

COMMITTEE ON CONTRACTS JOINTLY WITH
COMMITTEE ON OVERSIGHT AND INVESTIGATIONS 1
CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON CONTRACTS JOINTLY WITH
COMMITTEE ON OVERSIGHT AND
INVESTIGATIONS

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October 25, 2022
Start: 10:08 a.m.
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HELD AT: COUNCIL CHAMBERS - CITY HALL

B E F O R E: Gale Brewer, Chairperson

COUNCIL MEMBERS:

Julie Won, Chair
Joann Ariola
James F. Gennaro
Linda Lee
Sandy Nurse
Diana Ayala
Rita C. Joseph
Shekar Krishnan
Marjorie Velazquez

COMMITTEE ON CONTRACTS JOINTLY WITH
COMMITTEE ON OVERSIGHT AND INVESTIGATIONS 2

A P P E A R A N C E S

Lisa Flores, Director of Mayor's Office of
Contract Services and City Chief Procurement
Officer

Annie Meredith, General Counsel at Mayor's Office
of Contract Services

Jocelyn Strauber, Commissioner at Department of
Investigations

Towaki Komatsu

2 SERGEANT-AT-ARMS: This is a microphone
3 test for the Committee on Oversight and
4 Investigations jointly with the Committee on
5 Contracts.

6 Today's date is October 25, 2022.
7 Recorded by (INAUDIBLE) Rodriguez. Location at the
8 Chambers.

9 SERGEANT-AT-ARMS: Good morning and
10 welcome to the New York City hybrid hearing on the
11 Committee on Oversight and Investigations jointly
12 with the Committee on Contracts.

13 At this time, please silence all
14 electronic devices to vibrate.

15 If you do wish to submit testimony, you
16 may do so at testimony@council.nyc.gov. I repeat,
17 testimony@council.nyc.gov.

18 Chairs, we are ready to begin.

19 CHAIRPERSON BREWER: Good morning. We're
20 about to begin the Committee. The first speaker is
21 Council Member, Chair of Contracts, Julie Won.

22 [GAVEL]

23 CHAIRPERSON WON: Good morning. I'm
24 Council Member Julie Won, Chair of Committee on
25 Contracts. Thank you for joining us for this joint

1 hearing with Committee of Oversight and
2 Investigations Chaired by Council Member Gale Brewer.

3
4 We're here today to talk about the
5 massive contracting needs incurred by the City after
6 the COVID-19 pandemic struck two years ago. Almost
7 overnight, New York City had to stand up entire
8 public health systems for testing, tracing,
9 vaccinations, and PPE procurement among other public
10 health needs. By necessity, we had to rely on outside
11 contractors to secure the tools to keep ourselves
12 healthy and contain the virus' spread while adapting
13 our city as a new normal. More than two years and
14 many billion dollars later, it is imperative to
15 account for how our money was spent. The purpose of
16 this hearing is to ask how do we keep track of all
17 these contracts, did the City get what it paid for,
18 and did we make the best use of the system we already
19 had in place for ensuring our contracts are fulfilled
20 with the highest standards for integrity.

21 New York City pioneered vendor integrity
22 best practices in 1996 following a decade of
23 investigations into the penetration of our
24 construction industry by organized crime. The
25 Department of Investigation launched its Vendor

1 Integrity Monitor Program. Under this initiative,
2 firms paid for outside monitors to come in and impose
3 codes of ethics and ensure contracts are fulfilled in
4 good faith. The Vendor Integrity Monitor Program
5 allowed the City to award contracts to vendors with
6 an additional layer of outside oversight without
7 incurring more cost for taxpayers. It's been expanded
8 after September 11th, the City Times scandal, and
9 Hurricane Sandy. Congress cited DOI's efforts as a
10 national model, but in the last decade its use has
11 atrophied with the number of active agreements
12 falling to a decade low in Fiscal Year 2021. We hope
13 the Department of Investigations can explain why the
14 Integrity Monitoring Program has declined even as the
15 COVID response forced the City to pay billions to
16 contractors under emergency procurement rules.

