

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON CONTRACTS

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November 7, 2016
Start: 1:05 p.m.
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HELD AT: 250 Broadway - Committee Rm,
16th Fl.

B E F O R E:
HELEN K. ROSENTHAL
Chairperson

COUNCIL MEMBERS:
Peter A. Koo
Ruben Wills
Costa G. Constantinides
Chaim M. Deutsch
Corey D. Johnson
I. Daneek Miller
Brad S. Lander

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

Michael Owh
Director
Mayor's Office of Contract Services

Denise Richardson
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General Contractors Association of New
York

Tracie Robinson
Senior Policy Analyst
Human Services Council of New York

Claude Millman
Counsel
TASER International, Inc.

[sound check]

[pause]

CHAIRPERSON ROSENTHAL: Good afternoon.

I'm Council Member Helen Rosenthal, Chair of the Committee on Contracts -- I never know if you're supposed to do this before or after you say it, but I think it's after -- [gavel] call this meeting open.

Each year the City enters into contracts worth billions of dollars with thousands of vendors. New York City's taxpayers rely on agencies to ensure that public money is spend on vendors that demonstrate an ability to perform public work reliably, while conducting their business honestly. The Vendor Information Exchange System, better known as VENDEX, was established as a means of helping City officials ensure that contracts go to trustworthy and capable vendors; it is an important, legally mandated tool for establishing whether a vendor is responsible as a contracting partner.

As we look to reform the system, we need to ensure that VENDEX remains a reliable means of determining the responsibility of vendors and providing public transparencies into entities receiving public money while also avoiding the

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2 imposition of unnecessary burdens on organizations
3 seeking to do business with the City.

4 I believe that the three bills that the
5 Committee will be hearing today are important steps
6 in improving VENDEX. Two of the bills that I've
7 introduced, Introductions 1224 and 1271, are aimed at
8 easing the process for providers and establishing a
9 more efficient means of providing agencies with
10 critical vendor information.

11 Int. 1224 would increase the threshold
12 requiring a vendor to submit a full VENDEX
13 questionnaire from \$100,000 in contract awards to
14 \$250,000 in contract awards. This change would be
15 most beneficial to smaller organizations,
16 particularly nonprofit organizations, and MWBEs, who
17 are often greatly burdened by VENDEX requirements.

18 MOCS themselves have testified that
19 increasing the threshold would address delays in
20 contract registration. The City would of course
21 still need to determine that these vendors are
22 responsible but would be able to do so in a more
23 efficient and effective manner.

24 The other bill I've introduced, Int.
25 1271, would replace the current system of requiring

1 vendors to submit paperwork containing VENDEX
2 information and instead require this information to
3 be input electronically. This commonsense reform
4 would create more efficiency for both vendors and
5 agencies, as vendors now could directly input
6 information, avoiding lost paperwork and confusion
7 associated with the current paper process as well as
8 allowing them to timely update their vendor profile
9 when necessary.
10

11 Finally, the Committee will also be
12 hearing Council Member Lander's bill, Int. 1324,
13 which would require VENDEX information to be
14 available on the City's website. Currently the
15 public must travel to the MOCS office in Manhattan to
16 access this information. This change would make it
17 easier for taxpayers across the five boroughs to
18 learn about who the City is contracting with.

19 I want to thank Council Member Lander for
20 introducing this important proposal that will
21 increase public transparency and agency
22 accountability, and when he arrives, I'll ask him to
23 make an opening statement.

24 Before we begin, I'd like to acknowledge
25 Council Member Koo, who's joined us today, and I'd

1
2 like to thank the Committee staff -- Eric Bernstein,
3 Committee Counsel; Casie Addison, Policy Analyst;
4 Brandon West, Financial Analyst; and John Russell,
5 Financial Unit Head.

6 I'm gonna turn it over now to my
7 Legislative Counsel to swear in our first person to
8 testify, who is the director of the Mayor's Office of
9 Contracts, Michael Owh.

10 COMMITTEE COUNSEL: Do you affirm to tell
11 the truth, the whole truth and nothing but the truth
12 in your testimony before the committee today and to
13 respond honestly to council member questions?

14 MICHAEL OWH: I do. [background
15 comments]

16 Good afternoon Chair Rosenthal and
17 members of the City Council Committee on Contracts.
18 My name is Michael Owh and I am the Director of the
19 Mayor's Office of Contract Services (MOCS) and the
20 City Chief Procurement Officer (CCPO). Thank you for
21 the opportunity to testify about the changes to the
22 Vendor Information Exchange System, otherwise known
23 as VENDEX.

24 The City strives to find the best value
25 for taxpayers while ensuring fairness, integrity and

1 equity throughout the procurement process. The City
2 is legally required to use VENDEX, among other
3 sources of information, to help agencies make
4 decisions regarding vendor responsibility. A
5 responsible vendor is one which has the capability in
6 all respects to perform the contract requirements and
7 the business integrity to justify the award of public
8 dollars. Currently, processing information in the
9 VENDEX system is cumbersome and lengthy for both the
10 City and vendors, and can be a barrier to entry for
11 many organizations including small nonprofits and
12 minority- and women-owned businesses.

14 Once vendors are selected for a contract,
15 they have to submit VENDEX questionnaires. Because
16 this is done by pen and paper, the information is
17 difficult to record. MOCS maintains a number of data
18 entry staff to decipher the vendor and principal
19 information and enter it accurately into the VENDEX
20 system, which is only City-facing. Since each
21 questionnaire submission is manual and paper-based,
22 the process of matching it to the vendor record is
23 unnecessarily complex and labor intensive. Because
24 of the way the current procurement process is
25 structured, agencies can't start important business

1 integrity checks until the VENDEX questionnaires are
2 accurately entered, which further adds to the delays
3 in the process. Additionally, the current threshold
4 at which vendors must submit information to be
5 included into VENDEX is set at \$100,000 -- a
6 threshold which has existed since the early 1990s.
7 While vendors with less than \$100,000 in contracts
8 are not required to submit a VENDEX questionnaire,
9 agencies must still make a determination that they
10 are responsible vendors.
11

12 We appreciate the City Council's efforts
13 to improve and strengthen the City's procurement
14 system, including how information is collected in the
15 VENDEX system.

16 The Administration is generally
17 supportive of all of the bills that are being
18 considered at today's hearing; however, we would like
19 to continue discussions on the details to fine tune
20 the specifics so we can best meet the intended
21 purpose for each piece of legislation.

22 For Int. 1224, the Administration agrees
23 that the threshold requiring a vendor doing business
24 with the City to complete a VENDEX questionnaire
25 should be increased. The current status is outdated

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2 and this new threshold would capture more than 99% of
3 the dollars currently covered under the requirement
4 while streamlining the process for many vendors.

5 For Int. 1271, the Administration also
6 supports requiring vendors and subcontractors doing
7 business with the City to submit information required
8 by the VENDEX questionnaire electronically.

9 For Int. 1324, the Administration shares
10 the goals of transparency and public access to
11 information that it offers. MOCS operates the Public
12 Access Center terminals at our offices that allow
13 members of the public to view information about City
14 contracts and vendors doing business with the City.
15 Providing additional access to this information
16 through the City's website may give the public a
17 helpful view into the City's procurement system. We
18 would love to work with you on making drafting
19 changes to reach the important aim of promoting
20 transparency while protecting private and sensitive
21 information.

22 We look forward to continuing to work
23 with the Council to streamline and improve the
24 procurement process and the VENDEX system. Thank you
25 again for the opportunity to testify today. I would

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2 be happy to answer any questions the Committee may
3 have. Thank you.

4 CHAIRPERSON ROSENTHAL: Thank you so
5 much. I appreciate these comments and I look forward
6 to working through the legislative process with you.

7 I wanna welcome Council Member Deutsch
8 and now turn it over to Council Member Lander to talk
9 about his bill.

10 COUNCIL MEMBER LANDER: Thank you Chair
11 Rosenthal, and Director Owh, nice to see you, thank
12 you for being here, and I'll be very brief and then
13 save my time for questions, but I'm very pleased to
14 be part of this package of bills that it sounds like
15 really can move forward efficiency for contractors
16 not to have to use pen and paper to submit a zillion
17 different VENDEX forms; efficiency for agencies
18 themselves -- the reason for my interest here is that
19 I had heard from a number of different agencies how
20 frustrating it is for them to be waiting on or have
21 to process paperwork when another agency has already
22 produced the VENDEX paperwork for that same
23 contractor and that even before you get to members of
24 the public, simply enabling all City agencies to
25 utilize one online VENDEX database will be a great

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2 improvement. And then obviously -- and we can talk
3 about this in response to questions -- what the
4 appropriate information that's available to the
5 public is -- only having it available, however
6 excellent they are, at the Public Access Center of
7 the Mayor's Office of Contract Services -- seems a
8 little outdate. So it's great to be part of this
9 package; I'm looking forward to working with you and
10 with Council Member Koo and with MOCS and the
11 Administration on this. Thank you.

12 CHAIRPERSON ROSENTHAL: Okay. I'd like
13 to welcome Council Member Wills; glad everyone is
14 here, and feel free to let us know when you have
15 questions.

16 I actually want to start by confirming
17 something you said about Int. 1224 and just flushing
18 it out a little bit. The notion that "the threshold
19 would capture more than 99% of the dollars currently
20 covered under the requirement while streamlining the
21 process for many vendors." In other words, what
22 you're saying is that you don't think -- you know, to
23 the extent that people might be concerned that risk
24 is involved in increasing the threshold, your thought
25 is that the number of dollars involved is not so

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2 significant but the number of vendors who would have
3 appreciatively less paperwork is significant. Do you
4 have a sense of the numbers on that?

5 MICHAEL OWH: So that's exactly what I'm
6 saying, Council Member. This is a point in time
7 analysis, [background comment] because as you know,
8 we enter into contracts, contracts expire, but our
9 analysis shows that we would be allowing for the
10 streamlining to occur for more than a thousand
11 vendors...

