
21 your ability to serve as a council member because you  
22 are either engaged in understanding the fine,  
23 fighting the fine, litigation to fight against having  
24 to pay the fine. That it becomes almost an industry  
25 within itself and actually can consume the vast

2 majority of the time of a council member from doing  
3 the actual work that they were either attempting to  
4 do or elected to do, as a council member. Or as an  
5 elected official in general. So 50% of the  
6 candidates are actually going through that process.

7 I would like to make a recommendation that somehow  
8 the personnel is doing a more effective job at making  
9 sure that these fines and penalties don't happen. So  
10 that the Campaign Finance Board in many ways is more  
11 so working in service to protect the public dollars  
12 and the resources, but also to make sure that every  
13 candidate and every elected official can be the very  
14 best at their job and what it is that they're doing  
15 and can focus to the best of their ability, their  
16 time and energy in terms of what it is that they're  
17 doing. So I just wanted to add that comment. Also  
18 wanted to ask..., as I understand the Campaign Finance  
19 Board and the matching funds program, in many ways  
20 was also created and set up to help those that  
21 couldn't often raise money for campaigns as  
22 effectively as maybe their counterparts. But also to  
23 help particularly minority and women owned..., excuse  
24 me..., and women candidates who wanted to run that

2 traditionally don't raise as much money as their  
3 white male counterparts. Would that be true?

4 DIRECTOR LOPREST: I don't have numbers.  
5 But I do think that part of the idea of the public  
6 matching funds program is certainly to encourage to  
7 seek contributions from small donors. And people who  
8 are really regular people in their district and to  
9 that extent we have been very successful. We have...  
10 there was a study done by the Brennan Center in  
11 conjunction with the Campaign Finance Institute after  
12 the 2009 election and I think some of that work is  
13 being updated to reflect the data from the 2013  
14 election. But that really in 90% of the census block  
15 districts in New York City, someone gave a  
16 contribution of \$175 or less, so 90% of the census  
17 block district contributors are being part of the  
18 political process by giving small donations. So to  
19 the extent that that helps many, many candidates and  
20 anecdotally over the years people who have said that  
21 they would not have otherwise been able to run, that  
22 testimony... anecdotal testimony coupled with the  
23 statistical information, how many district, every  
24 neighborhood in the whole city is giving  
25 contributions. That really shows that the program is

2 working. In getting and engaging New Yorkers and  
3 making their voice be more important than the voices  
4 of special interest.

5 COUNCIL MEMBER CUMBO: So would you say  
6 that the Campaign Finance Board's public matching  
7 funds program has increased or assisted with minority  
8 and women candidates running for office

9 DIRECTOR LOPREST: I don't have the exact  
10 numbers. I mean, I think we've never done a  
11 statistical analysis of that. But anecdotally I  
12 think it definitely does. I think the city council  
13 over the course of time is more reflective of the  
14 population of the City of New York from when the  
15 program started 25 years ago. And I think that the  
16 program is certainly part of that reason.

17 COUNCIL MEMBER CUMBO: Just one more  
18 question. I wanted to add with that..., where I was  
19 really going with that as well is that, in addition  
20 to that, so more women and more people of color are  
21 running for office and being elected. Whether  
22 through this program or not. But we're tending to  
23 think that it is. On the back end side of being  
24 elected. Are you having an understanding with those,  
25 let's say, 50% of fines that are actually happening.

2 How women and minorities who traditionally are not  
3 representing wealthier communities on the backend  
4 once receiving these particular fines, how they are  
5 actually able to raise money in order to pay these  
6 extensive fines as well as the very expensive legal  
7 counsel in order to defend your reputation and or to  
8 make sure that you are actually being able to fight  
9 against something that you disagree with. Our  
10 candidates of color fairing well in this campaign  
11 finance board's audit system in terms of their  
12 ability to pay back these resources. Or are they  
13 finding themselves in serious elements of bankruptcy.  
14 Not being able to pay the fines. Not also being able  
15 to run again because they couldn't afford the ability  
16 to raise the money to pay for the legal fees as well  
17 as the fines.

