

CITY COUNCIL  
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON CONTRACTS

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January 28, 2013  
Start: 1:11 p.m.  
Recess: 2:42 p.m.

HELD AT: 250 Broadway  
Committee Room, 16th Floor

B E F O R E:  
DARLENE MEALY  
Chairperson

COUNCIL MEMBERS:  
Robert Jackson  
Letitia James  
Brad Lander  
Melissa Mark-Viverito  
Michael C. Nelson

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

Andrea Glick  
Director  
Mayor's Office of Contract Services

Lisette Camilo  
Deputy General Counsel  
Mayor's Office of Contract Services

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2 CHAIRPERSON MEALY: Good afternoon,  
3 we're going to start our Committee on Contracts.  
4 My name is Darlene Mealy, I am the New York City  
5 Council's Committee on Contracts.

6 Today the committee is holding an  
7 oversight hearing which will explore the City's  
8 emergency procurement process. I would like to  
9 recognize the other Council Members who are  
10 present today: Mike Nelson and Robert E. Jackson,  
11 Robert Jackson. And Sharon Manigault and Tim  
12 Matusov, our committee staff on this contract  
13 hearing.

14 The City procurement rules allow  
15 agencies to circumvent the usual procurement  
16 safeguards in case of emergency. Specifically,  
17 special rules apply in cases where goods or  
18 services are urgently required in order to  
19 responds to unforeseen dangers of to life, safety,  
20 property, or to provide a necessary service in a  
21 timely fashion. When this is the case, agencies  
22 do not go through the usual competitive bidding  
23 process or provide timely public notice. Such  
24 procurements are also exempt from a host of Local  
25 Laws, including, for example, the City's M/WBE

1  
2 program, and other legislative requirements, such  
3 as Outsourcing Accountability Act. Instead, all  
4 agencies needs to do is get approval from the  
5 City's Law Department and the Comptroller's  
6 office.

7 In the last several years, spending  
8 on emergency procurements have ranged anywhere  
9 between 40 million to as much as 130 million and  
10 have been used to respond to crisis such as 9/11  
11 and the Hurricane Sandy and Irene.

12 Today we will get more information  
13 about what precisely these procurements have been.  
14 We will learn how MOCS, the Law Department, and  
15 the Comptroller ensure that emergency procurements  
16 are, indeed, only used during emergencies and are  
17 not abused to skirt regular procurement rules.

18 In addition, we will also hear  
19 Intro 193, a bill which would require agencies to  
20 notify the Council whenever they make emergency  
21 procurements.

22 Although the Comptroller John Liu  
23 couldn't be here to testify in person, he has  
24 submitted testimony for the record, and I will  
25 like to thank him for that.

1  
2 And thank you all for being here,  
3 and I'm looking forward to hear from our director  
4 of MOCS, Ms. Andrea Glick. Are you ready?

5 ANDREA GLICK: I'm ready.

6 CHAIRPERSON MEALY: You could say  
7 you was born ready.

8 ANDREA GLICK: I think it's on,  
9 okay. Good afternoon, Chair Mealy and members of  
10 the Contracts Committee. I am Andrea Glick,  
11 Director of the Mayor's Office of Contract  
12 Services, MOCS, and I am joined here today by my  
13 deputy general counsel, Lisette Camilo. I am  
14 pleased to be here to discuss the City's Emergency  
15 Procurement process, as well as Intro 193 of 2010.

16 City contracts are awarded using  
17 the vendor selection methods pursuant to rules  
18 established by the City's Procurement Policy  
19 Board. The majority of contracts are awarded to  
20 vendors selected by competitive sealed bids and  
21 proposals. In FY 2012, 37% of new procurements  
22 were awarded by competitive sealed bids and 27% by  
23 competitive sealed proposals. These methods are  
24 governed by state laws, the City Charter, and the  
25 PPB Rules. All of these procurement methods

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2 consist of multiple steps that take time, some can  
3 take many months from solicitation to award,  
4 depending on which method is used and how complex  
5 the good or services is to be procured.

6           When an emergency situation arises  
7 which poses an unforeseen danger to life, safety,  
8 and property, it is often not practicable to  
9 procure necessary services through a competitive  
10 sealed bid or proposal process. Accordingly, the  
11 City Charter and PPB rules allow the City to  
12 procure goods, services, and construction through  
13 an emergency procurement with as much competition  
14 as practicable under the circumstances in cases of  
15 unforeseen danger to life, safety, property, or a  
16 necessary service. The emergency procurement  
17 process is much simpler and requires less of a  
18 process to afford the City the capability to  
19 procure the necessary good or service to meet the  
20 emergent need. Before pursuing an emergency  
21 procurement, per the PPB Rule 3-06, an agency is  
22 required to obtain approvals for emergency  
23 declarations from both the Comptroller and the Law  
24 Department and abide by notice requirements for  
25 awards.

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2                   Once an agency identifies an  
3 emergency condition or one that is imminent and  
4 makes a determination that the solution to address  
5 the emergency cannot be met through the normal  
6 procurement processes, the agency requests  
7 approval from the Comptroller and Law Department  
8 via phone call or e-mail. The agency provides  
9 specific information to the Comptroller and the  
10 Law Department including: The date the emergency  
11 occurred; the reason why this emergency possesses  
12 a threat to life, property, or safety; the good or  
13 service that needs to be procured; the approximate  
14 dollar value; the name of the vendor or vendors to  
15 be solicited, if known; and how the agency will  
16 procure the services, including how the agency  
17 will find the vendors. The Law Department and the  
18 Comptroller will give the initial approval via a  
19 telephone--the telephone or an e-mail and the  
20 agency may begin the process of purchasing the  
21 goods or services needed. The selected vendor may  
22 provide the goods or service as soon as the agency  
23 notifies them that they have received the award.  
24 The agency will then submit a written declaration  
25 of emergency as soon as practicable to both the

1  
2 Comptroller and the Law Department and they in  
3 turn will each provide written approvals of the  
4 declaration to the agency.

5           Once the procurement is completed,  
6 the agency will register the contract with the  
7 Comptroller and provide the information required  
8 by the PPB rules, which includes the date that the  
9 emergency was first identified; a list of goods,  
10 services, or construction that needs to be  
11 procured; the names of all the vendors solicited;  
12 the basis for the vendor selection; the proposed  
13 contract price; past performance history of the  
14 selected vendor; a listing of prior related  
15 emergency contracts; and the PIN number, the  
16 procurement identification number, associated with  
17 the procurement.

18           An agency must also perform a  
19 responsibility check to ensure that the vendor has  
20 the required business integrity and capacity to  
21 perform the work prior to award through VENDEX--  
22 prior, right, to a potential vendor has the prior  
23 business integrity and capacity to perform the  
24 work prior to award through VENDEX, if required--  
25 though VENDEX, if required, must still be filed



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2 within 30 days after contract registration. Per  
3 the Charter and the PPB rules, an agency must  
4 publish a Notice of Award in the City Record  
5 within 15 calendar days after contract  
6 registration for all emergency contracts exceeding  
7 the small purchase threshold. The notice includes  
8 the procurement details, including the agency  
9 name, dollar amount of the contract, PIN number,  
10 vendor name and address, description of goods or  
11 services, summary of the emergency, and a  
12 justification for selecting this method of  
13 procurement.

14 As I described, MOCS does not play  
15 a role in the approval of emergency procurements,  
16 that is a joint function strictly for the  
17 Comptroller and the Law Department. Though we may  
18 get copies of some emergency declarations directly  
19 from the agencies, there is no requirement that we  
20 receive them. However, MOCS helps facilitate the  
21 process. For example, we provide regular  
22 trainings to agencies on the emergency procurement  
23 process. We also provide technical assistance to  
24 agency contracting personnel who may have specific  
25 questions or concerns about what to include in an

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emergency declaration.

After emergency contracts are registered, MOCS does include the data in our Annual Procurement Indicator Report. As reported in our most recent Indicator Report, emergency procurements represent a very small percentage of the City's procurement expenditures. Only 0.6% and 0.5% of the City's procurements were made as emergency procurements in FY 2012 and 2011 respectively.

Another procurement resource for an agency in an emergency is the Purchasing Card, or P-Card. A P-Card is a credit card issued to certain agency contracting personnel to facilitate the quick processing of micro purchases--those purchases valued under \$5,000. Per the PPB, micro purchases do not require competition as long as contracting personnel determine that the price is reasonable, that the vendor is responsible, and that the purchases are distributed appropriately among responsible vendors. As the P-Card is meant to assist with micro purchases, there is normally a \$5,000 per transaction limit. The use of the P-Card saves the City money: It reduces

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2 administrative costs by streamlining the micro  
3 purchase process but, most notably, the City  
4 receives a rebate on purchases made using the P-  
5 Card. For example, in Fiscal 2012, the City  
6 received \$114,479 in rebates from use of P-Cards,  
7 which is an increase from \$87,278 in fiscal year  
8 2011.

9                   Use of the P-Card also provides  
10 financial controls, oversight, and transparency.  
11 An online card management system assists in  
12 monitoring and managing card usage, quickly  
13 identifies purchases that have been declined, and  
14 displays real-time information about authorized  
15 transactions. The Department of Citywide  
16 Administrative Services administers the program by  
17 providing technical assistance in fraud prevention  
18 and conducting regular audits of P-Card  
19 transactions to ensure purchases are consistent  
20 with an agency's expected usage.

21                   To assist agencies with purchasing  
22 emergency services and goods, once an emergency  
23 situation is determined on the scale of Hurricane  
24 Irene, for example, the City's P-Card  
25 administrator, with joint approval from the

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2 Comptroller, MOCS, and the Law Department, allows  
3 for a temporary increase in the \$5,000 per  
4 transaction limit for P-card purchases. The  
5 higher limit provides agencies greater flexibility  
6 and speed in purchasing goods and services.  
7 During both Irene and Sandy hurricanes, the limit  
8 was raised to \$10,000.

9                   In fiscal year 2012, eight  
10 agencies--the Department of Environmental  
11 Protection, the Department of Homeless Services,  
12 the Department of Buildings, Department of Health  
13 and Mental Health, Department of Transportation,  
14 the Department of Sanitation, the Office of  
15 Emergency Management, and the Department of Parks  
16 and Recreation--used P-Cards to purchase nearly  
17 \$157,000 of goods and services related to  
18 Hurricane Irene. These agencies purchased items,  
19 including personal protection equipment for staff  
20 responding to flooding; disinfectants and  
21 detergents for cleaning airbeds; and blankets used  
22 at hurricane evacuation centers. P-Cards allowed  
23 agencies to make purchases quickly, avoiding delay  
24 of response and remediation efforts by City staff.

25                   Agencies plan their procurements

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2 around their programmatic needs. Though the type  
3 and scale of emergencies can never be predicted,  
4 and, thereby, planned for, City agencies may  
5 already have tools that can be used to address the  
6 unexpected. In fact, the PPB rules require  
7 agencies to look through their contract portfolios  
8 to see if they can utilize existing contracts to  
9 address needs brought on by an emergency before  
10 making an emergency procurement. For example,  
11 agencies enter into requirements contracts, which  
12 allow agencies more flexibility to determine the  
13 quantity of work it will contract out in a given  
14 term. Agencies can use as little or as much of a  
15 contract up until a maximum amount, depending on  
16 the need. For example, after Hurricane Irene, the  
17 Department of Parks and Recreation used three  
18 existing contracts for tree removal, tree pruning,  
19 wood debris cleaning, and chipping, spending over  
20 \$4.9 million in services from pre-existing  
21 contracts to address conditions that resulted from  
22 that emergency. Additionally, contractors working  
23 for DDC removed and disposed of uprooted tree  
24 stumps, repaired broken sidewalks, and planted  
25 replacement trees supplied by the Parks department

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2 requirements contracts for trees. Though these  
3 type of contracts are helpful in addressing some  
4 emergency needs and agencies use them as much as  
5 possible, the contracts already in place may not  
6 have enough capacity to address all the needs.  
7 When existing contracts are not sufficient, the  
8 use of emergency procurement is necessary.