17
18 Thank you to my central staff team of
19 Lead Counsel Alex Paulenoff and Policy Analyst Alex
20 Yablon as well as my Chief-of-Staff Carolina Gil,
21 Legislative Director Isaac Blasenstein, and for all
22 helping prepare for this hearing. With that, let's
23 begin.

24 CHAIRPERSON BREWER: I'm Gale Brewer. I'm
25 Chair of the Committee on Oversight and

Investigations, and I really love working with the
Committee on Contracts Chair Julie Won.

Today, we're going to focus on the steps
the administration is taking to ensure that companies
that do business with the City are not engaged in
fraud, corruption, abuse, and any other conduct, and
I think we all agree with that. Mayor Adams has
emphasized his commitment to reducing government
waste and inefficiency, but when we talk about good
government we can't just focus on the activities of
city agencies, we also need to look at the hundreds
of firms of and non-profits that the City pays to
deliver essentials goods and services and,
unfortunately, the papers are full of what happened
today at Rikers Island with a non-profit that was
working there, lots of problems. Procurement is a
fundamental part of the city government. Last year,
the City spent nearly 40 billion dollars on over
100,000 procurement transactions. These contracts
helped the City fulfill a variety of government
functions, all important, from direct services to New
Yorkers to maintaining our infrastructure. To ensure
that taxpayer money is spent responsibly, the
procurement process in our city is subject to a

1 number of exacting regulations. Yet, in recent years,
2 the City has relied on a fast-track process known as
3 Emergency Procurement to get around these regulations
4 in certain contexts, and I know what that was like
5 because I was here during the pandemic and we did
6 need PPE and other things quickly so I remember
7 during that pandemic then-Mayor DeBlasio issued an
8 executive order authorizing the use of Emergency
9 Procurement to acquire the goods and services like
10 the PPE to respond to COVID and more recently Mayor
11 Adams authorized Emergency Procurement for responding
12 to the migrant crisis, the asylum crisis, the
13 seekers. While the City must be able to respond to
14 these emergencies quickly, we cannot let the
15 Emergency Procurement process open the door to fraud,
16 waste, abuse, and other misconduct because it is
17 public money. In the past, the City has been
18 proactive about ensuring vendor integrity when
19 emergencies arise. After September 11th, when we had
20 immense need for demolition and hauling and
21 reconstruction contracts, the Department of
22 Investigations ramped up its use of outside
23 "integrity monitors" to ensure that public money was
24 being spent responsibly. Has the City taken similar
25

steps in response to COVID-19 and the migrant crisis?

As we heard earlier from Chair Won, why is there number of integrity monitors going down given the fact that we have many emergency contracts and other kinds of contracts? We are here to get an answer to that question today. Whether it's through the use of integrity monitors or other measures, we have to make sure that the taxpayer money goes to non-profits and profits that are good actors.

I'd like to thank certainly Senior Counsel Staff C.J. Murray, Policy Analyst Alex Yablon, and Legislative Director of my office Leo Bullaro for preparing this hearing.

Now, we'll turn it over to C.J. Murray.

COMMITTEE COUNSEL MURRAY: Thank you, Chairs. We'll now turn to testimony from representatives of the administration.

Before we begin, I will administer the affirmation to all members of the administration who will be offering testimony or available for questions. Please raise your right hand.

Do you affirm to tell the truth, the whole truth, and nothing but the truth before this

2 Committee and to respond honestly to Council Member
3 questions?

4 ADMINISTRATION: (INAUDIBLE)

5 COMMITTEE COUNSEL MURRAY: Thank you. You
6 may begin your testimony.

7 DIRECTOR FLORES: Good morning. Hello,
8 Chair Won and Members of the Contracts Committee and
9 Committee on Oversight and Investigations. Thank you
10 for taking the time to hold this important hearing
11 today on the topic of maintaining vendor integrity
12 through the pandemic. My name is Lisa Flores, and I
13 serve as the Director of the Mayor's Office of
14 Contract Services and the City Chief Procurement
15 Office. I'm joined by MOCS General Counsel Annie
16 Meredith as well as our colleagues, Commissioner from
17 the Department of Investigations.