12 CHAIRPERSON ROSENTHAL: Okay.

13 MICHAEL OWH: while covering, again, over
14 99% of the dollars that are currently covered.

15 CHAIRPERSON ROSENTHAL: Great; that's
16 helpful. And I do also wanna highlight -- always
17 with contracts it's a point in time, you know the
18 life of a contract can be, you know, this long,
19 depending; if it's goods and services or construction
20 it's really quite long, and so one always needs to be
21 careful not to measure contracts based on a point in
22 time that is captured through the financial
23 management system, for example, you always wanna look
24 at the total value of a contract to think about it
25 accurately.

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2 So with that in mind, that we're just
3 talking about a point in time -- which is not, you
4 know as I say, always the way to look at things, but
5 for the purpose of these pieces of legislation I
6 believe it is appropriate -- how many VENDEX packages
7 were submitted in FY16 and how many so far in FY17?

8 MICHAEL OWH: We received over 12,600
9 packages in FY 2016... [interpose]

10 CHAIRPERSON ROSENTHAL: Wait, say that
11 one more time; I [**inaudible**].

12 MICHAEL OWH: 12,600...

13 CHAIRPERSON ROSENTHAL: Oh...

14 MICHAEL OWH: VENDEX packages, and if you
15 remember, these are vendor questionnaires plus the
16 principal questionnaires, so these are thousands of
17 pages of VENDEX information or vendor and principal
18 information. So far this FY 2017, we've received
19 over 4,500.

20 CHAIRPERSON ROSENTHAL: Forty-five
21 hundred. Wow. And so again, you really get to the
22 point of how in different years different things are
23 going on. So the 12,600 number might be reduced by
24 about a thousand, if we're talking about Int. 1224.

25 MICHAEL OWH: So I'd... [interpose]

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CHAIRPERSON ROSENTHAL: Right.

MICHAEL OWH: I'd have to get back to you... [interpose]

CHAIRPERSON ROSENTHAL: Yeah.

MICHAEL OWH: on the exact number, but definitely you'd be reducing that appreciably.

CHAIRPERSON ROSENTHAL: Great. In FY15, MOCS reported that the average time to review a VENDEX package once the agency notified MOCS of a pending award was 23 days; this information was not reported for FY16; do you happen to have that information, the average review time?

MICHAEL OWH: So the reason we tried to capture that information in FY15 was so that we can set a baseline and we've been trying to come up with a better way to capture that cycle time, 'cause we think we're not actually capturing the back and forth -- so let's say the information that we would have when we pass it to the vendor and come back -- so we don't have a good number for you for FY16, although we are working on it and we'll get back to you on that. But we do think that the process is very similar still and so it's appreciably the same, probably in the 20-25 day range. But again, it's an

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2 average; doesn't capture some of the outliers and it
3 doesn't capture, sort of, the time that it's not at
4 MOCS either [sic]... [crosstalk]

5 CHAIRPERSON ROSENTHAL: Right, or at an
6 agency.

7 MICHAEL OWH: Exactly.

8 CHAIRPERSON ROSENTHAL: Right. So sort
9 of the externality of how long it takes the
10 organization itself to get back with paperwork,
11 although, what we don't know and we suspect is in
12 there, perhaps it's a duplicative question, so
13 they're having to get back with the same information
14 that they -- as Council Member Lander said -- perhaps
15 gave to another agency and can't believe they have to
16 submit the same paperwork again.

17 MICHAEL OWH: Definitely. For those
18 contractors that have a contract with multiple City
19 agencies, I'm sure that does happen a lot.

20 CHAIRPERSON ROSENTHAL: Okay. How many
21 VENDEX reviews -- I'm curious, again, thinking about
22 the risk involved in doing the jump-out from \$100,000
23 to \$250,000. How many VENDEX reviews led to a
24 finding of non-responsibility in 2015 say?
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2 MICHAEL OWH: In 2015, I believe we had a
3 little over 30 non-responsibility determinations in
4 total; this includes not only procurement contracts,
5 but also franchises and concessions. I do not have a
6 number of how many of those were related to the lack
7 of disclosures on the VENDEX forms. [background
8 comment] Because these are such fact-specific
9 instances, the non-responsibility determination, I
10 would say -- just going back to your point about the
11 risk-based analysis -- as I mentioned, we processed
12 over 12,000 [background comment] forms in FY16; we do
13 about 40-60,000 transactions a year -- most of which
14 tend to be smaller -- but these are 40-60,000
15 contracts annually that we're awarding, and so those
16 are the types of responsibility determinations that
17 we have to make on an annual basis. And in FY15
18 you're talking about a little over 30; in FY16 you're
19 talking about 10..

20 CHAIRPERSON ROSENTHAL: Oh wow. 'Kay.

21 MICHAEL OWH: and so when you're thinking
22 through sort of what the risks are and what we're
23 actually capturing for the time that we put the
24 agencies and their vendors through versus what we're
25 actually getting back, and I cannot tell you -- just

1 because of the way that the information's captured --
2 that the non-responsibility determinations were based
3 on VENDEX disclosures; they were most likely based on
4 other sources of information. When this law was
5 created, we didn't have Google; we didn't have
6 LexisNexis online; we didn't have DMV online; we
7 didn't have the Federal SAM database that we could
8 access online... [interpose]

10 CHAIRPERSON ROSENTHAL: Right. Right.

11 MICHAEL OWH: So this is a very different
12 time and I think -- you know, agencies are required
13 to use every source of information that's askable for
14 the contract and so I think it's very hard to sort of
15 think through what that was like back then. And I
16 actually think for -- you know, increasing the
17 threshold to \$250,000 -- the \$100,000 has been there
18 since the 90s and...

19 CHAIRPERSON ROSENTHAL: Yeah.

20 MICHAEL OWH: I think it's -- I mean
21 frankly, I actually think it's courageous that you're
22 offering this as an option, because I think it's very
23 hard for a public servant to come out and say that we
24 are gonna take a risk-based approach on something
25 when there is a chance that even 10 out of the 60,000

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2 can be found non-responsible, but it is something
3 that I think is good for not only streamlining for
4 efficiency, but for all of the smaller nonprofits,
5 all of the MWBEs out there that have to go through
6 this burden of the paperwork.

7 CHAIRPERSON ROSENTHAL: How do we award
8 again the same organization, the same vendor
9 submitting multiple contracts, you know, getting
10 multiple contracts of now, instead of \$99,249?

11 MICHAEL OWH: So the way that we track
12 the information now is in aggregate. So it's an
13 aggregate of the last 12 months for the vendor. We
14 would continue to do that under this legislation, but
15 it would just be the aggregate up to \$250,000..
16 [interpose]

17 CHAIRPERSON ROSENTHAL: Oh I see. So in
18 a single year they couldn't do more than?

19 MICHAEL OWH: That's right.

20 CHAIRPERSON ROSENTHAL: Got it.

21 MICHAEL OWH: And I would also say that,
22 you know we're not losing the information for even
23 those vendors that are less than \$100,000 now; they
24 have to be found responsible. So agencies are doing
25 checks on them regardless, and one of the challenges

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2 for MOCS and the City and the agencies I think is to
3 be able to share that information more efficiently,
4 and we would love to do that, but that's a different
5 challenge than making vendors go through additional
6 disclosures.

7 CHAIRPERSON ROSENTHAL: Do you have a
8 sense of how much time or the impact that VENDEX
9 processing itself -- from your days of working in the
10 agency -- what impact that has on the timeline for
11 contract registration?

12 MICHAEL OWH: So I just wanna start with
13 the fact that I think the team at MOCS, our team does
14 a great job in terms of going back and forth with the
15 vendors to try to get the information and be as
16 accurate as possible as quickly as possible; I will
17 say though, the way that the process works now, the
18 agencies don't even start some of the business
19 integrity check processes until the VENDEX
20 disclosures are complete. And so if you're looking
21 at an average timeline of 20-25 days just to get that
22 complete, then you kick off a series of activities
23 around the business integrity checks; you're already
24 behind a month and I think, you know, trying to -- I
25 think going online with this process will definitely

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2 mitigate some of that time; [background comment]
3 giving vendors direct control over entering some of
4 that data will mitigate that, but it is a lot of time
5 that we spend on just getting the questionnaire
6 correct.

7 CHAIRPERSON ROSENTHAL: Okay. And do you
8 think at this point that the Administration has the
9 resources to do this, to actually put it online? I
10 imagine it will require new systems [inaudible], but...
11 [crosstalk]

12 MICHAEL OWH: So I think it... it will
13 definitely take time, but I do think that we have the
14 resources to be able to accomplish this and we will
15 work with your office to try to come up with a
16 reasonable timeline for implementation.

17 CHAIRPERSON ROSENTHAL: Yeah. Great.
18 Great. Great. Getting back to the risk issue; since
19 the inception of VENDEX, so going back to the point
20 at which you were born -- although I was born by then
21 -- approximately how many individuals have been
22 subject to criminal charges due to making false or
23 fraudulent statements in connection with their VENDEX
24 questionnaire? And my favorite person I know is on
25 the list, so I know there's one person.

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2 MICHAEL OWH: So we actually do not have
3 statistics around that, but definitely I think the
4 person that you're referring to I know that that's in
5 there. Generally speaking, when you're doing the
6 responsibility determination as an agency, you're not
7 going through looking for that, looking to sort of
8 capture vendors in a lie or making falsehoods, and I
9 don't think that the law enforcement agencies are
10 generally looking at organizations or entities that
11 are falsifying VENDEX, like as the goal, right; that
12 is not the goal of their investigation. Generally
13 what happens is that they are investigating something
14 else and then VENDEX happens to come into the
15 picture. So it definitely informs non-
16 responsibility; it definitely informs I think some of
17 these criminal charges, but I don't have statistics
18 on how many have led directly to those.

19 CHAIRPERSON ROSENTHAL: Do you think that
20 by having it go online you'll increase the likelihood
21 that someone would make a mistake? Let's think about
22 it generously, firsthand; make a mistake or with
23 intent; think that, you know they can just change
24 their response when no one's looking so it won't be
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2 fraudulent -- I don't know. What's the risk of doing
3 that part?