18 DIRECTOR LOPREST: I guess..., I'll say two  
19 things. The vast majority of the fines and again I  
20 will get the exact numbers. Many of the fines are  
21 very, very small amounts. And as a matter of fact we  
22 made a concerted effort before the 2009 election to  
23 revise our penalty guidelines that are published on  
24 our website. To make them more reflective of small  
25 campaigns. So if you ran a small campaign, so that



2 your penalties weren't outsized to the size of your  
3 campaign. So there's a reduction based on the size  
4 of your campaign. So that was intended to help not  
5 have people have this huge amount of debt, if they  
6 had a penalty. Also we..., our legal staff in working  
7 collecting penalties, is very, very flexible. I mean  
8 we work out adequate payment plans for people that  
9 can't make the payment..., pay the fines all together  
10 or some people have extensive long payment plans if  
11 necessary. It's not really our goal to impoverish  
12 anyone. And I think that what we are trying to do is  
13 again, we do focus very heavily on making sure that  
14 the penalties don't happen in the first place. And  
15 that's why we have our candidate services unit.  
16 Obviously always room for improvement, in helping  
17 candidates navigate the process. But at the backend  
18 we do have..., we work on payment plans, but again  
19 we've created guidelines to hopefully that the  
20 penalties are in sync with the size of the campaign  
21 so that that wouldn't happen.

22 COUNCL MEMBER CUMBO: I want to thank you  
23 for your answers to these questions. I just want to  
24 implore you just in closing that the idea of payment  
25 plans, the idea of lengthy legal cases, the idea of

2 all of these different things are taking our elected  
3 officials further and further away from the ability  
4 to do the work that they were elected to do and I  
5 hope that in moving forward, particularly as you  
6 stated that there was an unprecedented level of  
7 independent expenditures that happened. That we work  
8 as carefully and as effectively to help those that  
9 are candidates or those that are elected to make sure  
10 that this is a process that is more empowering versus  
11 unempowering. And while you don't wish as a goal to  
12 impoverish people, that's ultimately at the end of  
13 the day, a side effect of what's actually happening.  
14 And it's quite unfortunate. So I thank you very much  
15 for your testimony.

16 CHAIRPERSON FERRERAS: Thank you Council  
17 Member Cumbo. Thank you for coming before our  
18 committee. We may have questions as a follow-up. If  
19 you could get them back to us before or as soon as  
20 possible so that we can have them for budget  
21 negotiation purposes.

22 DIRECTOR LOPREST: Sure.

23 CHAIRPERSON FERRERAS: Thank you very much.  
24 We're going to take a one minute break and we will  
25

2 then hear from the Financial Information Services  
3 Agency.

4 [Pause]

5 CHAIRPERSON FERRERAS: We will now resume  
6 the city council's hearing on the mayor's budget for  
7 FY 2015. The Finance Committee and the Committee on  
8 Governmental Operations just heard from the Campaign  
9 Finance Board. We will now hear from the Financial  
10 Information Services Agency. This is the last agency  
11 of the day. So I will forego an opening statement  
12 and I will turn the mike over to my co-chair, Council  
13 Member Ben Kallos for a statement. Chair Kallos.

14 CO-CHAIRPERSON KALLOS: Thank you Co-Chair  
15 Ferreras. It's been a pleasure to do these hearings  
16 with you all day. We are much less delayed than we  
17 normally otherwise would. And I hope I haven't been  
18 too much of a bad influence.

19 FISA controls and coordinates data  
20 processing functions and operations for the city's  
21 payroll, accounting and purchasing systems. Manages  
22 the citywide Financial Management System, FMS.  
23 Generates and distributes reports for court,  
24 accounting and budget oversight and provides online  
25

2 access to budgetary or related data for use by city  
3 managers and others.