9           As you know, Superstorm Sandy was  
10 an unprecedented storm that took the lives of many  
11 New Yorkers and caused billions of dollars in  
12 damage to property. New York City did its best to  
13 prepare for the storm, as you have learned from  
14 the hearings you are holding on the subject. On  
15 the procurement end, in the days before Hurricane  
16 Sandy hit, MOCS worked with the Comptroller's  
17 office to increase agencies' P-Card spending  
18 limit. We also provided agencies with materials  
19 explaining the emergency procurement process as a  
20 refresher for contracting personnel. Immediately  
21 after the storm, MOCS provided technical  
22 assistance to agencies regarding the emergency  
23 procurement process and worked with the agencies  
24 on the emergency contracts as needed.

25           As Sandy only recently happened,

1  
2 many of the emergency procurements that have been  
3 approved have not yet been registered with the  
4 Comptroller. This means that we do not yet have  
5 complete data on how much the City will have spent  
6 on Sandy-related emergency procurements. However,  
7 we have worked very closely with the Comptroller's  
8 staff since the storm hit to ensure that those who  
9 were most severely impacted by the storm had the  
10 services they need.

11 I would like to thank the  
12 Comptroller and his team for working with the City  
13 to expedite procurements that have enabled  
14 neighborhoods to be cleaned up, debris and downed  
15 trees to be removed, and many other services. In  
16 particular, the Comptroller worked with the City  
17 on the Rapid Repairs procurement, which has  
18 already helped more than 13,000 families in 8,000  
19 buildings return to their homes. As of today, 207  
20 million of emergency procurements have been  
21 registered since the storm hit.

22 As time goes by and more contracts  
23 get registered, we will have a complete picture of  
24 how much the City spent on Sandy-related emergency  
25 procurement and can provide you that information

1  
2 at a later point. Additionally, to date, the Law  
3 Department and the Comptroller have approved  
4 approximately 888 million of emergency  
5 procurements associated with Hurricane Sandy.  
6 Please note that this figure is only an authorized  
7 spending amount based on the best available  
8 estimate at the time the procurement is made, it  
9 does not indicate how much City agencies have  
10 spent or will spend. In some cases, agencies may  
11 need more funding authority to complete an  
12 emergency task; in others, the authorized amount  
13 may be more than is needed to do the work.

14 Intro 193 of 2010 requires  
15 notification to the Council on emergency  
16 procurements that are approved by the Comptroller  
17 and the Law Department. The administration  
18 supports the goal of Intro 193, notifying the  
19 Council of such approvals. Given that emergency  
20 procurements must be executed in an expedited  
21 manner in order to address unforeseen danger to  
22 life, safety, and property, we would not be able  
23 to support a bill that would require any  
24 additional steps before receiving such approvals.  
25 However, we would be happy to work with the



1  
2 Council on language to ensure that it receives  
3 notification of emergency procurements without  
4 affecting the ability for agencies to obtain the  
5 necessary approvals as quickly as possible.

6 I am available to answer any  
7 questions that the committee may have at this  
8 time.

9 CHAIRPERSON MEALY: Thank you,  
10 Director Glick. We've been joined by Mark-  
11 Viverito, Brad Lander, and Tish James.

12 And just to ask a--

13 [crosstalk]

14 CHAIRPERSON MEALY: --could you  
15 describe the process by which agencies undertake  
16 emergency procurements?

17 ANDREA GLICK: Yeah, as I said in  
18 my testimony, what happens is, if the agency  
19 recognizes that there's an emergency, they have to  
20 call or contact the Comptroller's office and the  
21 Law Department to get permission to go forward  
22 with a procurement to mitigate the circumstances  
23 of that emergency.

24 CHAIRPERSON MEALY: How many  
25 emergencies have we received so far?

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ANDREA GLICK: You mean like a Sandy, a Hurricane Sandy?

CHAIRPERSON MEALY: Yes, on 2012, Sandy.

ANDREA GLICK: That's the only emergency that I know of, although we don't typically get involved in all the emergency declarations that have been declared. I would know that how many emergency contracts were done in next year's Indicator Report for this past fiscal year.

CHAIRPERSON MEALY: You would know next year or--

ANDREA GLICK: Well--

CHAIRPERSON MEALY: --after the whole audit?

ANDREA GLICK: --after the fiscal year is over, we have--what we do every year, we have a Procurement Indicators Report, I'm sure you--

CHAIRPERSON MEALY: [Interposing]  
Could you move the mic a little closer to--

ANDREA GLICK: Oh.

CHAIRPERSON MEALY: --you, please?

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2                   ANDREA GLICK: You can't hear me,  
3 sorry. Okay. At the end of each fiscal year, my  
4 office prepares the Procurement Indicators Report,  
5 I'm sure you've seen it, your staff maybe have  
6 seen it, if you need a copy from last year, we can  
7 get that to you, but in that report it lists how  
8 many emergency procurements were done for the  
9 previous year. Okay. So at this time, I don't--I  
10 hope there are no more emergency procurements that  
11 have to be done for the rest of the fiscal year,  
12 but, thus far, this year, the only one that I know  
13 of--

14                   [Crosstalk]

15                   ANDREA GLICK: --that our office--

16                   CHAIRPERSON MEALY: Thank you.

17                   ANDREA GLICK: --was a facilitator  
18 in was the Hurricane Sandy. But if an agency, for  
19 example, I'm going to just, you know, make this  
20 up, if, you know, the Building's department had an  
21 emergency declaration that they had to declare,  
22 they would have notified the Comptroller and the  
23 Law Department, they wouldn't have come to us. So  
24 I wouldn't know if there was an emergency  
25 procurement for some emergency situation that the

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2 Building department had had because the Mayor's  
3 Office of Contract Services does not get involved  
4 in emergency procurements per se, unless asked, as  
5 I said in my testimony, to help facilitate the  
6 process or--and an agency says, oh, I don't know  
7 how to write an emergency dec, can you help us,  
8 can you tell us what we do, or an agency that  
9 never did an emergency procurement who just  
10 doesn't remember says, oh, what do we do, we have,  
11 you know, a wall fell down or a building collapse,  
12 or whatever the situation, or we ran out of X kind  
13 of material, it's an emergency. So we would say  
14 you have to contact the Comptroller's office and  
15 the Law Department and tell them about your  
16 emergency situation and that you need to do an  
17 emergency procurement and how you plan on going  
18 about doing that and you have to tell them about  
19 how much money you think it's going to cost. And  
20 they will either--the preliminary way that they go  
21 about it is either they call them, which is always  
22 the best way, or they e-mail them, and then they  
23 get an e-mail back, yes, you have my permission to  
24 go ahead with this procurement. And then they  
25 follow up with the written declaration--

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[Crosstalk]

ANDREA GLICK: --of emergency to both the Comptroller and the Law Department, and then they get something in writing back.

CHAIRPERSON MEALY: Okay. So you're saying--

ANDREA GLICK: [Interposing] Does that answer that?

CHAIRPERSON MEALY: --you don't have no say-so in doing that. But where about the MOCS department do review the agencies afterwards, the emergency procurement?

ANDREA GLICK: No--

CHAIRPERSON MEALY: [Interposing] Not at all?

ANDREA GLICK: --that never comes to our office, no. We do not see the emergency contracts, it's not like another kind of procurement method where we have to review and approve. The Charter and the PPB rules and 3-06 do not require the City chief procurement officer or the Mayor's Office of Contract Services to approve it.

CHAIRPERSON MEALY: [Interposing]

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But you do a annual report.

ANDREA GLICK: In the annual report, we get that information from the FMS, the Financial Management System, and every year in that report, we report on how many bids were done and, you know, how many and RFPs were done, and how many emergency procurements were done, it's in that statistic.

CHAIRPERSON MEALY: Okay. With the--

ANDREA GLICK: [Interposing] Oh, so just to give you an example, this is from my Indicators Report, thank you. Last year, in fiscal year 2012, we did--there were 152 emergency procurements.

CHAIRPERSON MEALY: Yeah, we have it.

ANDREA GLICK: Oh, you have that. The reason why we have this information is because emergency procurement in FMS is an award method, there are different award methods in FMS, and emergency procurement is one of them, and that's how we can track it in that indicator report.

CHAIRPERSON MEALY: Okay. In your

1

2 testimony about the P-Card purchases, how many  
3 agencies use the 10,000, do you have Lisa estimate  
4 of how many she--

5 ANDREA GLICK: [Interposing] I  
6 don't have that right now because they're still  
7 waiting to, you know, compile it. I don't have  
8 that, we would have to get that information from  
9 DCAS. We do not oversee the P-Card, we just know  
10 about it. But we can get that, of how many  
11 agencies... All agencies right now, all 40  
12 agencies, everybody--all agencies use the P-Card.  
13 How many were done for this, I'm not sure.

14 CHAIRPERSON MEALY: As of yet, but  
15 you could--

16 ANDREA GLICK: No.

17 CHAIRPERSON MEALY: --tell--

18 ANDREA GLICK: We will probably--

19 CHAIRPERSON MEALY: --as of today,  
20 \$270 million of emergency procurement have already  
21 been registered though.

22 ANDREA GLICK: Right, but that's  
23 not the P-Card, that doesn't include the P-Card  
24 number, that's just--

25 CHAIRPERSON MEALY: [Interposing]

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So you don't have--

ANDREA GLICK: --emergency

procurements--

CHAIRPERSON MEALY: --a estimate,

you're not tracking it--

ANDREA GLICK: [Interposing] Of P-

Card, no, I don't have the P-Card information, no.

CHAIRPERSON MEALY: Okay. In the

Comptroller's report he submitted today in the

hearing, notes that Department of Homeless

Services submitted a request for declarations of

emergencies in order to provide beds for more than

6,000 homeless New Yorkers since 2010. As such

declarations of emergency consider emergency

procurements; if not, how are they different than

Hurricane Sandy? This been going on since 2010.

ANDREA GLICK: You'd have to ask

the Department of Homeless Services what their

emergent need was and why--

[Crosstalk]

ANDREA GLICK: --I don't know what

the--

CHAIRPERSON MEALY: --come to you?

ANDREA GLICK: --difference is



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because I don't know those specific emergency procurements. 'Cause, as I said, they wouldn't have come through us, so they--

CHAIRPERSON MEALY: [Interposing]

It's a city agency.

ANDREA GLICK: It is, but we don't oversee the emergency procurements.

CHAIRPERSON MEALY: So declaration is not really like emergents--it's supposed to be for emergencies, but homeless--we know we have more than 6,000 men and women homeless, so how can they get these City funds if it's not really emergency and we putting them all together with emergency contracts?

ANDREA GLICK: You'd have to ask the Department of Homeless Services--

CHAIRPERSON MEALY: [Interposing]

But you're MOCS.

ANDREA GLICK: --what that emergency dec said and why they felt in 2010 or 2011--

CHAIRPERSON MEALY: [Interposing]

Until today.

ANDREA GLICK: I'm not familiar

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with that declaration so I can't answer that question.

CHAIRPERSON MEALY: Thank you.

[Off mic]

CHAIRPERSON MEALY: Yes. I'm going to--Brad--

ANDREA GLICK: Go ahead.

CHAIRPERSON MEALY: --my colleague needs--

[Crosstalk]

LISETTE CAMILO: [Interposing] I'm sorry, can I just clarify really quickly? I'm sorry, Lisette Camilo, Deputy General Counsel.

[Off mic]

LISETTE CAMILO: Lisette Camilo--

[Crosstalk]

CHAIRPERSON MEALY: --please?

LISETTE CAMILO: --Lisette Camilo, Deputy General Counsel at MOCS. I just wanted to clarify, in fiscal year 2012, there were no emergency contracts awarded to DHS. In 2011, there were eight, valued approximately \$23 million. I think I believe this is a point of contention between the Department of Homeless

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2 Services, we can't offer any more insight into  
3 that. But the Comptroller's office plays a role  
4 in the approval of emergency procurements. He has  
5 registered his--

6 CHAIRPERSON MEALY: Bless you--

7 [Crosstalk]

8 LISETTE CAMILO: --his displeasure  
9 at the DHS using emergency procurements  
10 potentially as a method to address what they see  
11 as a need.