4 MICHAEL OWH: So I actually think that
5 the risk of vendors making mistakes is probably more
6 prevalent now, just because [background comment] if
7 you're looking at the questionnaire -- I don't know
8 if anyone's actually looked at the questionnaire --
9 but it is a 20-question vendor questionnaire with
10 over 50 conditional questions; there is a 9-question
11 principal questionnaire with multiple conditional
12 questions -- and you have to do at least three of
13 those if you're a vendor. So you have a package of
14 four different questionnaires and you probably are
15 looking at hundreds of questions per submission; if
16 you don't know exactly what the question is asking,
17 then we actually refer you to a handy vendor's guide
18 to VENDEX, which describes it. So you have a
19 separate document that's about 20 pages that you have
20 to read in order to make sense of the 20-page
21 document that you have to fill out. And so if I'm
22 the user, if I'm looking at it just from the user
23 perspective, it's probably easier to make a mistake
24 on paper than it would be if I had an online form and
25 I had some tool tips and I also had someone -- I mean

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2 you can call someone today, but you know, it'd be a
3 little bit different and probably easier online to do
4 this. I would also say that any online system that
5 we develop, we would want to track with an auditing
6 system so that you would know who's making changes
7 when so that we can see how the vendors are actually
8 entering information.

9 CHAIRPERSON ROSENTHAL: Okay. Council
10 Member Koo, you have some questions?

11 COUNCIL MEMBER KOO: Thank you Chair. My
12 question is: who are required to fill out VENDEX; I
13 mean at the company; the president or what, by the
14 board members? Because I remember when I was a BID
15 board member, maybe 10-12 years ago, I had to fill
16 out a vendor form too. Is it necessary for all the
17 board members to fill out a vendor form?

18 MICHAEL OWH: So the vendor information
19 is about the vendor; the principal information would
20 be for at least three principals and we define
21 principals as owners of at least 10% of the company.
22 So there's a potential that you have nine principals,
23 you know, who have to fill out those questionnaires.
24 For a nonprofit, there are no owners, so we ask for
25 executive officers, or in lieu of that, some board

1 member information, depending on the circumstances.

2 So that's probably why we asked you to complete that.

3 But it is a lot of people who would have to be..

4 [interpose]

5 COUNCIL MEMBER KOO: So it creates a lot
6 of paperwork for you to reveal, huh. Yeah.

7 MICHAEL OWH: It's a lot of paperwork,
8 yes.

9 COUNCIL MEMBER KOO: So what's the
10 mechanics of reviewing; you do a credit check on each
11 member or?
12

13 MICHAEL OWH: So I think that's a great
14 question. So the purpose of the MOCS review is
15 actually just purely for accuracy and completeness.
16 Because it's a paper process, we have to make sure
17 that the question that's being answered is the
18 question that's being asked and making sure that all
19 -- I mean, sometimes we actually get questionnaires
20 handwritten -- actually, a lot of the time -- and so
21 some of that is just deciphering what the handwritten
22 responses are. So it's really just accuracy and
23 completeness. We do not, from our office, do any
24 credit checks or any background checks other than for
25 issues related to potentially adverse information

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2 that we right now call "cautions" and then
3 performance evaluations; other than that, we don't do
4 any of the substantive background checks.

5 COUNCIL MEMBER KOO: So when you review
6 the VENDEX, what kind of conditions would turn down
7 the vendor, say you're not qualified you know?

8 MICHAEL OWH: So we don't have any
9 substantive rejections of VENDEX; the only thing that
10 we would tell the vendor is; you didn't complete the
11 form and so we can't accept it. So there's no such
12 thing as an approval of VENDEX; it's really -- we
13 just accept the information or if you didn't complete
14 the whole thing or you're not able to give us the
15 information for the questions that are being asked;
16 then we would reject the package and say can you
17 please go back and fill it out correctly. That's the
18 only type of rejection that we have.

19 COUNCIL MEMBER KOO: So how many vendors...
20 an applicant is... suppose one may belong to different
21 organizations or he owns three different companies or
22 four different companies, so he has to fill out --
23 whenever his company applies for a City contract,
24 they have to fill out all different or one...

25 [interpose]

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MICHAEL OWH: So...

COUNCIL MEMBER KOO: will suffice?

MICHAEL OWH: So if the principal's company, if all four of those companies receive separate contracts; then at those moments in time that principal would have to complete four... [interpose]

COUNCIL MEMBER KOO: So four different applications, even though he's the same owner...

MICHAEL OWH: four different questionnaires. Yes.

COUNCIL MEMBER KOO: or same board member, because he belongs to four... wow, it's a lot. So he cannot **[inaudible]** publicly **[inaudible]** name, say Peter Koo, and then you will go forever **[inaudible]** again... [crosstalk]

MICHAEL OWH: Not currently. Not currently.

COUNCIL MEMBER KOO: No.

MICHAEL OWH: But if it was online, then...

COUNCIL MEMBER KOO: Yeah.

MICHAEL OWH: potentially you could just fill it out once and then come back and update your information.

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2 COUNCIL MEMBER KOO: Okay. So I would
3 say the new law is much, much better, much more...
4 [background comment] yeah. Yeah, it helps you... helps
5 you... helps the City save time and money and more
6 accuracy.

7 MICHAEL OWH: I agree.

8 COUNCIL MEMBER KOO: Yeah. Thank you.

9 [background comment]

10 CHAIRPERSON ROSENTHAL: Council Member
11 Lander; you ready? Yeah.

12 COUNCIL MEMBER LANDER: Thank you Madam
13 Chair. Thanks again for this testimony. I'll start
14 with a couple of specific questions about what's made
15 public currently at the Public Access Center and then
16 under this bill online.

17 Can you just summarize -- what
18 information is kept private or confidential that's
19 not shared online and what are the kinds of
20 information that are currently put in the public
21 access portal and that therefore under this bill
22 would be put on the web?

23 MICHAEL OWH: So any personally
24 identifiable information of the principals are not
25 shared; that is kept confidential. The vendor

1 information regarding the number of contracts, the
2 types of contracts, which agencies they have
3 contracts with, the value of those contracts I think
4 is available -- sorry; I'm just trying to think
5 through the list **[inaudible]**... [crosstalk]

6
7 COUNCIL MEMBER LANDER: No, I don't mean
8 every -- just a... I mean giving us a general sense.

9 MICHAEL OWH: And then potentially
10 adverse information, such as the "caution"
11 information would be available through the public
12 access terminal, and performance evaluation data is
13 available through the public access terminal.

14 COUNCIL MEMBER LANDER: And can you just
15 say a little more about that, like you know, what the
16 performance evaluation data is -- obviously there's
17 so many different kinds of contracts -- in some cases
18 those are comparable across agencies, you know,
19 capital projects that you're gonna... a capital project
20 you might deliver on time and on budget is very
21 different from, you know, providing Bengali language
22 translation on a hotline -- you know, so what sort of
23 performance evaluation information is there?

24 MICHAEL OWH: So we are required --
25 agencies are required to do performance evaluations

1
2 once a year for each of the contracts they hold, so
3 they are out of five categories ranging from
4 unsatisfactory to excellent, and that's the overall
5 rating, and so those ratings would be available for
6 view on the public access terminal. And like you
7 mentioned, there are various types of contracts and
8 so for each different industry there's a slightly
9 tailored performance evaluation that the agencies
10 would complete.

11 COUNCIL MEMBER LANDER: And they have
12 developed their own performance evaluations or you
13 have developed some that's helped standardized across
14 different agencies?

15 MICHAEL OWH: So we have some templates
16 for the -- I believe there are five different
17 categories, depending on what types of contract, so
18 if you had a construction contract you would have a
19 different performance evaluation form, and that is
20 the form that the agency would complete for that
21 contract. And so every agency uses the same
22 template, the same five templates.

23 COUNCIL MEMBER LANDER: And do you have
24 any sense of -- not necessarily directly relevant to
25 this bill, but whether that information actually

1
2 moves across agencies, so if someone does a rotten
3 job on a Parks construction contract they're less
4 likely to get hired by DOT for a project?

5 MICHAEL OWH: So I can't speak to whether
6 or not they'd be less likely to get hired, but I can
7 guarantee that agencies do review each and every
8 performance evaluation, especially the negative ones.
9 And that's actually a good reason why sometimes
10 things take a little time, because the agency chief
11 contracting officer (ACCO) at DOT, for instance,
12 would be required to have a discussion with the
13 agency chief contracting officer at Parks to make
14 sure that they get all the facts surrounding that,
15 and because, again, these are such fact-specific
16 issues; the DOT ACCO may determine that hey, that's
17 actually not the type of work that we're doing here
18 and so we can move forward with the contract, or they
19 may determine, you know what, that is pretty much
20 what we're trying to do and so we won't move forward
21 with the contract. So that kind of discussion
22 definitely takes place.

23 COUNCIL MEMBER LANDER: And do you have
24 any sense of -- that's helpful on sort of interagency
25 work that'll hopefully continue to be strengthened

1
2 and improved here -- I just wonder, do you track how
3 many people come use the Public Access Center; have
4 any sense of how, you know who's using it and how
5 people are using it?

6 MICHAEL OWH: So we do track visitors to
7 the public access terminal and I believe the last
8 three months we averaged about 25 visitors. I don't
9 know exactly who is coming and how they're using it,
10 but you know we know the number of people at least.
11 [laugh]

12 COUNCIL MEMBER LANDER: Okay. Now one of
13 the things that's... my understanding is that right now
14 around those performance reviews, those ratings are
15 online, but if vendors do submit responses, those are
16 not available; do they have some op... I wonder; do
17 they have an opportunity to respond and if so, have
18 those included in some way.

19 MICHAEL OWH: So currently the process is
20 such that the vendor would have an opportunity to
21 respond to a performance evaluation; the agency is
22 not required to change their evaluation, but that
23 information would be available to the agency user.
24 So if a vendor did have like a letter or something
25 that they wanted to put on file, on the record; then

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2 it would be available to the next agency that is
3 checking on that performance evaluation. I do not
4 believe that the public access terminal would have
5 that record available, but it would be FOILble [sic]
6 because [sic] it's a public document at that point.