4 The agency's proposed budget for fiscal  
5 year 2015 totals \$100.4 million including personal  
6 services, funding of \$45.5 million to support 459  
7 full time positions. During today's hearing we will  
8 discuss operations and upkeep of several citywide IT  
9 systems, including FMS, the city's financial  
10 management system, Citytime, the city's timekeeping  
11 system, NYCAP, the city's Human Resources database,  
12 payroll management system.

13 We look forward to your testimony and you  
14 can feel free to include as much or as little of the  
15 written testimony as you present it. It's great.  
16 It's double-sided. Smaller type than we were  
17 expecting but it's good. I think that as Chair of  
18 Governmental Operations I had just wanted to bring  
19 you folks in one more time just to go over some  
20 things that were in the news recently and just find  
21 out what happened and what's being done to prevent it  
22 from happening again. That being said, thank you so  
23 very much for being here. Thank you for getting all  
24 of us here paid. As well as 350,000 other employees  
25 paid as well every day. You may begin your remarks.

2 DIRECTOR MYERS: Good afternoon. My name  
3 is Rose-Ellen Myers, I'm First Deputy Executive  
4 Director of the Financial Information Services Agency  
5 and I'm joined by Peter Reddy, who's the Deputy  
6 Executive Director for Financial Systems.

7 I'd like to thank Chair Kallos and the  
8 members of the Committee on Governmental Operations  
9 and Chair Ferreras and the members of the Committee  
10 on Finance for the opportunity to testify this  
11 afternoon.

12 The portion of the mayor's executive budget  
13 that pertains to FISA will allow it to maintain its  
14 current levels of service. The budget provides FISA  
15 with the resources needed to support the citywide  
16 financial, payroll and human resources and  
17 timekeeping applications which it maintains for city  
18 entities that utilize them to carry out their charter  
19 mandated activities related to budgeting, financial  
20 planning, accounting, procurement, payroll pension  
21 and personnel functions. FISA provides technical  
22 expertise and support primarily to the Office of  
23 Management and Budget, the Office of the Comptroller,  
24 the Office of Payroll Administration, Labor Relations  
25 and the Department of Citywide Administrative

2 Services. FISA insures citywide system access and  
3 provides technical assistance to all agencies  
4 processing transactions in FMS, PMS, PPS, Nycap and  
5 Citytime.

6 As I reviewed my preliminary budget  
7 testimony. The systems that FISA supports are all  
8 implemented and are being utilized by tens of  
9 thousands of users in the performance of their duties  
10 on behalf of the people of our city. They include  
11 the Financial Management System which supports the  
12 base functions required of a citywide budget and  
13 accounting system. The Debt Management System that  
14 is used by investment banks, bond counsel and city  
15 employees. The application is the official  
16 repository of data pertaining to debt issued by New  
17 York City and certain other city related debt issuing  
18 authorities. The Payroll Management System is the  
19 computerized payroll system used for producing  
20 payments to New York City Employees. The Pension  
21 Payroll Management System is used for producing  
22 payments to New York City retirees. The New York  
23 City Automated Personnel System is a citywide human  
24 resources and benefits system which processes  
25 transactions for city employees, retirees and job

2 applicants. And the Citytime system, which is a  
3 unified and automated timekeeping system which  
4 interfaces with the city's payroll management system  
5 to support accurate time and attendance records and  
6 payroll calculations.

7 As you likely know, on Thursday, May 1,  
8 2014 payments were erroneously made from the police  
9 and fire officers and superior officer's variable  
10 supplements funds being electronic transfer into the  
11 bank accounts of pensioners. Due to human error, a  
12 coding mistake was made when we were developing the  
13 new automated payment process for child support  
14 payments which are mandated to be withheld from  
15 pensioner's checks and remitted to the appropriate  
16 authorities. And a test file was erroneously written  
17 into a production file. The direct deposit  
18 transmission process which was designed to transmit  
19 the most recently produced production file to the  
20 bank for payment automatically used the misnamed test  
21 direct deposit file in place of a properly approved  
22 production direct deposit file.