12 CHAIRPERSON MEALY: Right, and  
13 that's where this hearing is about making sure  
14 that we utilize City funds when only it's  
15 emergency and not just--

16 LISETTE CAMILO: [Interposing]

17 Right.

18 ANDREA GLICK: Right.

19 LISETTE CAMILO: And the  
20 Comptroller--

21 CHAIRPERSON MEALY: --for things  
22 that is going to be consistent every year.

23 LISETTE CAMILO: Correct.

24 [Crosstalk]

25 CHAIRPERSON MEALY: So this could

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be a misuse of procurement money that we have to address and that's why we really having this hearing.

LISETTE CAMILO: Right, but as Ms. Glick has said, we don't play a role--MOCS does not play a role in the approval process. If there is an issue--

CHAIRPERSON MEALY: [Interposing]  
But MOCS is in charge of looking over the City money, isn't it?

LISETTE CAMILO: No.

ANDREA GLICK: No.

LISETTE CAMILO: Not the City money, we track--

[Crosstalk]

LISETTE CAMILO: --the emergency procurements.

CHAIRPERSON MEALY: --City contracts.

LISETTE CAMILO: We track the City contracts. For the emergency procurements, we do not play a role in approval and in saying that whatever declaration that an agency believes--

CHAIRPERSON MEALY: [Interposing]

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Not an approval, just to make sure that we--

[Crosstalk]

LISETTE CAMILO: [Interposing] For emergency procurements, all we do is track emergency awards.

CHAIRPERSON MEALY: Okay. Well we got to look into that further. I'm going to let my colleague, Brad Lander, he have questions.

COUNCIL MEMBER LANDER: Thank you very much, Madam Chair; and thanks to you for being here. I'm going to follow up this line of questions a little, and I appreciate the role that MOCS plays and the job that you have in the Charter and the job that the Comptroller has in the Charter, but I do think it's important for us to really understand how emergency contracting takes place and what the standards and guidelines are, so let me start there.

You indicated that you provide assistance or guidance or advice to agencies if they choose to seek an emergency declaration, so are there standards that you used or guidance that you give as to what constitutes an unforeseen danger to life, safety, property, or a necessary

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2 service, which is the Charter language for what  
3 constitutes an emergency contract?

4 ANDREA GLICK: We don't give them  
5 guidance on that, we give them guidance on what  
6 the process is.

7 COUNCIL MEMBER LANDER: Are you  
8 aware of any guidance or standards that the  
9 administration attends to in deciding what is an  
10 unforeseen danger to life, safety, property, or a  
11 necessary service?

12 ANDREA GLICK: The agency provides  
13 information on the emergent situation to both the  
14 Law Department and the Comptroller, and both of  
15 those two bodies determine whether or not it meets  
16 the criteria for an unforeseen danger. It's--

17 COUNCIL MEMBER LANDER:  
18 [Interposing] Okay. And what are the criteria for  
19 an unforeseen danger?

20 ANDREA GLICK: I don't know, you'd  
21 have to ask them because they're the ones that  
22 make that determination.

23 COUNCIL MEMBER LANDER: Who?  
24 Sorry.

25 ANDREA GLICK: The Comptroller and

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the Law Department are the ones who make the decision whether or not the emergency dec is approved.

COUNCIL MEMBER LANDER: And do you know whether the Law Department has any criteria for whether it does or doesn't?

ANDREA GLICK: I don't know.

COUNCIL MEMBER LANDER: Okay. Can we--

ANDREA GLICK: [Interposing] Or the comptroller for that--

[Crosstalk]

COUNCIL MEMBER LANDER: --ask? I mean, I don't believe it does, I believe, in fact, there are no standards and that this administration has chosen, therefore, many times to play fast and loose with what constitutes an emergency. And you're right about the process, and you're right that it's not MOCS responsibility, but unless this administration can provide any criteria or guidelines or a guidance as to what it believes constitutes an unforeseen danger to life, safety, property, or a necessary service, I believe what we have is really entirely

1  
2 arbitrary and capricious judgments about what's an  
3 emergency. And this is--I'm going to use one  
4 building in my district as my example, so 165 West  
5 Ninth Street is a building in my district that was  
6 recently used, entirely appropriately, for one  
7 emergency declaration contract and is being  
8 proposed for an entirely appropriate other. So  
9 during Hurricane Sandy, that building was used in  
10 what's--or I think anyone, if you gave me some  
11 criteria, I'm pretty sure that we would say  
12 Hurricane Sandy constituted an emergency and that  
13 that emergency dec was well-constructed and met  
14 the criteria. And in this instance, the Borden  
15 Avenue Veterans Residence was knocked out by  
16 Hurricane Sandy and 120 veterans were put in with  
17 emergency contracting procedure with no notice to  
18 me or the community into that building, and I'm  
19 glad they were. I'm glad there was an emergency  
20 process in place that allowed it, it was a real  
21 emergency, they were there a week or two and now  
22 they're back home. But the same building is being  
23 proposed to be used as an--under the emergency  
24 declaration for the Department of Homeless  
25 Services and, in my opinion, it's a very different



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2 situation. There's no real unforeseen danger to  
3 life, safety, property, or a necessary service. As  
4 the Comptroller's testimony and letter outlines,  
5 there's a failure to plan honestly, transparently,  
6 and strategically on the--of the Department of  
7 Homeless Services using the emergency contracting  
8 provisions to avoid any public scrutiny or concern  
9 for whether there are conflicts of interest, where  
10 there's a dialogue with the neighborhood. So but  
11 there's no--one is an emergency and one is not an  
12 emergency, and yet, as far as I can tell, there is  
13 no guidance or standards the administration has.

14 So I guess just to--you're not  
15 aware of any criteria that the Law Department or  
16 the administration uses to tell an, you know, to  
17 tell what really is an unforeseen danger to life,  
18 safety, property, or a necessary service.

19 ANDREA GLICK: I don't have any  
20 criteria.

21 COUNCIL MEMBER LANDER: Thank you  
22 for that honest answer. I mean, I think it's a  
23 real problem, and I support the Intro being  
24 introduced today, but giving us notice in the  
25 absence of criteria is hardly meaningful.

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2                   So my second set of questions, and  
3 it really relates to this building, but to the  
4 broader issue is, how does MOCS or how do you  
5 think the Council should evaluate conflict of  
6 interest concerns in contracts being let under an  
7 emergency declaration?

8                   ANDREA GLICK: I wasn't aware of  
9 any conflicts that existed. I mean, the way that  
10 the agencies pursue the procurement is to, you  
11 know, find vendors as quickly as possible to  
12 mitigate the circumstances.

13                   COUNCIL MEMBER LANDER: But you--

14                   ANDREA GLICK: So I don't know.

15                   COUNCIL MEMBER LANDER: --  
16 acknowledge it's possible that those contracts  
17 could contain conflicts of interest, right?

18                   ANDREA GLICK: I don't know that,  
19 no.

20                   COUNCIL MEMBER LANDER: You must  
21 know that it's possible that a potential contract  
22 with a vendor could involve a conflict of  
23 interest, any potential contract could involve a  
24 conflict of interest.

25                   ANDREA GLICK: [Interposing] I

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can't acknowledge that 'cause I don't know that  
for a fact.

COUNCIL MEMBER LANDER: You don't  
acknowledge--

ANDREA GLICK: [Interposing] I  
don't know of any conflicts, I don't know what  
kind of conflicts you mean.

COUNCIL MEMBER LANDER: Well I am  
going to ask you about a specific one in a minute  
so--

ANDREA GLICK: [Interposing] Go  
ahead, maybe if you--

COUNCIL MEMBER LANDER: --if for  
currently, I'm just asking--

ANDREA GLICK: --give me an  
example, I'd understand.

COUNCIL MEMBER LANDER: --  
generically, do you think it's possible that there  
could be a conflict of interest in an emergency--  
in a contract pursuant to an emergency  
declaration?

ANDREA GLICK: I don't know.

COUNCIL MEMBER LANDER: Come on, be  
honest here, you know there could be.

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ANDREA GLICK: I don't know if there is any, I don't know.

COUNCIL MEMBER LANDER:  
[Interposing] I didn't say is there is, I said is it possible that there could be--

ANDREA GLICK: [Interposing] I suppose, but--

COUNCIL MEMBER LANDER: Okay.

ANDREA GLICK: --I don't know, I suppose, I don't know.

COUNCIL MEMBER LANDER:  
[Interposing] It is, thank you for agreeing, it is--

ANDREA GLICK: [Interposing] I didn't agree--

COUNCIL MEMBER LANDER: --clear that there could be--

ANDREA GLICK: --I said maybe.

COUNCIL MEMBER LANDER: --well everyone knows that there could be a--if there couldn't be, then we should not bother with conflicts of interest laws or rules anyway. Isn't it true that MOCS spends a lot of time in your normal process attending to making sure that the

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City avoids conflicts of interest in its contracting procedures?

ANDREA GLICK: Yes, we do.

COUNCIL MEMBER LANDER: I think you actually do a great job--

ANDREA GLICK: Thank you.

COUNCIL MEMBER LANDER: --you want to--can you actually explain, give me a short summary of what--

[Crosstalk]

COUNCIL MEMBER LANDER: --MOCS normally does to address concerns about conflicts of interest in City contracting?

ANDREA GLICK: We spend a lot of time on that. We have our VENDEX review process, we have our doing business review process, we do spend a lot of time. What?

[Off mic]

ANDREA GLICK: Oh, I'm sorry, I said we do.

COUNCIL MEMBER LANDER: And why do we?

ANDREA GLICK: Pardon?

CHAIRPERSON MEALY: Explain-

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[Crosstalk]

COUNCIL MEMBER LANDER: Why do we--  
I'm sorry, so, yeah, I'm sorry I couldn't hear  
because of the microphone.

ANDREA GLICK: [Interposing] Yeah,  
I explained what we do.

COUNCIL MEMBER LANDER: What are  
the things that we do?

ANDREA GLICK: We do, we have our  
doing business area and we have our VENDEX review.

COUNCIL MEMBER LANDER: Those are  
extensive conflicts--

ANDREA GLICK: Yes, they are.

COUNCIL MEMBER LANDER: --reviews  
used, and just we use them--what's the point of  
those reviews?

ANDREA GLICK: To make sure that  
there is no malfeasance or any other issues with  
our vendors.

COUNCIL MEMBER LANDER: Because we  
are--and do you sometimes catch potential  
conflicts and prevent the City, very helpfully--

ANDREA GLICK: [Interposing] We  
found--

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COUNCIL MEMBER LANDER: --from

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contracting--

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ANDREA GLICK: --integrity issues,

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that is correct.

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COUNCIL MEMBER LANDER: Which is

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great, I'm--

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ANDREA GLICK: Well hopefully we

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don't, that's--

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COUNCIL MEMBER LANDER: --I'm all

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for it, and no one wants it, but we all know we

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need to protect--uh-oh.

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ANDREA GLICK: What did I say?

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COUNCIL MEMBER LANDER: Evidently.

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ANDREA GLICK: What is that?

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FEMALE VOICE: That's a test.

17

COUNCIL MEMBER LANDER: I wasn't

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saying that the fire department had any potential

19

conflicts, just to be clear.

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[Laughter]

21

ANDREA GLICK: Go ahead.

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COUNCIL MEMBER JAMES: That's how

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they determine--

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[Background noise]

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COUNCIL MEMBER LANDER: So--

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LIVETTE CAMILO: [Interposing] Can I just quickly jump in?

COUNCIL MEMBER LANDER: Yes.

LIVETTE CAMILO: There are a couple of things that are, I think, being conflated here. There is a conflict of interest, which I'm still not clear about how you define conflict of interest, but there's also responsibility checks, which is a determination that everyone--every agency, every contracting agency has to make before they award a vendor to make sure that they have the requisite business integrity to--and the capacity to justify the use of public dollars. And I think that's not what you're saying.

COUNCIL MEMBER LANDER: Well this is great, let me ask you my question this way and you can enlighten me and the Council. I would like to understand what MOCS does in the normal course of business in a non-emergency contract to ensure the integrity of that conflict--that contract and avoid malfeasance, potential conflicts of interest, or other of the kinds of violations that you exist to watch out for, and then understand which of those things do and don't



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2 take place with a contract under an emergency  
3 declaration. So that would be very helpful if you  
4 would help us understand that.