7 COUNCIL MEMBER LANDER: Maybe we should
8 think about making it -- I mean I can see letting the
9 vendor decide if they wanted to keep it private, but
10 if they wanted their response -- to me, if -- you
11 know, let's say that I had an unacceptable and I felt
12 there was a reason and I wanted -- you know, knowing
13 that it's public information that says unacceptable,
14 maybe I'd like the opportunity to give a short
15 explanation that would also be available to the
16 public.

17 MICHAEL OWH: I think that's a great idea
18 and we'd be happy to have a further conversation
19 about how to exactly make that work.

20 COUNCIL MEMBER LANDER: Okay. Thank you
21 very much. Thank you Madam Chair.

22 CHAIRPERSON ROSENTHAL: Thank you for
23 those questions, especially the last one; I
24 appreciate your response that you'd be open to
25 letting the vendor's response to an evaluation also

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2 be available to the public eye; I think that worries
3 a lot of vendors. So that seems like the right thing
4 to do, unless I hear otherwise. Great, thank you.

5 Council Member Deutsch -- oh, I wanna
6 welcome Council Member Miller, all the way from
7 Queens. Thank you. Council Member Deutsch.

8 COUNCIL MEMBER DEUTSCH: Well Council
9 Member Deutsch all the way from Brooklyn.

10 [background comments][laugh] Good afternoon. My
11 question is: if someone wins a construction contract
12 let's say and they did a timeline of when the job
13 needs to get done and they hire a subcontractor, now
14 does that subcontractor need to fill out that VENDEX
15 questionnaire as well or everything goes on the
16 company that wins the contract?

17 MICHAEL OWH: Currently for any
18 subcontractors that receive over \$100,000 in
19 cumulative contracts would also have to complete a
20 VENDEX questionnaire.

21 COUNCIL MEMBER DEUTSCH: So if it's under
22 \$100,000 they would not have to... [crosstalk]

23 MICHAEL OWH: They do not.

24 COUNCIL MEMBER DEUTSCH: So what happens
25 if the contractor who wins the contract and hires a

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2 subcontractor and the amount is under \$100,000 and
3 the subcontractor does not end up getting paid for
4 the job; what is the oversight on that to make sure
5 that the contractor follows up with the subcontractor
6 and they're not left out?

7 MICHAEL OWH: So I believe that each of
8 our contracts have a requirement that subcontractors
9 must get paid, but in that scenario, if you have a
10 specific instance, please let me know, but I believe
11 that agencies generally handle the management and
12 enforcement of that action, and then sometimes it
13 will come to our office for escalation, if needed.

14 COUNCIL MEMBER DEUTSCH: So currently
15 there's no oversight regarding the subcontractor if
16 it's under \$100,000?

17 MICHAEL OWH: Well they wouldn't be
18 required to do VENDEX, but in the scenario that
19 you're talking about, if they are not getting paid,
20 regardless of the amount; the agency would be
21 responsible for managing the prime contractor, in
22 that instance, and if it needed to get escalated, it
23 would most likely come to our office or the Law
24 Department.

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2 COUNCIL MEMBER DEUTSCH: So how would a
3 subcontractor know who to contact; does the
4 contractor who won that contract, do they need to
5 inform any subcontractor that they hire that in case
6 you don't get paid, this is who you need to contact?

7 MICHAEL OWH: You know that's a good
8 question. The contract does specify all of the
9 requirements of the prime; I believe that there are
10 generally some subcontract requirements that need to
11 be included for the subcontractor to prime agreement;
12 the notices that are required, that I'm not exactly
13 sure about, but we can go back and find out for you.

14 COUNCIL MEMBER DEUTSCH: So in the
15 notice, as far as you know, it doesn't give any
16 information to any subcontractor saying that if you
17 don't get paid for the job that you were hired for by
18 the contractor, it doesn't give them information of
19 who to contact, [background comment] so in other
20 words, if the subcontractor doesn't get paid, they
21 would have to like really, you know, do a lot of work
22 in order to find out who to contact or hire a lawyer,
23 which will cost them extra money, right? And if
24 you're saying it's as easy as making a phone call, I
25 don't believe many subcontractors will know that and

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2 they will just hire a lawyer and that will probably
3 be a whole long process for a subcontractor who works
4 for a contractor who won a City contract.

5 MICHAEL OWH: Right. So I don't know
6 exactly the language around the notices, but I do
7 know that agencies handle these directly, because the
8 project managers are usually on-site and know all of
9 the subcontractors as well as the primes, but I take
10 your point that we could probably do more around the
11 notices and so **[inaudible]**... [crosstalk]

12 COUNCIL MEMBER DEUTSCH: But what would
13 happen if you did receive a call from a subcontractor
14 saying that I did not get paid; now what happens to
15 that contractor? Let's say down the line, six months
16 later they put in for another bid, so...

17 MICHAEL OWH: Well it would depend on the
18 facts. So we would have to -- I think these are very
19 fact-specific scenarios, and so depending on why the
20 payment wasn't made or if it was an issue where there
21 was some wrongdoing by the prime contractor that
22 would require disclosure in VENDEX or a caution in
23 our database; then we would probably flag that
24 vendor.

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2 COUNCIL MEMBER DEUTSCH: So during the
3 process of you're looking into the facts, what would
4 happen to that contractor if they put in for a bid?

5 MICHAEL OWH: Well until we can determine
6 all the facts... [crosstalk]

7 COUNCIL MEMBER DEUTSCH: Like if that
8 takes let's say six months or it takes a year for you
9 to look into the facts of what happened, so what
10 would happen during the year period?

11 MICHAEL OWH: So until we have a
12 disposition, there's probably nothing, unless there
13 is a separate investigation that were occurring,
14 which then the prime vendor would have to disclose
15 that into VENDEX, but we wouldn't be issuing a
16 caution unless we had a final disposition of the
17 situation.

18 COUNCIL MEMBER DEUTSCH: How many times
19 have you investigated something like this that you
20 didn't give another contract to?

21 MICHAEL OWH: So technically, MOCS would
22 not do an investigation of that. So we would review
23 the facts to see like what exactly happened in that
24 situation. I don't have an exact number for you, but
25 we can go back and find out.

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2 COUNCIL MEMBER DEUTSCH: Who does review
3 it?

4 MICHAEL OWH: So if there is an issue of
5 wrongdoing, then it would most likely get reported to
6 DOI and they would do an investigation; if there...
7 [crosstalk]

8 COUNCIL MEMBER DEUTSCH: So I'm not
9 talking about wrongdoing as something being illegal,
10 but a dispute between if the work was done properly
11 or not.

12 MICHAEL OWH: Right, so the agency would
13 do that. The agency as the contract holder and
14 **[inaudible]**... [crosstalk]

15 COUNCIL MEMBER DEUTSCH: So it wouldn't
16 be DOI; that would be your agency?

17 MICHAEL OWH: So the contract agency
18 would do the review of the actual contract and the
19 prime and subcontract relationship; if there was any
20 wrongdoing and any complaint was referred to DOI,
21 then DOI would do an investigation.

22 COUNCIL MEMBER DEUTSCH: So if it's not a
23 criminal complaint and it's just a dispute over money
24 or the work that's being done or a greedy contractor,
25 so who would they contact?

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2 MICHAEL OWH: The contracting agency is
3 the first point of contact.

4 COUNCIL MEMBER DEUTSCH: Do you have
5 information or can you give... [background comment]
6 like HPD, whoever the contracting agency is...
7 [crosstalk]

8 MICHAEL OWH: Right, so DOT or whoever.
9 Right.

10 COUNCIL MEMBER DEUTSCH: Okay. Thank
11 you.

12 CHAIRPERSON ROSENTHAL: I appreciate
13 those questions; we were circling around on those as
14 it has to do with wage theft in building housing for
15 HPD, and I think those are really thorny things to
16 try to figure out and we have to keep our eyes on
17 that. So thank you for bringing that up. I mean and
18 we ask you these questions all the time and I know I
19 react to those same questions -- I'm slowly learning
20 it. But so if a subcontractor... so since the
21 contractor is the only one that has filled out VENDEX
22 and is online, if a subcontractor did something... was
23 accused and maybe even found of doing something
24 illegal, would the subcontractor information be

1
2 somewhere in the VENDEX world for the agency -- HPD
3 or DOT -- to know about that?

4 MICHAEL OWH: Currently, if the
5 subcontractor had greater than \$100,000 and was
6 required to submit a VENDEX and disclose that
7 information, that would be there; if we received a
8 report about a subcontractor that had a criminal
9 issue of that sort, we would put it into the caution
10 database as well, if that report came to us. But..
11 [interpose]

12 CHAIRPERSON ROSENTHAL: But... I see. So
13 all of the prime contractors have to submit the
14 information for their subcontractors as well if it's
15 over \$100,000 or \$250,000?

16 MICHAEL OWH: That's right, either they
17 have to submit it or they would have to require their
18 subcontractor to submit it separately.

19 CHAIRPERSON ROSENTHAL: Got it.

20 MICHAEL OWH: So the contracting agency
21 would not approve that subcontractor until all of
22 that was completed.

23 CHAIRPERSON ROSENTHAL: Do you have a
24 follow-up question? [background comment] Oh okay.
25 Council Member Miller.

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2 COUNCIL MEMBER MILLER: Thank you Madam
3 Chair. Okay, on 1271, how do we utilize this
4 information and data so that we can track the MWBE
5 participation here, whether contracting or
6 subcontracting, particularly if they're not above
7 that threshold?

8 MICHAEL OWH: So we work closely with
9 SBS, Department of Small Business Services, to run
10 reports that connect the certified list to the
11 contracting information that we have in our contract
12 database, and we would be able to track MWBEs that
13 way. And that would be regardless of contract value.

14 COUNCIL MEMBER MILLER: Okay. On 1224,
15 and as we again address thresholds here, particularly
16 as it pertains to a sole-sourcing agency; how are we
17 capturing whether or not agencies are not using this
18 as a means of using a particular vendor without
19 having to really address that, particularly if it
20 doesn't meet that \$100,000 threshold; is this a
21 running calendar year?