23 Although the quality control process  
24 included a number of validation steps, it did not  
25 include all possible automated controls or a last

1 validation by an authorized person of this specific  
2 file queued up for transmission to the bank. After  
3 learning of the error, and in concert with the Office  
4 of the Comptroller and the Mayor's Office, FISA took  
5 immediate steps to reverse the transactions. This  
6 successfully recovered approximately 99% of the  
7 erroneous payments. A letter was sent out to all  
8 pensioners who received this erroneously VSF payment  
9 explaining what had happened. A second letter was  
10 sent out to the pensioners for which the immediate  
11 reversal was not successful, informing them that the  
12 erroneous payment would be recouped through  
13 deductions from their monthly pension payments,  
14 starting with the June 1<sup>st</sup> payment. In response to  
15 the second letter additional pensioners have reached  
16 out to return the funds.

18 FISA has identified the gaps in our  
19 processing that caused this event and is closing  
20 them. These actions include testing with bank  
21 account data that is unusable by financial  
22 institutions. The direct deposit quality control  
23 process has been enhanced through both manual and  
24 automated processes to insure that the correct file  
25 is transmitted to the bank. Changes have been



2 applied to our automated job scheduler to prevent the  
3 moving of a test file into the production queue. And  
4 automated processes have been created to check for  
5 manual miss keying in the setup of these types of  
6 tests.

7 In addition to the steps that FISA has  
8 taken the Office of the Comptroller and the Mayor's  
9 Office has engaged the firm of KPMG to perform an  
10 independent review and assessment of the incident.  
11 The control failures that permitted it to occur and  
12 then a somewhat broader view of the controls over  
13 other disbursement related processes. We are  
14 committed to insuring that such an event does not  
15 happen again.

16 Returning to the budget, FISA staffing for  
17 fiscal year 2014 and fiscal year 2015 is an  
18 authorized 436 and 459 city funded full time  
19 employees respectively. The incremental increase to  
20 headcount is a result of the FISA Board Resolution of  
21 June 2011 which called for replacing 20 consultant  
22 positions with city employees each year for four  
23 consecutive years. By the end of fiscal year 2015  
24 FISA expects to have eliminated all Citytime  
25 consultants and replace them with city employees. In

2 addition FISA's executive budget changes include an  
3 adjustment to the funding source for three NYCAP  
4 positions beginning in 2015. These three positions  
5 had been funded as IFA positions and are being funded  
6 as city tax levy positions beginning in 15.

7 FISA's total executive budget allocation  
8 for 2015 is \$100 million. \$45 million for personnel  
9 services and \$55 million for other personnel  
10 services. In the executive budget FISA received OTPS  
11 funding for increased postage rates, replacement  
12 tapes for data storage and a data disaster recovery  
13 contract increase.

14 I want to thank you again for the  
15 opportunity to address you today and my staff and I  
16 would be pleased to answer any questions at this  
17 time.

18 CHAIRPERSON FERRERAS: Thank you very much  
19 for your testimony. I wanted to focus in on  
20 something that both my co-chair and I have been, it's  
21 kind of the theme for these budget hearings and it's  
22 been on transparency and opportunities where we can  
23 have more transparency. In particular, you know the  
24 Citytime issue is something that's very front and  
25 center for us as council members.

2 So, do you plan on providing more details  
3 on your lump sum funding when it's used?

4 DIRECTOR MYERS: I'm sorry.

5 CHAIRPERSON FERRERAS: So your capital  
6 lines are lump sum. So just for example you have  
7 \$73.6 million in your electronic database processing  
8 for equipment. Can you work with OMB to provide  
9 opportunities for clearer budgetary. Because we vote  
10 on things and always see the lump sum or the UofA  
11 which is the unit of appropriation. So can you work  
12 with OMB as we will, to provide more transparency  
13 from the budget perspective on your lump sum capital  
14 requests?