5           LISETTE CAMILO: So the  
6 responsibility determination is the same whether  
7 you're doing an RFP in terms of the process to  
8 look at and do it--the agency has to do due  
9 diligence and, essentially, research the potential  
10 contractor to ensure that they are doing business  
11 with someone with the requisite business integrity  
12 to justify the use of public dollars. So that  
13 means that they have to look through databases,  
14 get a DOI name check, et cetera.

15           For an emergency procurement,  
16 though, that might happen not previous to contract  
17 award or during parallel tracks.

18           COUNCIL MEMBER LANDER: Not  
19 parallel, we'll come back to that, maybe months  
20 and months after the contract is awarded and  
21 already in operation, but--

22           LISETTE CAMILO: [Interposing] But  
23 before they can go ahead and award, the agencies  
24 are required to do due diligence on an emergency  
25 contract--for an emergency contract.

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COUNCIL MEMBER LANDER: But on a standard contract, would you see some evidence of that due diligence?

LISETTE CAMILO: There is a responsibility determination that for many contracts MOC oversees.

CHAIRPERSON MEALY: Hold, please.

COUNCIL MEMBER LANDER: So with a normal contract, you sign off on the responsibility.

[Pause]

LISETTE CAMILO: We don't sign off on RDs.

ANDREA GLICK: We review the-

[Crosstalk]

ANDREA GLICK: --responsibility determinations, but not for an emergency.

LISETTE CAMILO: But not for an--

[Crosstalk]

COUNCIL MEMBER LANDER:

[Interposing] But not for an emergency. So in a normal contract, there is a responsibility determination by the agency making sure the contractors have adequate business integrity; in

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an emergency contract, you do not review the responsibility determination.

LISETTE CAMILO: [Interposing] We do not, but that is all submitted to the Comptroller for registration.

ANDREA GLICK: Right.

COUNCIL MEMBER LANDER: The responsibility determination is submitted to the Comptroller for registration of the emergency contract.

LISETTE CAMILO: For emergency procurements--

ANDREA GLICK: Yes.

LISETTE CAMILO: --yes.

ANDREA GLICK: The emergency contracts get submitted to the Comptroller for registration, and part of that registration packet is the responsibility determination.

COUNCIL MEMBER LANDER: And would that be sufficient grounds for the Comptroller to reject an emergency contract if there was insufficient responsible--if the responsibility determination was inadequate for an emergency contract in which he or she--in this case, he, the

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Comptroller--had already signed off on the emergency dec?

ANDREA GLICK: If there were issues with the vendor's integrity, the Comptroller's office could reject that contract registration.

COUNCIL MEMBER LANDER: A specific emergency contractor. That's very helpful to know, and, actually, I'm going to need to adjust a letter my staff is writing. So even if they had already signed off on the emergency declaration, they could reject a contractor if they believe the responsibility determination was insufficient or identified issues of concern.

LISETTE CAMILO: And I just wanted to also--

ANDREA GLICK: Yes.

LISETTE CAMILO: --clarify, for any conflicts, which I assume you mean conflict of interest, which are over, really, overseen by the Conflict of Interest Board, our office does play a role in that it administers the doing business database, but that is to require vendors, where it's required--

COUNCIL MEMBER LANDER: Right.

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2                   LISETTE CAMILO:  --to submit these  
3 forms to disclose who they donate to politically,  
4 et cetera.

5                   COUNCIL MEMBER LANDER:  
6 [Interposing] So let's go to that, so like VENDEX  
7 forms--

8                   LISETTE CAMILO:  [Interposing]  
9 VENDEX is a tool for responsibility.  If a vendor  
10 is to get \$100,000 worth of City work cumulatively  
11 within 12 months, they're required to submit  
12 VENDEX forms, which is a disclosure of a number of  
13 things:  Address, shared space, names of  
14 principals, directors are supposed to submit  
15 principal questionnaires.  So it really has to do  
16 with the business entity, if there is--

17                   COUNCIL MEMBER LANDER:  Right.

18                   LISETTE CAMILO:  --if anyone has  
19 been arrested or investigated, all of that has to  
20 be disclosed.  We put that in the VENDEX database--  
21 -

22                   COUNCIL MEMBER LANDER:  Right.

23                   LISETTE CAMILO:  --and agencies  
24 have access to all of that information as a tool  
25 to help them produce their responsibility

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determination.

COUNCIL MEMBER LANDER: And as part of the normal course of business on a non-emergency contract, would you attend to the VENDEX applications and certifications of a contractor whose contract was coming through MOCS?

LISETTE CAMILO: If they were going to be over a trigger, past the \$100,000 limit--

COUNCIL MEMBER LANDER: Right.

LISETTE CAMILO: --they would be required to submit the forms, we make sure that they're inputted--that they fill it out correctly, and that information is then used by the agencies to make their determination.

COUNCIL MEMBER LANDER: But in an emergency contracting situation, would that still exist?

LISETTE CAMILO: They're required to--

ANDREA GLICK: Yes.

LISETTE CAMILO: --submit it within 30 days.

ANDREA GLICK: Yes, they're required to submit it.

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COUNCIL MEMBER LANDER: They're required to submit the--

ANDREA GLICK: [Interposing] The vendor will have to submit the VENDEX forms, yes, and submit those VENDEX forms come to our office because we're the keeper of the database, and we have to process those forms.

COUNCIL MEMBER LANDER: Okay. And what--

LISETTE CAMILO: But I just wanted to jump in--I'm sorry--to clarify--

COUNCIL MEMBER LANDER: Yeah, no--  
[Crosstalk]

LISETTE CAMILO: --for the doing business database, we don't make any determinations of whether or not something is a conflict. We administer the database and the process for vendors to submit the required forms, but we do not make approvals of conflicts or otherwise.

COUNCIL MEMBER LANDER: That's all within--so the agency is responsible as part of its responsibility determination for checking that data and, you know, developing the responsibility

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determination and sending it to the Comptroller?

LISETTE CAMILO: The agencies are required to look through VENDEX, to look through a number of public databases, Google searches, Lexis, business searches, et cetera, to put--

COUNCIL MEMBER LANDER: Okay. So--

LISETTE CAMILO: --together and the Department of Investigation vendor name check as well.

COUNCIL MEMBER LANDER: All right, so there is one significant thing which is missing which is in a non-emergency contract, you do see and advise on the responsibility determination and in an emergency contract, you don't see and advise on the responsibility determination, but the Comptroller still does.

ANDREA GLICK: We don't see the responsibility determination--

COUNCIL MEMBER LANDER: Okay.

ANDREA GLICK: --for that--

COUNCIL MEMBER LANDER: All right.

ANDREA GLICK: --for an emergency contract.

COUNCIL MEMBER LANDER: Are you



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aware of any situations where emergency contracts have been subsequently pulled for integrity concerns?

ANDREA GLICK: No.

COUNCIL MEMBER LANDER: Okay. Are you familiar with the contract for 359 Wales Avenue of--

ANDREA GLICK: [Interposing] I'm sorry, what?

COUNCIL MEMBER LANDER: --359 Wales Avenue, Aguila, it's a South Bronx shelter that was contracted for in a partnership between VIP Community Services and the Aguila Foundation.

ANDREA GLICK: As an emergency?

COUNCIL MEMBER LANDER: In 2005, yes.

ANDREA GLICK: No.

COUNCIL MEMBER LANDER: Okay. Would it be possible for you to take a look at that in some way and help us understand what happened there? Because--

ANDREA GLICK: [Interposing] It was in 2005?

COUNCIL MEMBER LANDER: --it was an

1  
2 emergency contract that was--in 2005 that was  
3 originally motion forward and the contract was  
4 subsequently pulled. It so happens that Aguila is  
5 also a party to the proposed emergency contract  
6 for 159 West Ninth Street in Brooklyn, and, yes,  
7 they were slated to be awarded an emergency  
8 contract, the process began, and that contract was  
9 subsequently pulled, and I have not been able to  
10 get good information as to why. And there were  
11 allegations at the time that it was related to  
12 integrity issues. And now the same vendor is  
13 coming back in my community with a proposal which  
14 I also haven't seen any responsibility  
15 determination, gotten any information on a whole  
16 new realm of concern about integrity issues in  
17 terms of the relationship between the landlord and  
18 the nonprofit organization, the relationship  
19 between landlord and how they're getting the  
20 Buildings department--a whole set of issues have  
21 been raised that I don't want to go into here.  
22 And I believe that the same partner was in an  
23 emergency contract situation that was pulled,  
24 allegations of integrity issues were raised and  
25 the contract was not awarded and I have not been

1  
2 able to get any further information on this  
3 matter. And if it's possible for the  
4 administration to provide it, either to allay my  
5 concerns that there's no integrity issues to worry  
6 my pretty little head about, or identify that  
7 there were and that we need to do something about  
8 it, that would be very helpful.

9           Madam Chair, I'm sorry, can I have  
10 a little more leeway to ask a couple more  
11 questions?

12           ANDREA GLICK: [Interposing] Excuse  
13 me, just so I can clarify, so there is a pending  
14 new dec for this building that you know of?

15           COUNCIL MEMBER LANDER: The dec is  
16 the existing Department of Homeless Services  
17 emergency declaration. The--

18           ANDREA GLICK: [Interposing] They'd  
19 have to do a new dec for each emergency, so you're  
20 saying that there is currently an emergency  
21 declaration?

22           COUNCIL MEMBER LANDER:  
23 [Interposing] Well it's up for renewal before the  
24 Comptroller, but, yes, they are operating under--  
25 in a current emergency, it's about to expire and

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they're going to need to renew it, but there is an existing emergency dec for homeless shelter sitings.

ANDREA GLICK: I guess I'm confused 'cause in each emergent situation, there would be a new declaration, so I'm just trying to clarify what--

[Crosstalk]

COUNCIL MEMBER LANDER:

[Interposing] As I understand it--

ANDREA GLICK: --looking for.

COUNCIL MEMBER LANDER: --and maybe you can--as I understand that the Department of Homeless Services is operating under a current emergency declaration from 2010, I believe--

CHAIRPERSON MEALY: I just said [off mic].

COUNCIL MEMBER LANDER: --that is up to--due to be renewed soon--

CHAIRPERSON MEALY: [Interposing] But it hasn't.

COUNCIL MEMBER LANDER: --and, again, that isn't really about a unforeseen danger to life, safety, property, or a necessary

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2 services, but Department of Homeless Services not  
3 liking to go through the normal contracting  
4 process--

5 CHAIRPERSON MEALY: And why they  
6 are exempt.

7 ANDREA GLICK: So I'm trying to  
8 understand. So the contract originally was let  
9 through an emergency?

10 COUNCIL MEMBER LANDER: No--

11 ANDREA GLICK: No.

12 COUNCIL MEMBER LANDER: --so the  
13 2005 contract is under an old dec--

14 ANDREA GLICK: [Interposing] It's a  
15 different building, I know--

16 COUNCIL MEMBER LANDER: --a  
17 different--

18 ANDREA GLICK: --different place.

19 COUNCIL MEMBER LANDER: --building  
20 in the Bronx, a different time--

21 ANDREA GLICK: Right.

22 COUNCIL MEMBER LANDER: --but, yes,  
23 now at 165 West Ninth Street--I may have given the  
24 address wrong a minute ago--165--

25 ANDREA GLICK: [Interposing] You

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said 159--

COUNCIL MEMBER LANDER: --I

apologize--

ANDREA GLICK: --but that's okay.

COUNCIL MEMBER LANDER: --165 West  
Ninth Street--

ANDREA GLICK: Got it.

COUNCIL MEMBER LANDER: --is a  
proposed 170-bed homeless shelter in a 10-unit  
condo building, as far as the today's CFO says, to  
Housing Solutions USA doing business and in  
partnership with Aguila, the same entity but  
otherwise new management--

ANDREA GLICK: Right.