22 MICHAEL OWH: For VENDEX it is
23 [background comment] a cumulative 12 months time
24 period, and so it is a running year, running 12-month
25 period.. [crosstalk]

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2 COUNCIL MEMBER MILLER: Yeah, fiscal in
3 this case.

4 MICHAEL OWH: For sole sources, even if
5 it's less than the \$100,000, the vendor would be
6 required to submit VENDEX. I believe the threshold
7 for sole sources is \$10,000. [background comment]
8 So that's even under the micropurchase limit; the
9 vendor would be required to submit VENDEX
10 questionnaires.

11 COUNCIL MEMBER MILLER: Are there any
12 other procurements that would not require them to
13 participate in the VENDEX?

14 MICHAEL OWH: So for any procurement
15 contracts, the vendors would be required to do VENDEX
16 for the thresholds that are currently required.

17 COUNCIL MEMBER MILLER: I'm sorry.

18 MICHAEL OWH: For any procurement
19 contracts they would be required to do VENDEX.

20 COUNCIL MEMBER MILLER: Okay, regardless
21 of the..

22 MICHAEL OWH: Regardless of the method.

23 COUNCIL MEMBER MILLER: of the threshold.
24 Alright. So have you found thus far what level of
25 efficiency -- I think we have had this conversation

1
2 briefly, but we wanna talk about some of the smaller
3 CBOs and so forth -- have we found that and what
4 support has been given to these organizations, and in
5 particular, what support or what additional resources
6 have been given to your staff and your team to ensure
7 that this is working? I guess what I'm saying is; do
8 we have the resources, the staff, human capital, to
9 ensure the success of this?

10 MICHAEL OWH: So I believe that we do
11 have a great team at MOCS -- and I think I mentioned
12 this last month at our last hearing -- but we are
13 obsessive about our focus on customer service and
14 especially for those small CBOs that need that extra
15 help; we would create a communication plan and
16 support plan to make sure that people would be able
17 to utilize whatever the new tool is to make sure that
18 people would be able to enter the information
19 efficiently and easily; I think it will help a lot
20 that they don't have to come down to 253 Broadway or
21 they have to send in paper for the threshold increase
22 for 1224; I think it will help a lot that some of
23 them will not even need to enter this information
24 going forward. And so I think this is gonna be great
25 in terms of efficiency for those smaller vendors.

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2 COUNCIL MEMBER MILLER: And finally, on
3 1324, is there any vendor or any situation that you
4 may see that you think -- in your experience -- that
5 should be participating and should be required to
6 participate in online documentation that is not
7 captured in the legislation here?

8 MICHAEL OWH: So...

9 COUNCIL MEMBER MILLER: So all contracts
10 -- does all contracts mean all contracts? Is that
11 how you're interpreting?

12 MICHAEL OWH: Yes, my interpretation is
13 that it would be all procurement contracts, and also
14 for the online view, [background comment] I believe
15 it would be for all contractor information as well as
16 contract information.

17 COUNCIL MEMBER MILLER: Okay. Thank you.
18 Thank you Madam Chair.

19 CHAIRPERSON ROSENTHAL: Thank you Council
20 Member. Council Member Lander; did you have a...

21 COUNCIL MEMBER LANDER: Yeah, I just
22 wanna follow up a little; some of the questions that
23 the Chair and others asked led me to ask. I know
24 that you're engaged in a set of broader work to move
25 more of the contracting work online to make it

1 smoother and simpler, aggregate across agencies, but
2 I also wonder, and I know that the Chair may have
3 done a hearing about this and many other topics, but
4 it seems like some of the things we're talking about
5 might also be able to be automated in other ways --
6 that once VENDEX is online and in a uniform database,
7 that other of the kinds of integrity checks that
8 you're talking about -- not necessarily Google; that
9 still requires a person to figure out what it's
10 telling you and is an important kind of check -- but
11 things like checking against a wage theft database or
12 depending on what particular health and safety
13 violations, that some of that ought to be able to be
14 automated, you know and I'm thinking.. hm?
15 [background comment] Yeah, or I'm thinking, for
16 example, you know our "compliance database" is with
17 the New York City Campaign Finance System, and
18 there's been this weird situation where you have to
19 ask a donor if they're doing business with the City
20 -- which hopefully we're changing another venue --
21 but of course, there's a database of people that are
22 kept that are doing business with the City, which
23 could actually be fed off the VENDEX database, and in
24 part is -- but all of that could just be a lot more
25

1
2 easily streamlined; you like enter them in and it's
3 checked against the back end database and if they're
4 in there it pops up and it strikes me there might be
5 lots of different ways that could be done in
6 contracting, depending on what the database you're
7 checking it against it -- whether it's criminal
8 records or health and safety records -- and that that
9 would make it a lot easier for you guys and the City
10 to flag these cautionary or responsibility issues and
11 just a lot better way of ensuring integrity. So
12 that's one step beyond certainly putting VENDEX
13 online, but I wonder if as part of other broader work
14 you and your agency are doing, you're looking at
15 those possibilities.

16 MICHAEL OWH: We are, but I'd love to sit
17 down with the Committee and sort of discuss more
18 opportunities, 'cause I think you even mentioned a
19 couple things that maybe we hadn't thought of. I
20 will say that the way that we're thinking about it is
21 more sort of vendor-focused; right now the systems
22 are all contract-specific and so you have to go into
23 a contract to see the vendor that might have ten
24 contracts around five different agencies, so even
25 just sort of flipping that and having it be more

1 vendor-focused and aggregating the vendor information
2 I think will be easier; like you said, there are
3 opportunities to aggregate some data from other
4 sources. I don't wanna minimize how difficult
5 sometimes the technical challenges are of interfacing
6 with other systems, but even -- you know one idea
7 that we're exploring is having a punch-out from our
8 system to a LexisNexis so that it's just easier for
9 agency users to have that access. But we'd love to
10 talk about other ideas, 'cause I think you're right,
11 there are a lot of opportunities here.

13 COUNCIL MEMBER LANDER: Wonderful; I look
14 forward to continuing that conversation. Thank you.

15 CHAIRPERSON ROSENTHAL: Submit that LS
16 now...

17 COUNCIL MEMBER LANDER: [laugh] Alright.

18 CHAIRPERSON ROSENTHAL: that's a great
19 idea. Alright, I'm gonna continue with a few
20 questions, but my colleagues, certainly feel free to
21 interrupt if you have questions as well.

22 Director Owh, what categories of
23 information currently required by VENDEX
24 questionnaires would the Administration support
25

1
2 modifying or removing for a more efficient process
3 for vendors?

4 MICHAEL OWH: So I think I went into a
5 lot of detail around how many questions there are and
6 how many conditional questions there are, so there
7 are really, literally, hundreds of questions; I think
8 there have to be more opportunities to streamline
9 some of them. As Council Member Lander mentioned,
10 there are other sources of data out there that maybe
11 we don't need to have the vendors give us; we might
12 be able to interface with other systems in order to
13 get them. So I would love to again, have a further
14 discussion about what opportunities there are to
15 streamline even further the questionnaires.

16 CHAIRPERSON ROSENTHAL: I feel a task
17 force coming on.

18 So were these legislative changes to be
19 enacted, how does MOCS anticipate notifying the
20 vendors?

21 MICHAEL OWH: So I think that's actually
22 gonna be a huge challenge, because it's gonna be a
23 huge communication and changed management challenged
24 and so we would sit down and develop a comprehensive
25 communication plan; it will probably include email

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2 messages, website notices, as well as a training
3 forum that would probably require a lot of people
4 time and various neighborhoods to make sure that the
5 message gets out. We'd also take advantage of PSAs
6 on 311 and other avenues to be able to communicate
7 this information.

8 CHAIRPERSON ROSENTHAL: Right. So if
9 there were 12,600 VENDEX packages submitted in 2016,
10 how many vendors were there? 'Cause I assume some of
11 those vendors submit multiple packages.

12 MICHAEL OWH: That's a really good
13 question -- how many of those are unique vendors...?
14 [crosstalk]

15 CHAIRPERSON ROSENTHAL: And here's where
16 I'm going, so as you think about the answer to that,
17 what's the overlap between that number and those that
18 are already on the HS Accelerator, because that group
19 you could take out, in terms of -- well you'd be able
20 to quickly communicate with them through the
21 Accelerator, I would imagine.. [crosstalk]

22 MICHAEL OWH: Right, that's a good point.
23 I don't wanna guess right here, but we can go back
24 and find out how many unique vendors those 12,000
25 packages represented, and then see what the overlap

1
2 would be with those that are already prequalified
3 into Accelerator...

4 CHAIRPERSON ROSENTHAL: Yeah, yeah.

5 MICHAEL OWH: and we'll get you that
6 number.

7 CHAIRPERSON ROSENTHAL: Yeah. Okay,
8 thank you.

9 And then following up on Council Member
10 Lander's point; would there be a mechanism by which
11 vendors would automatically be notified when adverse
12 information is changed, added or removed on VENDEX,
13 like a performance evaluation?

14 MICHAEL OWH: So currently there is no
15 notice other than the performance evaluation copy
16 being sent; like other adverse information...

17 [crosstalk]

18 CHAIRPERSON ROSENTHAL: You mail paper
19 copies [sic].

20 MICHAEL OWH: We actually email; we've
21 modernized it a little bit, but we don't have like
22 other adverse information notifications going out,
23 but that's a great idea; we'd love to talk through
24 exactly how that could work, but we think that's... You
25 know one of the things that our office is striving to

1
2 do better is become a better business partner and we
3 think that's just one of those things that makes
4 sense and we'd love to work with you guys on how to
5 do that.

6 CHAIRPERSON ROSENTHAL: Great. I have
7 two more questions. The Vendors Guide to VENDEX
8 notes that, for example, a vendor would need to
9 report when a principal or officer or owner has his
10 or her driver's license revoked, even when driving is
11 unrelated to their duties. Would the Administration
12 report limiting the reporting of licensed revocations
13 to those licenses pertinent to the duties of the
14 principal or the work of a vendor and if not, how
15 might this information be relevant to the
16 determination of responsibility?