15 DIRECTOR MYERS: Yes, we absolutely can do  
16 that. It's all made up of individual items.

17 CHAIRPERSON FERRERAS: Okay. Right. We  
18 just don't see it that way and that's what's kind of  
19 frustrating.

20 So with regard to the management of large  
21 scale capital projects. What protocols has your  
22 agency put in place to prevent fraud and corruption  
23 as we saw obviously with CAIC and the Citytime issue?

24 [Background talk]

2 DIRECTOR MYERS: Yes. Actually, as we also  
3 look at Directive 31 from the Comptroller's office.  
4 We had already had a lot of that stuff in place. For  
5 individual contractors. We actually have everyone  
6 using Citytime so we know what hours..., right, they're  
7 using the hand-scanners. We actually don't even let  
8 them do data entry into the web clock. So we know  
9 what hours independent contractors are working. We  
10 have multiple sign-offs.

11 CHAIRPERSON FERRERAS: So is this something  
12 that happened after or before the Citytime issue was  
13 uncovered.

14 DIRECTOR MYERS: FISA's always had a  
15 reasonably rigorous process for reviewing contractors  
16 and as soon as Citytime came to FISA we expanded our  
17 processes to all of them as well.

18 CHAIRPERSON FERRERAS: Okay. Umm, so I  
19 want to talk about the alternate data center funding.  
20 The preliminary plan includes new funding for \$7.8  
21 million in fiscal 2015 for the alternate data center  
22 which I understand to be your backup data center.  
23 Can you tell us more about the alternate data center,  
24 and why is it necessary?

2 DIRECTOR MYERS: We are still under some  
3 discussions with OMB about this alternate data  
4 center. Umm, which would allow us to have a parallel  
5 data center in case something happened in the  
6 building where FISA is housed. To be able to just  
7 turn over to another data center under our control  
8 immediately.

9 CHAIRPERSON FERRERAS: Can you give us an  
10 example of what you mean by, in case something  
11 happens. What are the potential issues that we may  
12 have out there?

13 DIRECTOR MYERS: Well if there was a flood  
14 in our building and the computers didn't work  
15 anymore. In order to be to..., flood, fire. In order  
16 to maintain...

17 [Interpose]

18 CHAIRPERSON FERRERAS: So it's more of the  
19 physical, not like that someone could break in and  
20 there be a corrupt file or something.

21 DIRECTOR MYERS: No. It's definitely an  
22 issue of our physical ability to be able to run the  
23 financial systems.

24 CHAIRPERSON FERRERAS: So this is very  
25 technical. I'm a council member, I don't know the

2 details of this. So is the alternate data centers,  
3 are they reserved somewhere else. Is that..., because  
4 clearly you're not going to put it right next to...  
5 right?

6 DIRECTOR MYERS: Right.

7 CHAIRPERSON FERRERAS: So where do these  
8 generally..., where are these..., are they in a cloud,  
9 where are they?

10 DIRECTOR MYERS: Well we actually do a  
11 couple of things. Like right now what we do is we  
12 lease equipment essentially at an IBM site that if we  
13 had a disaster at FISA, we would call up and say we  
14 need to come to that site.

15 CHAIRPERSON FERRERAS: Okay.

16 DIRECTOR MYERS: While that's a very good  
17 thing if we have an individual disaster in the FISA  
18 building. What it doesn't give us is if there is a  
19 more citywide disaster. We're in a queue with all of  
20 their other customers.

21 CHAIRPERSON FERRERAS: Okay so, let's go to  
22 a recent crisis. Super Storm Sandy. What was the  
23 impact that you saw, if any, through Super Storm  
24 Sandy where this may have triggered the need for.

25

2 DIRECTOR MYERS: We were actually very  
3 lucky in Super Storm Sandy because we were about a  
4 block from where ConEd had no electricity.