COUNCIL MEMBER LANDER: --and that  
the 165 West Ninth Street proposed contract, I am  
almost certain, is proposed under the existing  
Department of Homeless Services emergency  
declaration for the provision of homeless shelter  
facilities under which DHS has sited several  
shelters already and is proposing to site several  
more, though, as I understand it, that authority  
is about to expire and the Comptroller will have  
to sign off on an extension or not sign off on

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2 extension. So I am concerned more broadly that  
3 Department of Homeless Services is abusing--

4 CHAIRPERSON MEALY: Yes.

5 COUNCIL MEMBER LANDER: --the  
6 emergency contracting provisions of the Charter  
7 because I don't believe there's an unforeseen  
8 danger to life, safety, property, or a necessary  
9 service, I believe they choose not to plan in a  
10 way that would enable us to have our normal  
11 contracting process. And I'm separately concerned  
12 with this specific building because a whole series  
13 of integrity issues have been raised and no one  
14 will give us answers on them. And then, thirdly,  
15 concerned that the same vendor went through the  
16 process and then that contract was pulled, which  
17 raises the integrity concerns I had to an even  
18 higher level.

19 So that's why I came to the hearing  
20 today and that's--

21 CHAIRPERSON MEALY: [Interposing]

22 And you can have your second questions, we have  
23 two other Council Members--

24 [Crosstalk]

25 COUNCIL MEMBER LANDER:

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2 [Interposing] So let me just say, I'll just say my  
3 other issues and then not ask them this questions.

4 CHAIRPERSON MEALY: [Interposing]

5 No, not now, let--

6 [Crosstalk]

7 COUNCIL MEMBER LANDER: Oh, I'm

8 sorry, I--

9 CHAIRPERSON MEALY: Okay. Jackson,  
10 and right after James, you could go again.

11 COUNCIL MEMBER LANDER: Thank you  
12 very much.

13 CHAIRPERSON MEALY: Thank you.

14 Robert Jackson?

15 COUNCIL MEMBER JACKSON: Let Tish  
16 go first.

17 CHAIRPERSON MEALY: Okay. Tish  
18 James.

19 COUNCIL MEMBER JAMES: Sure, thank  
20 you. So let me following up on my colleague's  
21 questions. As far as you know, has any contracts  
22 been rejected by the Comptroller based on conflict  
23 of interest and/or integrity issues?

24 ANDREA GLICK: I don't know of any,  
25 no.



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COUNCIL MEMBER JAMES: You don't

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know of any?

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ANDREA GLICK: No.

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COUNCIL MEMBER JAMES: Ms. Lisette,

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do you know of any?

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[Off mic]

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COUNCIL MEMBER JAMES: So the

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office of--

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CHAIRPERSON MEALY: [Interposing]

11

Can't hear you.

12

LISETTE CAMILO: No.

13

[Crosstalk]

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ANDREA GLICK: We said no.

15

CHAIRPERSON MEALY: Okay.

16

COUNCIL MEMBER JAMES: So the

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Office of Contracts and the mayor of the City of

18

New York has no jurisdiction over contracts,

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emergency contracts.

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ANDREA GLICK: In terms of

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approvals, no, we don't. We don't approve them,

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no.

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COUNCIL MEMBER JAMES: So your--

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ANDREA GLICK: [Interposing] I

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mean, you're correct.

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COUNCIL MEMBER JAMES: --your role is limited to primarily issuing a annual report?

ANDREA GLICK: We issue the indicator report and one of--in that report, it lists all the different procurement types or award methods.

COUNCIL MEMBER JAMES: So it's just--

ANDREA GLICK: [Interposing] It's just a number in a book.

COUNCIL MEMBER JAMES: It's just a number in a book.

ANDREA GLICK: That's correct.

COUNCIL MEMBER JAMES: Names and numbers, primarily.

ANDREA GLICK: Just totals, actually.

COUNCIL MEMBER JAMES: Just totals.

ANDREA GLICK: Yes.

LISETTE CAMILO: And just to be clear, that--

COUNCIL MEMBER JAMES: Yes.

LISETTE CAMILO: --system was specified by the Charter and then codified by the

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PPB rules, so--

[Crosstalk]

COUNCIL MEMBER JAMES:

[Interposing] No, I understand.

LISETTE CAMILO: Yeah.

COUNCIL MEMBER JAMES: Obviously, I am--and I'm sure others on this panel see a greater role for MOCS in the issuance of emergency procurements. I apologize, I have a really bad cold.

ANDREA GLICK: I hear it.

COUNCIL MEMBER JAMES: So I'm not going to be long 'cause I'm already struggling. But I do know with regards to this Department of Homeless Services designating a--or being under an emergency determination, the fact is is that they can engage in these emergency procurements at any point in time. Who makes a determination that that emergency designation or declaration should end?

ANDREA GLICK: I don't understand the situation that was just described so I need to understand more, but in--

COUNCIL MEMBER JAMES: Sure.

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ANDREA GLICK: --the normal process  
you'd have an emergency dec that--

COUNCIL MEMBER JAMES: Right.

ANDREA GLICK: --right? The  
Comptroller and the Law Department would approve  
that emergency declaration--

COUNCIL MEMBER JAMES: Right,  
right.

ANDREA GLICK: --the agency would  
do the procurement--

COUNCIL MEMBER JAMES: Right.

ANDREA GLICK: --that they were  
supposed to do in accordance with that dec--

COUNCIL MEMBER JAMES: Right.

ANDREA GLICK: --okay?

COUNCIL MEMBER JAMES: Let me see  
if I can explain it--

ANDREA GLICK: Can I just finish  
one second--

COUNCIL MEMBER JAMES: --because,  
just one--

[Crosstalk]

ANDREA GLICK: Okay.

COUNCIL MEMBER JAMES: --we have a,

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unfortunately, we have a homeless crisis in the city of New York--

ANDREA GLICK: Right.

COUNCIL MEMBER JAMES: --50,000 individuals are sleeping in our homeless shelter, 20,000 of them are children. Department of Homeless Services, for the last three or four years, has determined that we are in the midst of an emergency and so they're operating under this emergency decree and, therefore, they are exempt from all reporting and exempt from all laws that would normally regulate--that would normally apply to contracts in the City of New York. And so how long can that continue, as long as we have a crisis in homelessness? And if that is, what's the magical number?

ANDREA GLICK: Okay. So what I was going to finish saying was that so there is an--

COUNCIL MEMBER JAMES: I apologize.

ANDREA GLICK: It's all right. Do you want some water?

[Off mic]

ANDREA GLICK: Oh. So there would be an emergency dec and in order to continue to

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use that--

CHAIRPERSON MEALY: [Interposing]

Could you put the mic closer--

ANDREA GLICK: Oh, I'm sorry.

CHAIRPERSON MEALY: --to you,  
please?

ANDREA GLICK: So if there was an  
emergency dec for X, right? And then the agency  
saw that this need continued--

COUNCIL MEMBER JAMES: Yes.

ANDREA GLICK: --the agency could  
extend the need for that emergency dec. And the  
only way that they could do that would be an  
amendment to the emergency declaration, and once  
again, they would have to get approval from those  
two bodies--

COUNCIL MEMBER JAMES: Sure.

ANDREA GLICK: --who would say, oh,  
yes, the emergency still exists and you may extend  
your emergency declaration for whatever the  
service or good is that you need to buy.

COUNCIL MEMBER JAMES: But there's  
no checks and balances in that.

ANDREA GLICK: But isn't there if

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you have that the Law Department and the Comptroller both have to approve it? I'm just asking.

COUNCIL MEMBER JAMES: I don't know--

ANDREA GLICK: Okay.

COUNCIL MEMBER JAMES: --to that, but I would think that MOCS, the Mayor's Office of Contracts, would also be involved in that determination.

ANDREA GLICK: We are not involved in the emergency declaration process.

COUNCIL MEMBER JAMES: Okay.

ANDREA GLICK: Okay.

COUNCIL MEMBER JAMES: Okay. And do you believe that there should be some sort of centralizing of these emergency contracts, that as opposed to each agency making a determination on an arbitrary and capricious manner that some other entity have some sort of jurisdiction or control or some centralized entity over each and every agency? It's more in as I hear more and more about how we engage in procurements in the City of New York, I can certainly understand how each

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2 agency fails to meet certain guidelines which are  
3 established under law because they're each  
4 arbitrary, each decision is differently, there's  
5 no consistency across the board. And so, with  
6 respect to the number of small businesses, the  
7 number of businesses in New York City, the number  
8 of minority businesses, women-owned business, it's  
9 all arbitrary individual agency as opposed to a  
10 centralized bureau having oversight over each  
11 agency, and I just don't seem to see that, and  
12 including, but not limited to, emergency  
13 procurement contracts. Any thought on that?

14           ANDREA GLICK: Well if you're  
15 talking about overseeing the emergency procurement  
16 process and that there should be more oversight  
17 intervention, I think that it would slow the  
18 process down and I would be worried that whatever  
19 emergent situation was in existence, that we  
20 wouldn't be able to react to it fast enough as a  
21 city. So I don't think so.

22           COUNCIL MEMBER JAMES:  
23 [Interposing] No, that's a valid concern and--

24           ANDREA GLICK: Okay.

25           COUNCIL MEMBER JAMES: --a valid



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2 criticism.

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ANDREA GLICK: That's what I'm  
afraid of.

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COUNCIL MEMBER JAMES: I had a  
building that collapsed in my district on Myrtle  
Avenue last summer, I believe, or maybe two  
summers ago, and I recall being out there when the  
building--after the building had collapsed and I  
can recall the emergency declaration and how  
contractors were called immediately. But my  
concern is is that a lot of these contracts are  
based on relationships and based on who you know  
in the business, and as opposed to making sure  
that it's a New York City-based business, that's  
it a maybe a--it could have been a business from  
the community. And there just doesn't seem to be  
any sort of standards with respect to when one can  
determine an emergency and, two, there's no  
oversight, no one's really watching the store at  
all.

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ANDREA GLICK: Well what I have  
seen is that the agencies, in terms of vendor  
selection, they, you know, use the most  
competitive means possible to find that vendor.

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2 You know, they're working under a very, very, very  
3 tight deadline. In terms of a building collapse,  
4 I mean, that's, you know, horrifying, right?

5 They--

6 COUNCIL MEMBER JAMES: Right.

7 ANDREA GLICK: --they have to find,  
8 you know, the first person that they can either  
9 think of or that they know of that can actually  
10 come and deliver and make that place secure.

11 COUNCIL MEMBER JAMES: And, again,  
12 the ongoing issues related to the Department of  
13 Homeless Services, which should be a committee  
14 meeting onto itself with respect to how they  
15 engage in emergency declarations and all their  
16 emergency contracts. Are you doing an audit with  
17 respect just to the Department of Homeless  
18 Services--

19 ANDREA GLICK: No.

20 COUNCIL MEMBER JAMES: --which has  
21 existed for over four to five years? There's no  
22 report, audit, or anything?

23 ANDREA GLICK: No.

24 COUNCIL MEMBER JAMES: No.

25 ANDREA GLICK: I don't know of one.

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COUNCIL MEMBER JAMES: You don't know of any.

ANDREA GLICK: No. And--

COUNCIL MEMBER JAMES: None.

ANDREA GLICK: --I don't, no.

COUNCIL MEMBER JAMES: So, Madam Chair, as I end, 'cause my voice is leaving me, I would hope that the powers that be that are here in this room would take back to the administration we really need to do a top-down review of Department of Homeless Services to examine the use of emergency procurement contracts during this crisis in the city of New York. We need to look at the relationships, we need to look at conflicts of interest, and procurement process, and procurement issues overall, and whether or not there has been any abuse or fraud, and whether or not New Yorkers are actually getting the best for their money. I would hope--

CHAIRPERSON MEALY: [Interposing]

Thank you, we--

[Crosstalk]

COUNCIL MEMBER JAMES: --that we could do that--

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CHAIRPERSON MEALY: --on it.

COUNCIL MEMBER JAMES: --and I hope  
that we as a committee we would have a hearing  
solely for--

CHAIRPERSON MEALY: [Interposing]  
Just on it.

COUNCIL MEMBER JAMES: --on  
Department of Homeless Services. Thank you.

CHAIRPERSON MEALY: Thank you,  
we're working on it already as we speak.

[Off mic]

CHAIRPERSON MEALY: Thank you for  
that. Robert Jackson, then Brad.