18 As many of you know, MOCS is an oversight
19 agency responsible for ensuring compliance with the
20 City's procurement rules and leading reform
21 initiatives to improve the procurement process. MOCS
22 has a wide purview over procurement. We implement
23 technology solutions to bring the process into the
24 digital era, lead legislative advocacy efforts to
25 make sure the procurement rules match our modern

2 reality, provide hands-on support for agencies and
3 vendors to speed up procurement, and provide
4 strategic consultation to help agencies improve their
5 procurement outcomes.

6 Part of this last activity involves
7 reviewing contracts and contractors for risk,
8 supporting agencies with any remedial action needed
9 to mitigate risks, and implementing safeguards to
10 protect against waste, fraud, and abuse. MOCS'
11 efforts here fit within a broad framework of risk
12 prevention, assessment, and remediation carried out
13 across multiple oversight agencies and based on
14 practices and protocols that have been put in place
15 over decades. With nearly 38 billion dollars in
16 procurement value in Fiscal Year 2022, this
17 administration is keenly aware that the City's
18 contracting portfolio poses a target for abuse, and
19 we are continuing to find ways to safeguard
20 responsible use of taxpayer dollars through
21 collaborative work across oversight and risk
22 management agencies. The Adams' administration has
23 doubled down on managing risk as a core tenet of both
24 being responsible with taxpayer dollars and ensuring
25 agencies are operating as efficiently as possible.

1
2 The newly created Mayor's Office of Risk
3 Management and Compliance is responsible for
4 reviewing and enhancing risk protocols to find the
5 most effective safeguards we can implement without
6 overburdening the City's notoriously cumbersome
7 procurement process. Within this general framework,
8 it is a requirement in city contracting that agencies
9 determine a vendor responsible before awarding them a
10 contract. This is a holistic assessment, which must
11 be completed on a contract-by-contract basis as set
12 forth in the Procurement Policy Board Rules which
13 only allows the reward of a contract to a vendor who
14 has the capability in all respects to perform fully
15 the contract requirements and the business integrity
16 to justify the award of public tax dollars.

17 Factors affecting a vendor's
18 responsibility can include financial resources,
19 technical qualifications, experience, capacity to
20 carry out the work, historical performance records,
21 business integrity, and others. If adverse
22 information later emerges on a contractor after the
23 contract has been registered, agencies have a range
24 of options to utilize when assessing the best path
25 forward, which can include entering into a corrective

1 action plan or even terminating a contract in severe
2 cases. Broadly speaking, this framework offers a
3 comprehensive means by which to assess, prevent, and
4 mitigate risk at each stage of the contracting
5 process. The crisis set off by the first wave of
6 COVID-19 in the spring of 2020 forced the City to
7 operate under a set of emergency rules, which fast
8 tracked the procurement process due to the dire need
9 to get personal protective equipment in the hands of
10 medical personnel treating the novel virus. Executive
11 Order 101 temporarily suspended some procurement laws
12 and rules to allow agencies to enter into contracts
13 more quickly at a time of massive supply chain
14 disruption. As part of this process, MOCS in
15 coordination with other agencies established a
16 process to intake and expeditiously review the
17 multiple of PPE offers we were receiving, many from
18 unknown sources. Each offer was evaluated against the
19 same set of key criteria, including available supply,
20 delivery timelines, vendor integrity, pricing,
21 current burn rates, and projected inventory for key
22 goods. MOCS maintained a risk review process for
23 potential suppliers and was supported by DOI to
24 complete VNCs as needed.
25