5 CHAIRPERSON FERRERAS: Okay.

6 DIRECTOR MYERS: But, clearly...

7 CHAIRPERSON FERRERAS: So I guess that's  
8 why we got paid. Right, we got paid through that  
9 time, right?

10 DIRECTOR MYERS: You absolutely did. But  
11 that does go to show the vulnerability of the city's  
12 infrastructure.

13 CHAIRPERSON FERRERAS: Okay. I'm going to  
14 pass this over to my chair, who I'm sure has  
15 questions.

16 CO-CHAIRPERSON KALLOS: First of all thank  
17 you for coming in. Thank you for your testimony  
18 outlining what happened when the city mistakenly made  
19 a payment of \$300 million to NYPD and FDNY retirees.  
20 So apparently this was a human error relating to a  
21 computer where \$300 million was transferred to 31,000  
22 retired police officers and fire fighters. The  
23 \$12,000 per person supplement is normally distributed  
24 in December?

25 DIRECTOR MYERS: Yes.

2 CO-CHAIRPERSON KALLOS: And so it appears  
3 that based on your report a data file was transferred  
4 to a banking institution and so it seems like the  
5 test server was associated with the correct banking  
6 information versus test banking information.

7 DIRECTOR MYERS: Yes.

8 CO-CHAIRPERSON KALLOS: And, it seems that  
9 you've created some automated processes to avoid this  
10 happening in the future and have also created  
11 automated system check?

12 DIRECTOR MYERS: Yes. We've enhanced some  
13 of our manual processes and added a bunch of  
14 automated processes.

15 CO-CHAIRPERSON KALLOS: How much more time  
16 is it going to us in order to do these manual checks  
17 in addition to the automated checks?

18 DIRECTOR MYERS: It should be minimal.

19 CO-CHAIRPERSON KALLOS: Perfection. And  
20 then then, with regard to engaging KPMG. How much is  
21 that going to cost us and what additional benefit  
22 will the taxpayers be receiving from KPMG being  
23 brought in?

24 DIRECTOR MYERS: I don't know what this  
25 costing but having an external group with some



2 expertise taking a look at what we do..., is an  
3 independent verification. They've got some broader  
4 experience than we do, because they've seen lots of  
5 other companies do things... so, we're hoping to get  
6 some good..

7 [Background talk]

8 DIRECTOR MYERS: And the decision to hire  
9 KPMG was really made by the Office of the Comptroller  
10 and City Hall.

11 CO-CHAIRPERSON KALLOS: Thank you very  
12 much. So I'll give my colleague and friend Scott  
13 Stringer a call at some point. And so this is a  
14 \$12,000 per person sum that's normally paid in  
15 December. How many people have yet to return the  
16 money that was distributed, just put into their  
17 accounts?

18 DIRECTOR MYERS: Right now we're doing  
19 recoupments to about 281.

20 CO-CHAIRPERSON KALLOS: So there's 281 that  
21 are left..., so if those people don't, is it just that  
22 we're going to charge them the interest on the money  
23 we would have accrued in between then and now. Or...

24

25

2 DIRECTOR MYERS: No. We are just taking  
3 back the money that erroneously went into their  
4 accounts.

5 CO-CHAIRPERSON KALLOS: So to the extent  
6 that maybe a handful of people aren't able to pay it  
7 back until December. Does that mean we just don't  
8 pay them in December and then there's a recovery of  
9 the interest or what happens? Or it's not an option.

10 DIRECTOR MYERS: We're not penalizing them.

11 CO-CHAIRPERSON KALLOS: Okay. So they just  
12 won't get paid in December and that will be that.

13 DIRECTOR MYERS: I mean we started taking  
14 recoupments with the current check.

15 CO-CHAIRPERSON KALLOS: A theme that other  
16 folks who have testified may have noticed by now is...,  
17 I've introduced legislation trying to see a  
18 preference for free and open sourced software. Are  
19 there locations where you believe your agency could  
20 transition to free and open sourced software in order  
21 to save money for taxpayers?