FEMALE VOICE: I need spray over  
here.

[background noise]

FEMALE VOICE: Sorry.

COUNCIL MEMBER JACKSON: Can I have  
an emergency procurement--

[background noise]

COUNCIL MEMBER JACKSON: --in order  
to buy some spray immediately? I need it within  
one minute.

So good afternoon. Thank you,

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2 Madam Chair, and good afternoon to you, the  
3 director and your counsel. Just have a couple  
4 questions. I notice that your position on Intro  
5 193, and I read it, and it basically says we would  
6 not be able to support a bill that would require  
7 any additional steps before receiving such  
8 approval. However, we will be happy to work with  
9 the Council on language to ensure that it receives  
10 notification of emergency procurement without  
11 affecting the ability for a agency to obtain the  
12 necessary approval as quickly as possible. And I  
13 looked at the wording of our bill, it says that  
14 the City would be required to notify the Council  
15 when it intends to make an emergency procurement  
16 and provide the Council with a written  
17 determination of the basis for the emergency and  
18 the selected vendor. It continues on to say that  
19 the bill includes no provision--no provisions,  
20 plural, for the Council to delay or obstruct the  
21 procurement, rather, with the detailed information  
22 concerning the basics for the procurement and the  
23 vendor selection, the bill would serve to improve  
24 the Council's ability to exercise its oversight  
25 functions with respects to the use of this

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procurement method.

Now if, in fact, this bill is not going to delay the process, and if, in fact, based on the bill, the same type of information that must be given to the City Comptroller and, I believe, to--there's two reportings, right? City Comptroller and what else?

FEMALE VOICE: The Law Department.

ANDREA GLICK: The Law--

COUNCIL MEMBER JACKSON: The Law Department, the same information can be given to the Council, you would agree with that, right?

ANDREA GLICK: Yes.

COUNCIL MEMBER JACKSON: Okay.

Thank you, I appreciate your yes response because then I don't understand why would you, as the director of the Mayor's Office of Contracts, oppose the bill? Because basically my reading of it is you oppose the bill. Am I right or am I wrong?

ANDREA GLICK: Not really right.

COUNCIL MEMBER JACKSON: Okay. Can explain it then so I can maybe understand your position.

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ANDREA GLICK: Sure, it's the timing of the notification that I'm concerned about.

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COUNCIL MEMBER JACKSON: Okay.

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ANDREA GLICK: Okay? That's it.

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COUNCIL MEMBER JACKSON: Any timing that would slow up the process for--

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ANDREA GLICK: Yes.

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COUNCIL MEMBER JACKSON: Yeah.

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ANDREA GLICK: That's it, that's what I'm--

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COUNCIL MEMBER JACKSON: Yeah.

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ANDREA GLICK: --afraid of.

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COUNCIL MEMBER JACKSON: Okay.

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ANDREA GLICK: Because for, hypothetically, right? Let's say we had to notify--the lead agency had to notify the Comptroller, wait for them to say yes, and they have to do that, and they have to wait for the Law Department to say yes, they have to do that, that's by law.

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COUNCIL MEMBER JACKSON: Okay.

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ANDREA GLICK: If we--

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CHAIRPERSON MEALY: [Interposing]

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Can you talk into the mic--

[Crosstalk]

ANDREA GLICK: [Interposing] Oh,  
I'm sorry, I'm so sorry. Okay. So--

COUNCIL MEMBER JACKSON: Continue,  
I'm sorry.

ANDREA GLICK: --if we had to also  
then stop--if the agency had to stop and wait for  
the Council to say yes, that would slow up the  
process. But notifying the Council, that was not  
the issue, it's the timing of the notification.

COUNCIL MEMBER JACKSON: Okay.  
Well in today's technology, with everything being  
computerized and as far as I'm sure they're not  
writing out a 10-page document--

ANDREA GLICK: No.

COUNCIL MEMBER JACKSON: --you  
know, and even if they had to write it out to make  
another copy wouldn't be a problem, so everything  
is now by electronics, it's by putting, as far as  
the notification that you're seeking to procure,  
seeking to procure, not after the procurement has  
been approved by the Comptroller's office or by  
the Law Department. I don't see how that is a



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2 problem and I don't see why the Mayor's Office of  
3 Contracts would be opposed to that. And I say  
4 that because, based on everything that I've heard  
5 in your response to our colleagues, Brad Lander,  
6 my colleague, our colleague, Letitia James, it  
7 clearly appears to me, as a former chair of the  
8 Contracts Committee, prior to Letitia James, my  
9 colleague to my right, who is the Chair of the  
10 Contracts Committee, that the Mayor's Office of  
11 Contracts in respects to the emergency procurement  
12 process, you basically receive notification from  
13 the agencies with statistics and numbers and then  
14 you compile that in a report and you really do not  
15 have any direct oversight as far as procurement of  
16 emergency contracts, is that correct?

17 ANDREA GLICK: That's correct.

18 COUNCIL MEMBER JACKSON: Okay.

19 Okay. So and in speaking and in listening to our  
20 colleague Brad Lander talked about the  
21 possibilities, not saying there is, the  
22 possibilities of a conflict of interest or some  
23 malfeasance, I would think that the Mayor's Office  
24 of Contracts would want to ensure totally that  
25 there is no conflict of interest or possibilities

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2 of malfeasance by anyone in this process in  
3 accordance with all of the rules and regulations  
4 and laws of the City of New York, am I right or  
5 wrong in that?

6 ANDREA GLICK: No, we don't want  
7 any malfeasance or integrity issues.

8 COUNCIL MEMBER JACKSON: Okay.

9 ANDREA GLICK: Obviously.

10 COUNCIL MEMBER JACKSON: I'm just  
11 seeing if we're on the same page, and, obviously,  
12 we are on the same page right now. So I'm just  
13 curious then, you know, are you aware that there  
14 were many complaints after 9/11 occurred that  
15 M/WBEs complained to myself, as the co-chair of  
16 the Black, Latino, and Asian Caucus, that minority  
17 and women-owned businesses were shut out basically  
18 of emergency contracts and the rebuilding of the  
19 World Trade Center down there, 9/11?

20 ANDREA GLICK: No, I wasn't.

21 COUNCIL MEMBER JACKSON: No. And  
22 do you know of how many M/WBE contracts have been  
23 given out, emergency or otherwise, with respects  
24 to Hurricane Superstorm Sandy?

25 ANDREA GLICK: We have a number for

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Rapid Repair, right? Just for the Rapid Repair--

COUNCIL MEMBER JACKSON: Okay.

ANDREA GLICK: --program.

COUNCIL MEMBER JACKSON: If you  
don't mind--

ANDREA GLICK: Yeah.

COUNCIL MEMBER JACKSON: --I would  
love to have your stats.

ANDREA GLICK: Just give us a  
second.

COUNCIL MEMBER JACKSON: Okay.  
Thank you.

LISETTE CAMILO: So our office, we  
look for all of the subcontractors that the prime  
contractors that are planning on using, our office  
takes a look and does the business integrity  
check. So out of 325 subcontractors that have  
been given the green light, meaning we didn't find  
any outstanding liens or anything like that, 60 of  
them were M/WBES.

ANDREA GLICK: That's just for that  
one--

LISETTE CAMILO: That's for Rapid--

COUNCIL MEMBER JACKSON:

1  
2 [Interposing] And what about primes? How many  
3 prime contractors are there and how many of the  
4 prime contractors are M/WBE?

5 LISETTE CAMILO: For prime  
6 contractors, none.

7 FEMALE VOICE: None.

8 ANDREA GLICK: None.

9 COUNCIL MEMBER JACKSON: I'm sorry,  
10 I'm sorry.

11 ANDREA GLICK: None.

12 LISETTE CAMILO: No M/WBE prime  
13 contractors.

14 COUNCIL MEMBER JACKSON: And how  
15 many--no, none, zero. How many prime contractors  
16 are there, as far as the emergency under the, what  
17 is it, the Rapid Repair?

18 LISETTE CAMILO: The Rapid Repair,  
19 I think it's nine.

20 ANDREA GLICK: Nine.

21 COUNCIL MEMBER JACKSON: Nine  
22 contractors for Rapid Repair. And I would assume  
23 that MOCS, MOCS, you have a list of the nine  
24 contractors, the list of 325 subcontractors, and,  
25 more specifically, since you've already factored

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out the 60 of M/WBEs, is that correct?

LISETTE CAMILO: Yes.

COUNCIL MEMBER JACKSON: Okay. Is that list available online? Or if not, can you please make that available to the chair, if you don't mind?

LISETTE CAMILO: Absolutely, it's not online though, but we'll be more than happy to--

COUNCIL MEMBER JACKSON:  
[Interposing] It's not, okay.

LISETTE CAMILO: --but we'll be more than happy to share that.

COUNCIL MEMBER JACKSON: Okay. And one of the things that I had questions about in the discussions by the chair and other of my colleagues as far as emergency, and is there anything in the law or the rules that indicate the emergency must be declared at the time that an agency puts in their request for a declaration? And if, in fact, that timeframe is specified, if it goes beyond that, do they must then, any agency or department, put in a new declaration indicating an extension and/or a revise of the declaration of

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emergency in order to continue?

ANDREA GLICK: There is nothing like that in the rules or the law.

COUNCIL MEMBER JACKSON: Okay. And as the director of the Mayor's Office of Contracts, do you believe that that would be appropriate?

ANDREA GLICK: Not necessarily, no.

COUNCIL MEMBER JACKSON: Not necessarily.

ANDREA GLICK: No.

COUNCIL MEMBER JACKSON: So how do you then control whether or not someone is using this process in order to continuously do business and not really being in emergency procurement then?

ANDREA GLICK: As I said, before the emergency can be declared, there are checks and balances, right? We have the Comptroller that has to agree that there is an emergency and the Law Department has to agree that there is an emergency, therefore, without those two pieces, the agency cannot move forward. If the agency determines that the emergency must be amended or

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extended, they, again, once again, have to get those two parties to agree.

COUNCIL MEMBER JACKSON: Okay.

Yeah, I forgot that you're not involved in emergency--

[Crosstalk]

ANDREA GLICK: [Interposing] We're not involved in the oversight.

COUNCIL MEMBER JACKSON: So it would have to be as far as to determine whether or not there is a real emergency and whether the emergency has extended beyond a period of time which they requested, that review and approval or denial would have to be done by the City Comptroller's office or the corporate counsel's office, is that correct?

ANDREA GLICK: Yes, that's--

COUNCIL MEMBER JACKSON: Okay.

ANDREA GLICK: --the check and balance.

COUNCIL MEMBER JACKSON: And so you would not be involved in that at all.

ANDREA GLICK: No.

COUNCIL MEMBER JACKSON: When I say

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you, your office.

ANDREA GLICK: That's correct.

COUNCIL MEMBER JACKSON: Okay. So I guess I just have one more question, Madam Chair. I was just reading the testimony that was submitted by our Comptroller, John C. Liu, and it refers to the use of emergency procurement process in order to acquire shelter services for the homeless population of New York City. And I've been reading in the papers that that's a major issue in our city, and plus, you know, I represent areas that are not wealthy and many people are also homeless. But if this letter is dated August 21st, 2012, from the, I guess, someone from the Comptroller's office to Seth Diamond, the commissioner, and they question--they encourage DHS to develop and implement a credible and tangible plan to improve its future capacity projections. In essence, hey, you know, you're the commissioner, this is your agency, you should be able to predict, based on all things considered, you know, how much shelter you're going to need for populations. And this was about--August, September, October, November,



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December, January--this was about five months ago.  
Do you know if, in fact, a credible and  
implementable plan, tangible plan has been  
submitted by DHS in order to deal with the  
increasing homeless population?

ANDREA GLICK: No, I do not.

COUNCIL MEMBER JACKSON: Okay. But  
you do have oversight over DHS with respects to  
overall contracts, is that correct?

ANDREA GLICK: When they submit  
their contracting packages, we look at them, but  
we don't help them plan and what their need is.