1
2 While the City identified and referred
3 fraudulent activity for investigation in a few cases,
4 this EEO overwhelmingly saw the successful completion
5 of contracts for needed goods and services. EEO 101
6 expired July 16, 2021, but this same set of
7 emergency rules was reinstated under Executive Order
8 322 on December 20th, 2021, to combat a resurgence in
9 COVID-19 cases and acquire the needed test kits. In
10 total, MOCS registered nearly 1,600 contracts for
11 COVID-related needs under these emergency executive
12 orders valued at around 8.5 billion dollars in total.
13 Only a small percentage of these contracts still
14 remain active based on ongoing needs to mitigate the
15 spread of the virus and any current emergency
16 contracts are submitted to the Comptroller's Office
17 now for registration.

18 Turning to the bills in front of us
19 today, Intro 300, 301, and 452, MOCS shares the
20 Council's goal of strengthening the City's oversight
21 of waste, fraud, and abuse of City contract dollars
22 and further supports the goal to use contract
23 language to address conflicts of interest and
24 potential wasteful spending. However, at a time where
25 these is consensus on streamlining the process to

1 ensure that it doesn't pose an obstacle to getting
2 providers paid on time, we want to thoroughly
3 consider the impact from these bills, and we're happy
4 to continue this conversation with the Council.
5

6 Thank you for calling this hearing to
7 bring attention to this important topic. While the
8 height of COVID emergency era is over, it is
9 important that we analyze this period to inform our
10 ongoing reform work and ensure that the City's risk
11 mitigation framework is truly maximizing our
12 resources to target the riskiest areas with the
13 strongest safeguards and we're better able to respond
14 to continuing impacts of COVID-19 and other emergency
15 situations facing the City. I'm happy to keep the
16 Council informed on these continued efforts and will
17 make ourselves available for questions now and after
18 the hearing if necessary. Thank you.

19 CHAIRPERSON BREWER: We'll go ahead with
20 the Department of Investigations. Thank you.

21 COMMISSIONER STRAUBER: Good morning and
22 thank you, Chair Won and Chair Brewer, for the
23 opportunity to address the Committee on Contracts and
24 the Committee on Oversight and Investigations on
25 three bills involving vendor integrity oversight and

2 the impact of these bills on the work of the City's
3 Department of Investigations. I should say I'm
4 Jocelyn Strauber, the Commissioner of the Department
5 of Investigations.

6 Vendor integrity is and has long been a
7 critical part of DOI's mission to root out
8 corruption, protect public funds, and ensure the
9 existence of strong internal controls and best
10 practices with respect to City operations. DOI's
11 investigations relating to city vendors have led to
12 public reports and recommendations proposing stronger
13 agency oversight of vendor contracts as well as
14 criminal referrals and convictions. DOI also manages
15 an Integrity Monitorship Program to ensure that
16 vendors with an ongoing contractual relationship with
17 the City who have had integrity problems in the past
18 are acting appropriately.

19 Within the last year, DOI released a
20 report on corruption vulnerabilities in the City's
21 oversight and administration of not-for-profit human
22 services contracts, that is contracts with third part
23 non-profit entities that provide services to New
24 Yorkers in areas like housing, education, and health.
25 The DOI report based on dozens of corruption and

2 fraud investigations involving non-profit entities
3 included recommendations for reform with respect to
4 the City's budgeting, invoicing, and auditing of
5 these contracts. The Mayor's Office of Contract
6 Services has not yet responded to those
7 recommendations, but we understand that they will be
8 considered as part of a taskforce addressing city
9 contracts with non-profit entities and that we will
10 have an opportunity to weigh in on the policies and
11 procedures proposed by the taskforce.

12 In addition, since February 2021, DOI has
13 been working on a comprehensive examination of
14 Department of Homeless Services' non-profit human
15 services vendors to identify for DHS potential
16 compliance risks including conflicts of interest and
17 financial issues so that DHS can address these risks
18 and, if necessary, end the relationship with that
19 vendor. DOI is making significant progress on this
20 examination and expects to issue a public report
21 summarizing its findings early next year.