22 DIRECTOR MYERS: We're starting to look at  
23 that. We do use some open sourced software in  
24 Citytime. Ironically enough, I guess.

25

2 CO-CHAIRPERSON KALLOS: And then to follow-  
3 up on my colleague Chair Ferreras on the alternate  
4 data center. You really were on the mark. There was  
5 one follow-up question that you missed, which is  
6 just, have you investigated looking at using Cloud  
7 that is scalable so that instead of paying for  
8 physical space, what you can do with Amazon Cloud and  
9 other host providers, is you can pay for very minimal  
10 processing power and you're paying by cycles nowadays  
11 and seconds of processing power. So in order to have  
12 the technology infrastructure in place it costs  
13 pennies every day, but if something goes wrong,  
14 that's when you actually pay for the full scale  
15 server that you actually need and literally you slide  
16 something on a web interface and it goes from being  
17 the equivalence of a home PC to a massive server  
18 harnessing the entire Amazon Cloud. And this is not  
19 a plug for Amazon it's just the type of scalable  
20 technology.

21 DIRECTOR MYERS: Umm, this is a little  
22 difficult for us because of the variety of platforms  
23 that we're running on.

24 CO-CHAIRPERSON KALLOS: okay.  
25

2 DIRECTOR MYERS: Because the payroll  
3 systems all run on a mainframe computer still.

4 CO-CHAIRPERSON KALLOS: I would love in  
5 this budget or the next, just if we could figure out  
6 how we can start modernizing our payroll so that when  
7 the last cobalt programmer is no longer with us we  
8 are not SOL and that we can continue. So those are  
9 the..., yes I did, it's an acronym, it's a technical  
10 term in computer science.

11 The last item we had in the agency before  
12 us, the Board of Elections, they've voted to adopt  
13 Citytime and so the question there is just, they  
14 voted..., they seem to believe they can get it  
15 implemented over the summer. Are they on track? IS  
16 there anything that we need to do as an oversight  
17 body to make sure that the process moves smoothly?  
18 And are there any other agencies like the Board of  
19 Elections that we can lean on as a body to make sure  
20 that they join Citytime.

21 DIRECTOR MYERS: I know that they are  
22 working with the Office of Payroll Administration on  
23 the implementation. From the FISA perspective, we'll  
24 help them by adding the DCD devices but they're  
25 working with OPA on the implementation phases.

2 CO-CHAIRPERSON KALLOS: Thank you very much  
3 and just because I may have used an inappropriate  
4 acronym. Please pardon my French.

5 CHAIRPERSON FERRERAS: Thank you very much  
6 for your testimony and it has indeed been a pleasure  
7 to chair this round of hearings. This concludes our  
8 hearings for today. The Finance Committee, we've  
9 just been joined by Council Member Johnson. The  
10 Finance Committee will resume the executive budget  
11 hearings on Monday, June 2<sup>nd</sup> at 11:00 a.m. The  
12 hearings will be held in this room. On Monday we  
13 will hear from the FDNY, Emergency Medical Services,  
14 and the Department of Correction. As a reminder, the  
15 public will be allowed to testify on the last day of  
16 budget hearings on June 6<sup>th</sup> beginning at  
17 approximately 3:30 p.m. The public session will be  
18 held in this room. For members of the public who  
19 wish to testify, but cannot make the hearing, you may  
20 email your testimony to the finance division and the  
21 staff will make it part of the official record. The  
22 email address is [financetestimony@council.nyc.gov](mailto:financetestimony@council.nyc.gov).  
23 Thank you this hearing is now adjourned.

24 [Gavel]

C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify there is no relation to any of the parties to this action by blood or marriage, and that there is no interest in the outcome of this matter.



Date 06/05/2014