COUNCIL MEMBER JACKSON: You know,  
so, you know, and I--

ANDREA GLICK: We can--

COUNCIL MEMBER JACKSON: --I'm just  
going to express my opinion here, Madam Chair--

[Crosstalk]

COUNCIL MEMBER JACKSON: --and as a  
former chair of the Contracts Committee and it  
just seems as though the ability and authority and  
either and/or will of the Mayor's Office of  
Contracts is not where it should be. And I ask  
you a question, are you limited, in my opinion, by

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2 law, rule, or regulation? Because it appears as  
3 though you're just maybe just a statistical agency  
4 that's going to just crunch the numbers and not  
5 really have oversight of agencies and departments  
6 concerning normal contract processes and/or  
7 emergency contract procedures.

8           ANDREA GLICK: What we do is we  
9 help the agency with their contracting plan, not  
10 with what their needs are. So if their  
11 contracting plan, if they came to us and said we  
12 have to do, you know, five RFPs in the next six  
13 months or whatever, we would help them with that.

14           COUNCIL MEMBER JACKSON: Okay.

15           ANDREA GLICK: Did you want to  
16 answer?

17           LISETTE CAMILO: I just wanted to  
18 jump in real quick.

19           COUNCIL MEMBER JACKSON: Sure.

20           LISETTE CAMILO: Agencies have the  
21 expertise, every agency has its own programmatic  
22 area and they're the ones that can best determine  
23 their need. MOCS doesn't--

24           COUNCIL MEMBER JACKSON:

25 [Interposing] But what if they're not determine--

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I'm going to let you finish, I'm sorry.

LISETTE CAMILO: But MOCS is not the position to advise on the technical aspects of their programming. Our office makes sure that the procurement process with regards to solicitation, RFPs, that we review their responsibility determination, and that all of the procurement processes have been adhered to--

COUNCIL MEMBER JACKSON:

[Interposing] Are meeting the requirements.

LISETTE CAMILO: Right.

COUNCIL MEMBER JACKSON: Yeah.

LISETTE CAMILO: That's the primary focus of our office.

[Crosstalk]

LISETTE CAMILO: But in terms of advising programmatically, we just don't have that expertise in-house, and, frankly, that's not the purpose of the office.

COUNCIL MEMBER JACKSON: Well wouldn't it be within the purview of your office to say, hey, Department of Homeless Services, you know, a declaration of emergency to provide shelters for homeless individuals for a year or

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2 two years, you know, that's not appropriate, you  
3 need to plan more appropriate. And, you know, you  
4 have been criticized by the City Comptroller--and  
5 I'm not talking about politics, people can say  
6 this is all political, this is an election year--

7 CHAIRPERSON MEALY: No.

8 COUNCIL MEMBER JACKSON: --no,  
9 we're not talking about that, we're talking about  
10 that there are people that are homeless right now  
11 that need shelter and the Department of Homeless  
12 Services is not planning appropriately. Isn't it  
13 part of your job, duty, and responsibilities to  
14 say you have to get your act together or is that  
15 the mayor's director of Operations job, or whose  
16 job is it to tell them or advise them?

17 LISETTE CAMILO: In an emergency  
18 procurement, the two entities--

19 COUNCIL MEMBER JACKSON:  
20 [Interposing] I know, Comptroller's office--

21 LISETTE CAMILO: Exactly.

22 COUNCIL MEMBER JACKSON: --I'm not  
23 talking about emergency. They using this as an  
24 emergency on a continuous basis. I'm talking  
25 about isn't it your responsibility to say that

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you're not planning appropriate and that you should plan appropriate? This is six months ago.

CHAIRPERSON MEALY: That's why we going to have a hearing just specifically on--

COUNCIL MEMBER JACKSON:

[Interposing] No, I understand, but I'm asking them for their insight as to real common sense that the people of New York City expect agencies and departments to have. That's all I'm saying. I'm asking you about that so you can express yourself. And I'm glad, when I asked you earlier questions, that--when I--

[crosstalk]

COUNCIL MEMBER JACKSON: --opened up, you said yes, because if you'd said something different, I would say, what are you doing here. You know, you might as well just leave, but you were appropriately in your response and you said yes, and I was so happy that you did, let me just say that to you, Ms. Glick, I was very pleased because that's what the normal expectation of an individual in your capacity as the director I would expect, rather than, for example, that I've criticized other organizations or bodies as a

1  
2 rubber stamp of the mayor, so I appreciate that.  
3 And you can comment if you want; if not, Madam  
4 Chair, I am finished with my questions and inquiry  
5 and my frustration.

6 CHAIRPERSON MEALY: Thank you.

7 COUNCIL MEMBER JACKSON: Thank you,  
8 Ms. Glick.

9 CHAIRPERSON MEALY: I have one  
10 question. Ms. Glick, since the Comptroller and  
11 the Law Department, even if MOCS is not involved  
12 in approval process, can MOCS play a greater role  
13 in receiving emergency procurements, reviewing,  
14 just reviewing emergency procurements to ensure  
15 that the contracts are indeed due to emergency,  
16 that they are not just results of poor planning?  
17 Like my colleague just said, we have to do better  
18 with the City taxpayers' money. Is there any way  
19 Department of the Mayor's Contract Services can  
20 play some kind of part in reviewing these  
21 contracts or these emergency procurements?

22 ANDREA GLICK: If we were to  
23 interject ourselves in the middle of the emergency  
24 procurement process, we would slow it down, and I  
25 am afraid--

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CHAIRPERSON MEALY: [Interposing]

After, I'm talking about afterwards. Like now, Irene, someday or another your office could have looked through the process to make sure that no one was fraudulent or overbuilding the City, isn't MOCS department can do that? Just reviewing these to make sure that we plan better with our funds?

[Pause]

ANDREA GLICK: The City looks at different planning for different emergency situations, and my assumption is that the City as a whole will be looking on how to plan for this kind of emergency situation in the future.

CHAIRPERSON MEALY: Can you play a greater role, I'm asking.

ANDREA GLICK: I assume--

CHAIRPERSON MEALY: Your department.

ANDREA GLICK: --that we'll part of that group.

CHAIRPERSON MEALY: Going forward.

ANDREA GLICK: If there is such a group, which I'm sure there probably will be, we will be part of that group to plan for the future.

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2 CHAIRPERSON MEALY: After Irene, it  
3 was no planning whatsoever to see how we can do  
4 better with procurements. Then we got Sandy--no,  
5 first it was 9/11, it was nothing that MOCS  
6 department did nothing to make sure that all these  
7 contracts were done properly, or to plan better?

8 ANDREA GLICK: The office  
9 participated in certain working groups after those  
10 two emergencies.

11 CHAIRPERSON MEALY: Just working  
12 groups.

13 ANDREA GLICK: There were different  
14 working groups, you'd have to--and--

15 CHAIRPERSON MEALY: [Interposing]  
16 No one has statistics.

17 ANDREA GLICK: --we worked with--  
18 I'm sorry?

19 CHAIRPERSON MEALY: No one got  
20 concrete statistics on these working groups on how  
21 many contracts were emergency or non-emergency or  
22 if it was a duplication, did we do anything in  
23 those work groups?

24 ANDREA GLICK: In those working  
25 groups, they were planning to make sure that the



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2 appropriate contracts were in place to meet  
3 whatever emergency need would--

4 CHAIRPERSON MEALY: [Interposing]

5 That's what I'm saying--

6 ANDREA GLICK: --occur.

7 CHAIRPERSON MEALY: --can MOCS--

8 ANDREA GLICK: There were--

9 CHAIRPERSON MEALY: --now have a  
10 better--

11 ANDREA GLICK: [Interposing] We are  
12 part of these types of groups.

13 CHAIRPERSON MEALY: In doing what?  
14 Just sitting and having meetings? I'm talking  
15 about planning to make sure that these different  
16 agencies--make sure that we're not duplication on  
17 emergency procurement contracts or even with the  
18 homeless shelter. Someone should have caught that  
19 in 2010, that homeless beds and procurement  
20 contracts was going over and over. And you just  
21 said that every year, they supposed to apply for a  
22 contract, emergency procurement contracts, right?

23 ANDREA GLICK: I didn't say every  
24 year--

25 CHAIRPERSON MEALY: Every year.

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ANDREA GLICK: --every time that there's an emergency need, I don't know if that's every year--

CHAIRPERSON MEALY: [Interposing]  
Something is wrong--

ANDREA GLICK: --every six--

CHAIRPERSON MEALY: --if they're not, it's just automatically--

ANDREA GLICK: --you'd have to ask them--

CHAIRPERSON MEALY: --happening every year.

ANDREA GLICK: --what their service needs are.

CHAIRPERSON MEALY: But you're the department to at least to make sure that things are going right. The mayor put this department here for that, for special contracts, correct? Any kind of contract?

ANDREA GLICK: Right.

[Pause]

CHAIRPERSON MEALY: So you feel it's no need, you all just need to stay in the strategic groups and talk about--

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2                   ANDREA GLICK: [Interposing] We  
3 work with the agencies to make sure that they have  
4 the requisite contracts in place to meet the  
5 agency's needs, that's what we do.

6                   CHAIRPERSON MEALY: So we just  
7 going to keep going planning--not even planning on  
8 how to do better with another tragedy that could  
9 come. It's already stated that--I could just say,  
10 I guess, Al Gore was right with--sorry, sorry, I  
11 had dental work, oh, God, my mouth hurt. With  
12 natural tragedies, we're going to have them more  
13 often now, so we're putting nothing in place to  
14 make sure that these emergency procurement  
15 contracts are not abused or we have no planning in  
16 place to make sure that we know approximately how  
17 much a emergency contract will be? Nothing, we  
18 just keep meeting.

19                   LISETTE CAMILO: Well I think that  
20 the nature of an emergency is that it can't be  
21 predicted, right? So we're always going to have--

22                   [Crosstalk]

23                   CHAIRPERSON MEALY: [Interposing] -  
24 -we have to plan.

25                   LISETTE CAMILO: --we're always--

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2 but we can't plan for everything, so there's  
3 always going to be a need for an emergency  
4 procurement, that we just have to accept. I think  
5 your point going to is there better coordination,  
6 better planning to perhaps decrease the use of  
7 emergency procurements, and I think Ms. Glick has  
8 mentioned--

9 CHAIRPERSON MEALY: [Interposing] I  
10 just asked the question--

11 LISETTE CAMILO: Yeah.

12 CHAIRPERSON MEALY: --will MOC play  
13 a better role.

14 [Crosstalk]

15 LISETTE CAMILO: Well we are part  
16 of--

17 [Crosstalk]

18 LISETTE CAMILO: --we participate  
19 in any interagency work groups that come about  
20 after a citywide emergency, it happened with  
21 Irene, we were part of it--

22 CHAIRPERSON MEALY: [Interposing]  
23 But you made it sound like you all would do that  
24 and even if we do see that a agency is  
25 overstepping or overcharging contracts, there is

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2 nothing that would be done because you all just--  
3 you all do not approve or--

4 LISETTE CAMILO: [Interposing] I  
5 think that--

6 CHAIRPERSON MEALY: --have no real  
7 say in it.

8 LISETTE CAMILO: --saying that an  
9 agency overcharges the City in regard--

10 CHAIRPERSON MEALY: [Interposing] I  
11 know that's the Comptroller's and the Law  
12 Department.

13 LISETTE CAMILO: --that's not, I  
14 mean, we haven't seen any allegations specific to  
15 any particular contract or vendor. In terms of  
16 reviewing the substantive requirements of a  
17 procurement, the needs are determined by the  
18 agency and the controls are done by those two  
19 entities that actually oversee the determination,  
20 the request, and make a determination that  
21 whatever they're procuring will address the need  
22 that--the emergency need that they claim that  
23 occurs.

24 [Pause]

25 CHAIRPERSON MEALY: Was there any

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other requirement, contracts, or other plans put in place after Irene?

ANDREA GLICK: There were. Yes, there were other requirements contracts put in place after Irene, but--

CHAIRPERSON MEALY: [Interposing] Could you list one of the working group that was put in place?

ANDREA GLICK: A working group or a specific requirements contracts was--

CHAIRPERSON MEALY: [Interposing] As a result of your working group.

ANDREA GLICK: I'm not sure now I understand the question, you want a working group or a contract? I'm sorry.