17 MICHAEL OWH: So we think it's certainly
18 reasonable and we'd love to work with you on how to
19 change that policy, 'cause we agree.

20 CHAIRPERSON ROSENTHAL: Okay. And
21 lastly, what do you anticipate the cost of making the
22 changes required by these bills to be?

23 MICHAEL OWH: So we are embarking on a
24 separate citywide procurement innovation plan and so
25 we would like to make sure that this would be a part

1
2 of that; we do not anticipate any additional costs at
3 this point, because the solutions that we're looking
4 at would have the functionality that we would require
5 for putting something like a VENDEX questionnaire
6 online. But if that changes, we'll come back to you...
7 [crosstalk]

8 CHAIRPERSON ROSENTHAL: Great. Council
9 Member Lander.

10 COUNCIL MEMBER LANDER: This is the first
11 I've heard of the procurement innovation plan. I
12 mean if you've already done hearing on it, then I'll
13 watch it online; if not, it might be a good topic for
14 a future hearing.

15 CHAIRPERSON ROSENTHAL: [background
16 comment] we had a hearing last month on the
17 Accelerator, which is an important step forward where
18 now some of what you were asking about can happen for
19 all those organizations that are on Accelerator. For
20 example, they get information about all the RFPs that
21 would be relevant for them -- automatically, right?

22 So I think there is a whole package that
23 we are watching history unravel, [laugh] and before
24 our very eyes, for those of us who just revel
25 [background comment] in procurements, [laugh] which

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2 in this room we don't joke about, 'cause many of us
3 [laughter] are. But you know, you remind me --
4 actually, I wanted to ask one last question and that
5 is around the users. One of the things that came out
6 from our last hearing on the Accelerator was; not
7 only do the organizations or the businesses have to
8 learn how to use VENDEX; the employees in the
9 agencies have to be proficient on it as well, and
10 they need to be trained and now we'll be talking
11 about a bigger list of agencies -- DOT, Parks -- do
12 you have -- especially learning from what you've
13 experienced through the Accelerator, will you have a
14 plan for how to roll out the training?

15 MICHAEL OWH: I think that's gonna be an
16 essential part of anything that goes live; I think we
17 will need a very, very robust training plan for the
18 agency users. And for VENDEX, it's unique in that we
19 also have non-City partners that view VENDEX, and so
20 we would also have to have a training plan for them.
21 So agencies such as the Port Authority, the State,
22 also have access to VENDEX information and so they
23 are current users and so we plan -- anything that we
24 do here we have to have a plan for them as well.

25 [background comment]

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COMMITTEE ON CONTRACTS

MICHAEL OWH: From an inquiry standpoint, so they can view information.

CHAIRPERSON ROSENTHAL: I see. Okay. I'm more worried about the agencies that have to input the data that don't use..

MICHAEL OWH: Definitely, I agree..

CHAIRPERSON ROSENTHAL: are paper people still.

MICHAEL OWH: I share your concern.

CHAIRPERSON ROSENTHAL: Okay, great.

Thank you so much, Director Owh. Any other questions? Okay, seeing none. Thank you very much; I really appreciate it.

We're gonna call... [pause] Thank you so much Council Member -- Harvey Epstein from the Urban Justice Center; Denise Richardson from the General Contractors Association; and Tracie Robinson from the Human Services Council.

I think Harvey is not here, but maybe he'll show up. [background comment] Oh great. Okay. Thanks. So Miss Richardson, we can start with you while Tracie sits down.

DENISE RICHARDSON: Good afternoon. In the interest of time, I will summarize my testimony.

1
2 I am Denise Richardson, the Executive
3 Director of the General Contractors Association of
4 New York.

5 The GCA represents the City's unionized
6 heavy civil and public works infrastructure
7 contractors that build and rehabilitate the City's
8 parks, roads, bridges, water and wastewater network
9 and other public facilities.

10 We very much support the initiative to
11 streamline the VENDEX questionnaire by automating its
12 submission, as we believe that this change will
13 certainly save time for both City staff members that
14 are tasked with reviewing the questionnaires as well
15 as for the contractors, as at one time or another all
16 of our members have had to submit VENDEX
17 questionnaires.

18 We do have some concerns about raising
19 the threshold for filing a questionnaire to \$250,000
20 from the current \$100,000. For our prime
21 contractors, we regularly use the publicly available
22 VENDEX data to obtain a consolidated listing of a
23 potential subcontractor's previous contract awards.
24 Due to data gaps within the SBS system and the
25 fragmented nature of other databases, the publicly

1
2 available VENDEX information is extremely useful to
3 obtain needed information. We hope that before the
4 City implements this proposed change, it assures the
5 availability of this data from some other
6 centralized, readily available resource.

7 We have had the opportunity to meet with
8 the Mayor's Office of Contract Services about the
9 proposed changes and we have offered to work with
10 them to test the submission process before it goes
11 live so that we can be certain that the process works
12 as designed and the information produced is accurate.

13 We have some concerns, however, that the
14 private identifying information about company
15 principals and we would hope that all aspects in
16 developing both the automation aspects of the process
17 as well as public access that the City takes
18 appropriate safeguards to remain that the company
19 principals' identifying information stays secure and
20 cannot be accessed. This protects both their
21 personal security, the security of their families and
22 concerns about identity theft and we would hope that
23 you would be sensitive to these concerns.

24 Finally, we urge that the new system
25 include some information for public use that explains

1
2 the data that is captured through the contractor
3 evaluation process so that a rating can be understood
4 in its full context. This is important for both the
5 City and the contractors.

6 Thank you for the opportunity to comment
7 today and I will answer any questions.

8 CHAIRPERSON ROSENTHAL: Thank you. Miss
9 Robinson.

10 TRACIE ROBINSON: Good afternoon Madam
11 Chair. Thank you so much for this opportunity to
12 testify today. My name is Tracie Robinson and I'm
13 the Senior Policy Analyst at the Human Services
14 Council (HSC). We are a nonprofit membership
15 organization; we represent about 165 nonprofit human
16 services providers throughout New York City and also
17 some in other regions of the State.

18 I think that a lot of what I wanted to
19 say was already covered by Director Owh, so I will
20 summarize my written testimony as well and try to
21 keep it brief.

22 So I really wanted to talk about three
23 things; one is the changing role of the VENDEX forms
24 with respect to nonprofit human services providers.
25 I'm not familiar with for-profit vendors. But VENDEX

1
2 was created at a time when the information that is
3 sought on the VENDEX forms was not publicly available
4 elsewhere. Since that time, the IRS has revised the
5 form 990, which is a tax compliance form that
6 nonprofits have to complete on an annual basis in
7 order to maintain their tax exempt status. The
8 questions that are asked on the VENDEX
9 questionnaires, a lot of those questions are
10 duplicative of questions that are asked on the 990.
11 So since the establishment of the VENDEX system, its
12 role has really changed and a lot of what the forms
13 seek disclosure of is now redundant, and so the
14 utility of these forms, at least from the nonprofit
15 perspective, has been reduced.

16 So with that said, I will say that HSC,
17 on behalf of its members, strongly supports the
18 proposed changes to the VENDEX system, and in
19 particular, we're really please with the proposed
20 increase in the contract award threshold, and this
21 will make a big difference for nonprofit
22 organizations, particularly smaller ones, because we
23 find that in smaller organizations people wear many
24 hats and so program staff are the ones who actually
25 do a lot of the administrative work. A person who is

1
2 a social worker and takes social work clients during
3 the day stays after hours to work on development, to
4 work on business proposals, to work on compliance and
5 completing forms such as the VENDEX questionnaires.
6 And so for us these changes will have a real impact
7 on communities because it will free up time and
8 resources, particularly among smaller organizations,
9 so that people can spend more time doing what the
10 City pays them to do, which is to deliver services in
11 the community.

12 And then with respect to the requirement
13 that these forms be submitted online -- I think I've
14 said this already in so many hearings and my
15 colleagues and my supervisor have said it as well --
16 we are really in favor of anything that digitizes or
17 automates things, because from the nonprofit
18 perspective, it just cuts out so much extra work,
19 anxiety, stress, and also risk of error. I think
20 Director Owh touched on it earlier; we believe the
21 risk of error is actually reduced when things are
22 digitized, because in our experience, a lot of
23 members have told us that their forms have been lost,
24 they send things in by mail; either the entire
25 package is lost or a part of it is lost and then

1
2 there's inconsistency and then there's sort of a
3 dance back and forth that happens between the agency
4 and the organization that has submitted the
5 paperwork, and all of these things add to the amount
6 of time that it takes to get to the point of
7 delivering services and getting them paid for.

8 So in short, basically we really support
9 these efforts to modernize the VENDEX system and we
10 look forward to working with you, Madam Chair, on
11 these efforts moving forward. And I'll take any
12 questions you might have.

13 CHAIRPERSON ROSENTHAL: Thank you.
14 Actually, I do have some questions for both of you;
15 I'm also hoping -- because you each represent
16 different industries -- actually I'm hoping that each
17 of you will answer a question that the other might
18 have, it that makes any sense.

19 Let's see, Miss Richardson, I wanna ask
20 you; do you feel that Director Owh's response on
21 protecting the privacy of individuals is sufficient?