CHAIRPERSON MEALY: You said that you all meet to make sure that after every procurement process or emergency procurement, you all work and have meetings, true or not?

ANDREA GLICK: There are interagency meetings to discuss the aftermath of an emergency, yes.

CHAIRPERSON MEALY: So could you tell me one thing that was put in place after

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Irene?

ANDREA GLICK: There were some requirements contracts put in place after Irene.

CHAIRPERSON MEALY: Could you explain just one?

ANDREA GLICK: There were requirements contracts for, as I said in my testimony, for tree pruning.

CHAIRPERSON MEALY: That's emergency contract no matter what.

ANDREA GLICK: [Interposing] It wasn't an emergency contract, it was the requirements contract, which is what I just said. And what I also said was that that was in the requirements contract that was put in place after Irene.

CHAIRPERSON MEALY: And you telling me this New York City, we didn't have that already in place 'cause--

[Crosstalk]

ANDREA GLICK: [Interposing] They put in additional ones.

CHAIRPERSON MEALY: --trees in our parks.

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ANDREA GLICK: Right, the trees,  
3 right. So we--

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CHAIRPERSON MEALY: [Interposing]  
5 And we didn't have that in place already.

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ANDREA GLICK: They did have it in  
7 place already, they put together requirements  
8 contracts with greater capacity in them to meet a  
9 future emergency need.

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CHAIRPERSON MEALY: Could you lease  
11 quickly, did they talk about any--who they would  
12 give the contracts to or--

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ANDREA GLICK: [Interposing] In the  
14 interagency groups, it's never vendor specific,  
15 no.

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CHAIRPERSON MEALY: [Interposing]  
17 My last question, Brad, you--

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ANDREA GLICK: Okay.

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CHAIRPERSON MEALY: --could--

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[Crosstalk]

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LISETTE CAMILO: [Interposing] I'm  
22 sorry, just to jump in, the requirements contract,  
23 those are all competitively bid.

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CHAIRPERSON MEALY: Excuse me?

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LISETTE CAMILO: All requirements



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contracts are competitively bid.

[Pause]

CHAIRPERSON MEALY: So where do we get this list from? If it's emergency contract, who create the list to make sure that we get emergency procurement? Or, like my colleague just said, that if the tree fall down, how do you know who's going to get that contract, who makes that list up?

ANDREA GLICK: The agency determines which vendors they're going to solicit for that contract.

CHAIRPERSON MEALY: It will kind of boil down to who you know or if you know the right people, your name would be the first one on that list, so it's no 2,000 people contracts on that list and they pick them, it's just whoever is available at that time?

LISETTE CAMILO: The Charter requires as competitively as practicable--I forget what the specific--

[Crosstalk]

ANDREA GLICK: [Interposing] The most competitive means practicable.

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2                   LISETTE CAMILO: Practicable,  
3 right. So they can't do an open bid as they  
4 normally would, it would take too long, but they  
5 do solicit from a number of vendors and they pick  
6 the most competitive price. Generally.

7                   CHAIRPERSON MEALY: I'm going to  
8 let it, I just wanted to know where--who decides  
9 that list.

10                  ANDREA GLICK: The agency.

11                  LISETTE CAMILO: Agency.

12                  ANDREA GLICK: I'm sorry.

13                  CHAIRPERSON MEALY: So does MOCS  
14 have no--

15                  LISETTE CAMILO: [Interposing] No.

16                  CHAIRPERSON MEALY: The Comptroller  
17 office, the--

18                  LISETTE CAMILO: [Interposing] No.

19                  CHAIRPERSON MEALY: --Law  
20 Department.

21                  ANDREA GLICK: No.

22                  CHAIRPERSON MEALY: So it's really  
23 up to that agency, if they are friends with  
24 someone--

25                  LISETTE CAMILO: [Interposing] Not

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friends.

CHAIRPERSON MEALY: --they can get  
that--

LISETTE CAMILO: It has to be--

CHAIRPERSON MEALY: We have to deal  
with reality.

LISETTE CAMILO: There are vendors  
known--

CHAIRPERSON MEALY: If they  
already--

LISETTE CAMILO: --it could be--

CHAIRPERSON MEALY: --on a list--

LISETTE CAMILO: --it could be  
vendors known by the agencies that have  
demonstrated the capacity to address the work  
that's needed, they solicit from those vendors.

CHAIRPERSON MEALY: Okay. I'm  
going to turn it over to Brad.

COUNCIL MEMBER LANDER: Thank you,  
Madam Chair. So I'm not going to go on and on,  
you guys have been in the hot seats a long time,  
and I think our broader frustrations with,  
particularly, Department of Homeless Services, but  
in general, with the Bloomberg Administration,

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2 what, in our opinion, is abuse of emergency  
3 procurement is clear. But I do want to make--  
4 there are a couple of other things that normally  
5 happen in the contracts process that don't happen  
6 in the emergency contracts process, aside from  
7 issues of integrity, and I just want to make sure  
8 they're on the record as well. So can you tell me  
9 how issues of fair share in sitings is ordinarily  
10 dealt with in contract procedure?

11                   LISETTE CAMILO: That is something  
12 that's very specific to DHS, we have no idea how  
13 that works.

14                   COUNCIL MEMBER LANDER: No, the  
15 City--well there's a fair share process--

16                   [Crosstalk]

17                   LISETTE CAMILO: [Interposing] But  
18 we don't--

19                   COUNCIL MEMBER LANDER: --pursuant  
20 to the City Charter for contracting, it--

21                   LISETTE CAMILO: But MOCS--

22                   COUNCIL MEMBER LANDER: --doesn't  
23 have anything to do with Department of Homeless  
24 Services.

25                   ANDREA GLICK: [Interposing] We

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don't get involved in the fair share process,  
we're not the--

[Crosstalk]

LISETTE CAMILO: [Interposing]

That's done by the agencies.

ANDREA GLICK: --people to ask.

LISETTE CAMILO: That's led by the  
agencies.

ANDREA GLICK: Right.

COUNCIL MEMBER LANDER: You have a  
contracts hearing, normally, in a normal contract  
if it's requested by a member of the public,  
that's right? So let's maybe start there. In a  
normal contracts hearing, if a member of the  
public requests, there's an opportunity for  
members of the public to come and testify on a  
contract, that doesn't exist in an emergency  
contract.

ANDREA GLICK: No.

COUNCIL MEMBER LANDER: Okay. At  
those contracts, people sometimes have access to  
the fair share statements, I mean, there's a whole  
broader issue that we'll be doing in my  
Subcommittee on Public Sitings about the abuse of

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the so-called fair share provisions because if no one can ever see the fair share statements, and they're sitting in an agency drawer, it's not clear to me what good they're doing us anyway. But so you don't ever see the fair share statements.

LISETTE CAMILO: No.

ANDREA GLICK: No.

COUNCIL MEMBER LANDER: Do you know whether MOCS ever used to see the fair share statements?

ANDREA GLICK: No.

COUNCIL MEMBER LANDER: Okay. They did, so we'll come back to that on another day, but it used to be that the fair share statements traveled with the contract to MOCS and people could see them prior to the contracts hearings. So all right, but I may not be showing that there's a problem with fair share in emergency contracting, maybe you're showing that there's a problem of opportunity to dialogue and see the fair share statements in all contracting. And maybe, Madam Chair, we can team up and look at fair share issues because I have real serious

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2 concerns about them in general. But ordinarily,  
3 at least there would be a contracts hearing or at  
4 least the opportunity for a contracts hearing, and  
5 under some circumstances, members of the public  
6 would have access to a fair share statement in the  
7 normal contracting procedure, and that does not  
8 exist in the emergency contracting procedure.

9           To be clear, 165 West Ninth Street,  
10 you might conclude actually it was an appropriate  
11 place to locate something if you did a fair share  
12 process, so--but you don't have that opportunity  
13 at all.

14           And then I guess my last question  
15 is about community notification. So what types of  
16 notification of both the Council and the Community  
17 Board or the community would take place in a  
18 normal contracting process?

19           ANDREA GLICK: In a normal  
20 contracting process like an RFP, take that for  
21 example, there's a notification that the RFP is  
22 available or the bid is available, the  
23 solicitation is available, it's posted in the City  
24 Record. Then for an RFP, there would be an award,  
25 there would be a public hearing, and there would

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2 be a notice of a public hearing put in the City  
3 Record. And then after the contract is  
4 registered, there's a notice in the City Record of  
5 the award with the information particular to the  
6 award, as is in the bid. There's just no hearing  
7 with the bid.

8 COUNCIL MEMBER LANDER: And in  
9 emergency contracting, none of that happens before  
10 the execution of a contract.

11 ANDREA GLICK: No.

12 COUNCIL MEMBER LANDER: So and I'd  
13 just--

14 [Crosstalk]

15 ANDREA GLICK: But at the end,  
16 there is a notification in the City Record of the  
17 contract award, that does happen.

18 COUNCIL MEMBER LANDER: Okay. So  
19 and I just want you to understand why I'm so--you  
20 know, why my constituents are so frustrated and--

21 [background noise]

22 COUNCIL MEMBER LANDER: --come here  
23 and to have, you know, to raise these issues for  
24 no reason, but, again, in the case of 165 West  
25 Ninth Street, what I and my Community Board and my



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2 constituents have received is a half-page letter  
3 from the proposed contractor, not even from the  
4 Department of Homeless Services, so Housing  
5 Solutions USA has faxed to the Community Board,  
6 and that's what I have and that's what the  
7 community has, a half-page letter declaring their  
8 intention to open a 170-bed homeless shelter.  
9 Again, as I mentioned, although you wouldn't know  
10 this from the half-page notice, it's in a building  
11 that has a C of O to be a 10-unit condominium  
12 building with no information on the population,  
13 with no service plan, with no security plan, with  
14 no building plan, with no any plan, without any of  
15 the information that members of the public would  
16 normally expect to be provided under all of the  
17 procedures that you outline, none of them. And so  
18 even if it were an appropriate siting, even if it  
19 didn't have any conflicts, I don't see how we  
20 could possibly feel that that was an appropriate  
21 siting without any of the information necessary.

22                   And as I stated at the beginning,  
23 when there was a hurricane, great, like I'm glad  
24 that we have a procedure, an emergency procedure,  
25 and asking for all of those things, I don't want

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2 those vets sleeping, you know, on the street, you  
3 know. But in the normal course of business where  
4 the City is supposed to be planning its sitings  
5 ahead of time--and this goes back to the question  
6 of what the standards are for an emergency in the  
7 first place--having zero information about what is  
8 being sited leads to a situation where we just  
9 can't have any confidence that the process is good  
10 government.

11                   So anyway, I appreciate your  
12 indulgence, Madam Chair, and to you as well. This  
13 comes from a real frustration as someone who  
14 honestly wants to see homeless people sleeping in  
15 good facilities and I believe and I fought for the  
16 location of shelters and for permanent affordable  
17 housing, but the abuse that's taking place of the  
18 emergency procurement process by the Department of  
19 Homeless Services, both in the definition of  
20 what's an emergency and with no attention to  
21 conflicts of interest, with no attention to fair  
22 share, and with no attention to community  
23 notification the information in the contracts,  
24 it's bad government and we shouldn't keep doing  
25 it. So anyway, I appreciate that that's mostly

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2 said to the Department of Homeless Services and  
3 not to the Mayor's Office of Contracts, but this  
4 was the opportunity and I thought it was important  
5 that I come indicate my frustration. So thank you  
6 for your patience.

7

CHAIRPERSON MEALY: Thank you, Mr.  
8 Lander. I would like thank everyone for attending  
9 this hearing and for you testifying, Ms. Andrea  
10 Glick and Lisette Camilo, we thank you. And it is  
11 critical that we remain vigilant about how New  
12 York City tax dollars are spent, especially in  
13 areas like this where there is less competition  
14 and transparency than normal. Today's hearing is  
15 part of that effort and we will continue to make  
16 sure that money isn't wasted or misused.

17

And I just want to thank everyone  
18 for coming to this hearing today, and this meeting  
19 is now adjourned.

20

[Gavel]

C E R T I F I C A T E

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

Signature *Tammy Wittman*

Date February 10, 2013