22 DENISE RICHARDSON: Yes, I was very
23 pleased to hear him say that, but I wanted to
24 emphasize that again in my testimony, because it's
25 obviously something that we are very, very concerned

1 about -- the VENDEX questionnaire includes people's
2 Social Security numbers, their home addresses, other
3 very personal information, their driver's license
4 number and anything that could be used in a case of
5 identity theft or also for other less than honorable
6 purposes -- so we are very, very concerned about that
7 aspect.
8

9 [background comment]

10 CHAIRPERSON ROSENTHAL: But you also
11 think MOCS' **[inaudible]**. Great... [crosstalk]

12 DENISE RICHARDSON: **[inaudible]**
13 addressing it; I just wanted to emphasize the point.

14 CHAIRPERSON ROSENTHAL: Yep. And
15 similarly, do you feel comfortable with the notion
16 that a performance evaluation could be answered also
17 online and for the public to see that that's a
18 satisfactory response to the concern about something
19 hanging out there that might not be valid for
20 **[inaudible]**... [crosstalk]

21 DENISE RICHARDSON: Yes, I was very glad
22 that Council Member Lander brought that up. I think
23 having an ability for a contractor, if they choose to
24 do so, to submit a response to an evaluation will
25 provide an important context for whatever the

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2 evaluation information is, and particularly because,
3 as he pointed out, there are many vendors around the
4 city that will do both capital construction work as
5 well as maintenance work and in some instances even
6 serve as a vendor, providing either materials or
7 supplies to the City; each one has a different type
8 of evaluation with slightly different questions, so
9 having the opportunity to post a response [background
10 comment] to an evaluation will be very important and
11 we appreciate that.

12 CHAIRPERSON ROSENTHAL: Great. And then
13 the last question; this is where it sort of -- I want
14 the two sort of different types of contracts to talk
15 to each other. When you say that -- for builders,
16 for, you know, the nuts and bolts contractors, that
17 it's helpful to have information that we get through
18 VENDEX and you're worried about losing some of that
19 information, jumping up to the \$250,000 threshold,
20 and particularly that it's an opportunity for MWBEs
21 to shine, that you know, their information could be
22 on there in a very positive way. I don't think
23 that's true -- I mean I don't think that's as
24 relevant on the human services side; the more
25 important thing is that, you know, when you're sort

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2 of weighing the different values on the human
3 services side, you know the reduction in workload,
4 you know, supersedes anything else, given all the
5 work that has to be done. But is there any truth in
6 that on the human services side in terms of losing
7 that information?

8 TRACIE ROBINSON: So we actually do have
9 a slightly different perspective, and we haven't
10 polled our members yet, so I don't have exact
11 numbers, but I will use an example from another
12 sector.

13 Our perspective is really that in
14 increasing the threshold, you will still get most of
15 the information that you want because there will
16 still be a large dollar amount of contracts that are
17 covered, and so you will still be capturing
18 information on a large dollar amount of contracts,
19 and at the same time you'll be reducing burdens on
20 the City and on nonprofits. So we don't really share
21 the concern about losing the amount of information
22 that gets captured. And the reason I don't wanna
23 give numbers is I keep hearing that something like
24 ten of the largest human services providers hold the
25 vast majority of City contracts, but I don't know

1
2 what the exact numbers are and I don't wanna be on
3 the record giving the wrong numbers. But that is
4 definitely a point on which I think we might diverge.

5 CHAIRPERSON ROSENTHAL: Yeah, that makes
6 sense, and some of the information will be captured,
7 I would guess, if Accelerator is expanded to include
8 other agencies, but not the performance evaluation
9 information. Is that the piece you're most concerned
10 about?

11 DENISE RICHARDSON: Actually, the
12 performance evaluation applies to the prime
13 contractor only because that's where the City has the
14 contractual relationship; the City does not have a
15 mechanism for evaluating subcontractors, although
16 certainly when you look at a history of a project and
17 you see in the records, you can pretty much discern
18 the performance of a subcontractor, but it's not
19 formally captured in the way that they are captured
20 for the prime contractors.

21 What we're really talking about is being
22 able to look in one place, which is currently -- you
23 know many of our members will send someone down to
24 MOCS to get through the publicly available
25 information for perspective subcontractors so that

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2 they can see in that VENDEX questionnaire and those
3 questions just a full history of their previous
4 contract awards, and it's a very easy way,
5 [background comment] in one place, to be able to see
6 what types of work that contractor has previously
7 performed on other City projects. And so our concern
8 is we would like to be able to still be able to have
9 that information captured by the City some place
10 where it's available, and when you jump from \$100,000
11 to \$250,000, [background comment] particularly for
12 many of the smaller construction projects, you will
13 lose a fair percentage of subcontract information
14 that's pertinent in deciding: (a) how to package a
15 subcontract, and (b) who your pool of potential
16 subcontractors may be. So we would just like to see
17 that continue to be captured, if not in VENDEX, but
18 somewhere where it's publicly available that we could
19 look at it.

20 CHAIRPERSON ROSENTHAL: So maybe that
21 could be addressed..

22 DENISE RICHARDSON: Yes.

23 CHAIRPERSON ROSENTHAL: already,
24 [background comment] you know that MOCS could address
25 that..

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2 DENISE RICHARDSON: Or particularly if
3 SBS could take that existing data and roll it over
4 into their database, because it's particularly
5 helpful when we are looking for MWBE contractors to
6 see what the history of work is in a particular area
7 and for a particular contractor. So if we could...

8 CHAIRPERSON ROSENTHAL: Yeah.

9 DENISE RICHARDSON: take that data and
10 move it into the SBS database; that would solve most
11 of our concerns.

12 CHAIRPERSON ROSENTHAL: Got it.

13 [background comment] Alright, thank you very much.
14 A few more questions.

15 And this is a question that sort of is
16 moving us forward, so for both of you guys. Is there
17 an affect or a set of questions about the VENDEX
18 system that is most burdensome that we could shed?
19 [background comments] So certainly the information
20 that's captured by the 990s were duplicative.

21 TRACIE ROBINSON: Right. I would start
22 there. I just want to make a point, and I know that
23 we can't do away with these questions altogether, but
24 I will say that the nonprofit sector is in a very
25 special position because when you take a job in the

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2 nonprofit sector, generally you are accepting a lower
3 salary and less compensation than you could probably
4 get in the private sector, and so the personal
5 financial information that is requested on the
6 principal forms can be a deterrent to people who
7 might be highly qualified to do community-serving
8 work. If they know that every year they have to
9 disclose all this personal information, it can be a
10 bit of a turnoff for them, given that they are in
11 some sense making a sacrifice, and I say that not to
12 ask that we get right of these questions altogether,
13 but it's just something to think about.

14 But certainly I would say we should start
15 with getting rid of questions that are answered
16 elsewhere in a publicly accessible format.

17 CHAIRPERSON ROSENTHAL: Uhm-hm. If the
18 information were collected but not distributed
19 publicly, would that make a difference?

20 TRACIE ROBINSON: I think it... I think it
21 would make a difference, but to be honest, I'm not
22 sure; I haven't polled my members on that.

23 CHAIRPERSON ROSENTHAL: Yeah. Yep, I
24 understand [sic]... [crosstalk]

25

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2 TRACIE ROBINSON: I... I do... I get the
3 sense that for some of them, the very act of
4 answering those questions is a bit of a drag, to use
5 a technical term... [crosstalk]

6 CHAIRPERSON ROSENTHAL: Right, so if we
7 could get rid of it altogether.

8 TRACIE ROBINSON: Yes.

9 CHAIRPERSON ROSENTHAL: Yeah. Okay; got
10 it. **[inaudible]** in your long list, which if you
11 could send me as well... [interpose]

12 DENISE RICHARDSON: I think she..
13 Actually, I think she makes a very good point. We
14 are use to it, it's part of what we have to report,
15 but I think particularly in the nonprofit sector,
16 where people are often coming from other careers and
17 other jobs, perhaps what's relevant is their salary
18 in their current job, but certainly whatever they
19 came to the table with from the past; it's kind of
20 they have a right to stay in the past. I can see
21 that it would be a very big issue for people wanting
22 to serve on boards and other things as well, but in
23 terms of us -- one of the big things that I would
24 hope would come out of this process would be some
25 training sessions with MOCS; DOI participating as

1 well, with the entire vendor community about here's
2 the question and here is what they mean and here is
3 how far back in your history we are expecting you to
4 report these things, and here's what you really have
5 to report when you're answering question X or
6 question Y. One of the historically troublesome
7 issues, but I will say, that it has gotten better in
8 the last couple of years, has been a historic tug of
9 war between the agency and DOI and the contractor
10 where a contractor would fill out a VENDEX
11 questionnaire, answer the questions to the best of
12 their knowledge, best of their ability, and DOI would
13 come through and say well, we found other information
14 about your company but we're not going to tell you
15 what it is and you need to figure it out and modify
16 your questionnaire accordingly, and that leaves the
17 agency coming back to the contractor and saying well
18 DOI has told us that they will not approve your
19 questionnaire because there's missing information but
20 they can't tell us what it is and we don't know what
21 it is either, and then the agency calls MOCS and then
22 it turns into a free for all. That's gotten better,
23 but it's still not where it needs to be and I think
24 over time many of the people in the agencies have
25

1 changed as well as contractor personnel and you have
2 -- which is a very good thing -- new contractors
3 doing work and as they're growing, they are getting
4 exposure to these questionnaires and they have a
5 longer track record. So I think it would be very
6 helpful to sit down and have a training session for
7 the industry, both the contractor sector as well as
8 the not-for-profit, of here's how to file a VENDEX
9 questionnaire and here's what the issues mean. And I
10 think in terms of the actual question, it had always
11 been the understanding that people were required to
12 report information going back ten years, so if you
13 had health and safety violations or if you had an
14 issue on a project or whatever the information
15 pertinent to the question that you needed to disclose
16 would be, but there seems to be some confusion -- I
17 won't say that it's intentional; I think there's
18 confusion as to whether or not and when that ten-year
19 threshold does and does not apply. So addressing
20 that would take care of the majority of the issues
21 that result in the back and forth and delayed
22 contract awards associated with omissions in the
23 VENDEX.
24

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2 CHAIRPERSON ROSENTHAL: So you're saying
3 the 20-page VENDEX explanations book needs to be
4 flushed out a little bit more... [crosstalk]

5 DENISE RICHARDSON: Yes and needs to be...

6 CHAIRPERSON ROSENTHAL: so brought to
7 life.

8 DENISE RICHARDSON: Yes and I think needs
9 to be clarified a little more.

10 CHAIRPERSON ROSENTHAL: Okay. From your
11 -- if you could each think about your constituents
12 for a minute -- whenever a contractor or a provider
13 got a caution on the VENDEX profile; do you know if
14 they were notified or had a chance to respond?

15 TRACIE ROBINSON: I actually don't. I
16 have not heard of one of our members getting a
17 caution, so I don't.

18 DENISE RICHARDSON: Our history has been
19 mixed and in most instances cautions have come from
20 three different sources. One, a non-responsiveness
21 determination by an agency when a contractor has been
22 found not to meet the qualifications for a
23 prequalified solicitation, and I do think that that's
24 something that should be looked at, because I don't
25 know that a denial of prequalification status is

1 something that is necessarily bad in terms of a
2 company's overall performance. There are many
3 reasons why a company may not be prequalified for a
4 certain piece of work that the City is looking for,
5 and I'll give one example. In many of the City's
6 playgrounds the City uses a specialized rubber
7 surface to protect the children -- as opposed to how
8 we grew up, just playing on the asphalt -- those
9 surfaces are all installed with the specialty
10 manufacturer's certification, so you as a contractor
11 go and get training by that manufacturer and become a
12 certified installer of that equipment, and the City
13 specified three or four different types of surfaces;
14 it's a fairly competitive marketplace. If a
15 contractor applies for prequalification for a project
16 that includes that surface and doesn't have that
17 certification, they will be determined not to be
18 qualified for that solicitation. That does not mean
19 that they're a bad company and so to have a VENDEX
20 caution in a non-responsiveness determination because
21 they were found not to make it for a prequalified
22 list, I think misses the overall point of why you
23 would do a prequalified list. So that's one issue.
24
25

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2 The second issue that tends to be the
3 source of most cautions is OSHA violations, and
4 unfortunately, the way OSHA clarifies violations
5 doesn't really allow people to really understand the
6 true severity of a violation; there's basically just
7 willful, non-willful, serious; non-serious. I mean
8 certainly, any kind of health and safety violation is
9 serious, but within that very broad category of
10 serious there are issues; anything that becomes a
11 reportable incident becomes in the category of
12 serious, and that results in a caution. And so I
13 think there should be some discussion and some
14 further refinement around the caution process
15 associated with OSHA violations so that we're doing a
16 better job of capturing the significant and important
17 information that would lead to a more thoughtful
18 determination of whether or not someone's OSHA
19 history indicates a good contractor or a bad actor.

20 And then finally, I think in terms of
21 cautions, one of the things that we really need to
22 look at is we need to look at the whole issue
23 associated with affiliates. The construction
24 industry in particular is changing significantly and
25 many contractors who do work around the country have

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2 affiliated corporations that they may or may not have
3 managerial responsibility over, and so when we look
4 at the whole caution issue we should be focusing on
5 what is the role of the company that is bidding work
6 in New York and if they have managerial oversight
7 relationships with their affiliate, then that's
8 important information, but if they're part of a
9 larger conglomerate and they do not have managerial
10 responsibility for that separate company; then
11 perhaps we could look at a different sort of filing
12 and that would certainly increase the efficiency of
13 the VENDEX process without losing any of the public
14 focus to assess adequately a company's integrity.

15 CHAIRPERSON ROSENTHAL: [background
16 comment] same can be said for Catholic Charities and
17 then Catholic Charities of Queens, of Brooklyn --
18 it's a similar story. Thank you for raising that.

19 Currently members of the public accessing
20 VENDEX through the Public Access Center are able to
21 see the performance reviews without the associated
22 detail. Would you support a policy by which vendor
23 responses would be available on the public system?
24 I'm gonna take that as a yes. Okay, great.

1
2 What are your most significant concerns
3 with the information that you must currently report
4 on or that's reported by agencies to be included in
5 the VENDEX profile? Is there anything we've missed?
6 [background comments] Okay. Thank you both for
7 coming in and testifying today; really appreciate
8 your time and we'll continue to work on this together
9 throughout the legislative process. Thank you.

10 [background comment] Oh. Oh, a surprise guest. We
11 have Claude Millman here to testify as well. It's
12 great to see you. [background comment]

13 [pause]

14 [background comment]

15 CLAUDE MILLMAN: There we go. Thank you.

16 My name is Claude Millman and I represent
17 TASER International, Inc.

18 Good afternoon. I am pleased to testify
19 concerning VENDEX on behalf of TASER International,
20 Inc. I am here in my capacity as outside counsel to
21 TASER.

22 As the Committee may know, TASER is
23 currently protesting the New York City Police
24 Department's procurement of body cameras. In
25 connection with that process, TASER has experienced

1
2 numerous hurdles in its effort to get transparency
3 into the NYPD procurement process, including relevant
4 VENDEX filing. TASER believes that the Committee's
5 consideration of the issues before it today would
6 benefit from learning about some of TASER's
7 frustrations in connection with VENDEX transparency.

8 The body camera procurement is a useful
9 window into the issue of procurement transparency
10 because the City is presumably procuring body cameras
11 to increase transparency into what the NYPD does.
12 One would think that it would be very important to
13 the City to make sure that in procuring body camera,
14 the City does so in a transparent way.

15 On September 30, 2016, the NYPD announced
16 that it would hold a public hearing on October 13,
17 2016 regarding a contract between it and Viewu, LLC,
18 for the purchase of body cameras.

19 One of the first things my office, as
20 TASER's lawyers, did was to look for Viewu's VENDEX
21 filings. I sent a paralegal to the Mayor's Office of
22 Contract Services Public Access Center to get the
23 VENDEX filings of Viewu and the filings of any
24 parents and affiliates.

1
2 Here's what we found. First, although
3 the public was expected to testify at a public
4 hearing about a contract for Viewu, there was nothing
5 on file for Viewu. Second, while companies
6 affiliated with Viewu had, in connection with prior
7 City contracts, filed VENDEX forms, we could not
8 obtain scans of those forms. We could only review
9 the results of MOCS data entry -- at least before the
10 hearing.

11 In terms of the lack of transparency,
12 this was just the tip of the iceberg for us. We
13 could only see the draft contract by physically going
14 to the NYPD. We could not copy it. We could not
15 photograph it. There was only one copy. If somebody
16 else was reviewing it, we could not.

17 Under the law, since a contract selection
18 was made, all information about the procurement was
19 subject to review under the Freedom of Information
20 Law. When we submitted a FOIL request, we were told
21 the City would not even respond for 90 business days.

22 The information that has been made
23 available to TASER in connection with this
24 procurement is a tiny fraction of the information
25 that exists in electronic form and that State law

1
2 says is public. That information should be available
3 on the internet for everyone. It should be available
4 on the web before the public is expected to testify
5 at a contract public hearing.

6 TASER agrees with the effort to make
7 information available at the Public Access Center on
8 the internet. It should be clear what that means.
9 It should be clear that the information that is
10 submitted to MOCS in connection with procurement
11 reviews should be online. Information submitted to
12 the Comptroller by the agency in support of a
13 contract award should be on the internet. Certainly,
14 the entire VENDEX forms should be available on the
15 internet. The Council should remind MOCS and City
16 agencies that a procurement is not proper if public
17 hearings are held without transparency and if
18 contracts are submitted for registration without
19 disclosure of the registration package to the public
20 on the internet.

21 Body cameras can increase confidence in
22 government by increasing transparency in law
23 enforcement. This committee should increase
24 confidence in procurement by ensuring that the public
25 can see on the web what's happening in a particular

1
2 procurement before the government enters into long-
3 term contracts on the public's behalf.

4 Thank you.

5 CHAIRPERSON ROSENTHAL: Thank you so much
6 Mr. Millman. Can I ask you; are you familiar with
7 the -- I appreciate your coming to testify today.
8 Have you ever looked on the DOE website for the Panel
9 on Education Policy meetings, the way they put
10 information about contract awards online and I think
11 -- I don't remember, I mean we're always working with
12 them to give the public more time -- but at some
13 point beforehand I think they post online all of the
14 bidders for an RFP and why they were not chose or why
15 they were chosen; am I remembering this right?

16 CLAUDE MILLMAN: That's correct.

17 CHAIRPERSON ROSENTHAL: And is that what
18 you're looking for?

19 CLAUDE MILLMAN: That... I think there are
20 some imperfections in that as well, but that's a lot
21 better, and actually, I think the MTA has something
22 that's somewhat similar as well. You can find -- and
23 I'm pretty sure it's before their board meetings --
24 you can find their agenda and there's usually a
25 contract-related package, but you're correct, that

1
2 the Department of Education, for their panel
3 meetings... [crosstalk]

4 CHAIRPERSON ROSENTHAL: Believe it or
5 not, it's actually better -- sorry.

6 CLAUDE MILLMAN: than some of the City
7 agencies, yes. And I think it is very helpful in
8 getting some of that information; you don't get
9 everything, but you get -- in both of them it looks a
10 little bit like what I would call a recommendation
11 for award, so the Procurement Policy Board rules
12 refer to a recommendation for award that the agency
13 prepares and submits to the City Comptroller and that
14 recommendation will discuss what the process was, who
15 the bidders were, and why the selection went the way
16 it did, and that's a pretty useful document; it's
17 what the Comptroller looks to to decide whether to
18 register the contract and it's certainly something
19 that one would think that as soon as it's prepared
20 and submitted to the Comptroller the public would
21 also wanna see it so that the public could evaluate.
22 For example, the public could then comment to the
23 Comptroller and say we've read this recommendation
24 for award that's just been submitted to you and we
25 don't think this is a good idea or we think this is a

1
2 good idea -- whichever -- and I think that is what
3 sort of happens with the panel on educational policy,
4 something -- basically, a watered-down version of the
5 recommendation for award seems to be online.

6 CHAIRPERSON ROSENTHAL: Okay. Well it
7 strikes me that this idea is a good one; it's outside
8 of the scope of these three bills, but I really
9 appreciate your coming and testifying, raising this
10 point and thank you very much.

11 CLAUDE MILLMAN: Okay, thank you.

12 CHAIRPERSON ROSENTHAL: Okay. I'm
13 actually gonna call this hearing to a close. Thank
14 you.

15 [gavel]

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C E R T I F I C A T E

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



Date November 30, 2016