22 Vendor misconduct also can involve
23 criminal offences. For example, a joint investigation
24 DOI conducted with the U.S. Attorney's Office for the
25 Southern District of New York led to the guilty plea

1 of the former CEO of the city-funded Bronx Parent
2 Housing Network, an entity that provided services to
3 DHS. The CEO conspired to enrich himself through
4 bribes and kickbacks in connection with the services
5 that he provided and was sentenced to a 27-month
6 prison term in May as a result. These are just some
7 of the examples of DOI's investigative work to
8 identify and prevent corruption, fraud, and waste in
9 relation to city contractors.
10

11 Before I address the three bills, I want
12 to explain DOI's role in the City's procurement
13 process, our longstanding initiatives to oversee
14 contracts and vendors that pose a particular risk of
15 fraud and abuse as well as the steps that DOI took
16 during the pandemic and in the wake of other crises
17 to provide enhanced oversight of emergency-related
18 contracts. The Director of the Mayor's Office of
19 Contract Services has already explained the City's
20 standard procurement process. DOI has a discreet role
21 in that process. We provide specific information
22 relating to the vendor and its principals for a
23 prospective contract or contracts valued at 250,000
24 dollars or more within a 12-month period. DOI obtains
25 that information by conducting what we refer to as

1 vendor namechecks. This is not a full background
2 check of a vendor nor is it a responsibility
3 determination. DOI checks its internal databases and
4 informs the contracting agency of any substantiated
5 findings. We play a small role in the vetting
6 process. City agencies conduct additional checks and
7 ultimately make an independent determination whether
8 to award a contract.

9
10 DOI also oversees an Integrity Monitor
11 Program. That program is used for vendors with
12 integrity issues, sometimes uncovered through DOI
13 investigations, that the city agencies wish to
14 continue doing business with. While these issues
15 might ordinarily preclude a vendor from obtaining
16 city business, this program allows the company to
17 continue to perform under existing city contracts or
18 be awarded new contracts under certain conditions.
19 These include the condition that the company pays for
20 an integrity monitor and makes other arrangements
21 such as separating principals who engaged in
22 misconduct from the business and the implementation
23 of policies and procedures and training of employees
24 to ensure the entity's integrity. The monitor reports
25 directly to DOI so that we can maintain close

oversight and work in real time with both the vendor and contracting agency to address any issues. DOI can also join the monitor on site visits, audits, and investigations. For example, a critical Parks Department contractor pleaded guilty to a 1-million-dollar insurance fraud earlier this month. So that the agency could continue doing business with that contractor after it was initially charged, the contractor was required to retain a monitor that reports to DOI. The terms of the monitorship include remedial measures such as barring the now-former principals of the company and any entities those individuals own from working on any city contracts and construction projects and requiring the company to establish a code of conduct and train employees on it. The City has taken a similar approach with the Bronx Parent Housing Network. Because that network provides critical services for the Department of Social Services, DOI worked with that agency to strengthen oversight of BPHN requiring it to retain a monitor that reports directly to DOI so that it can complete its existing city contract.

Vendor integrity and identifying and stopping vendor fraud are high-priority areas for DOI

2 and will continue to be. That is important context
3 for our position on the following three bills.

4 We do not support Intro Bill 300 which
5 would establish a special inspector within DOI to
6 review contracts that were entered into in response
7 to the COVID-19 pandemic. DOI opposed a similar bill,
8 Intro Bill 1980, that was introduced two years ago.
9 My predecessor's core concerns about that bill as
10 expressed in her testimony apply to the current bill
11 as well. While there have been some minor changes
12 made to the legislation, the current bill
13 contemplates a role for DOI that is not consistent
14 with nor the best use of our expertise. Furthermore,
15 to be frank, it is a role that we cannot fulfill
16 given our current resource limitations.

17 First, the bill has an unfunded mandate
18 to appoint a special inspector to collect and review
19 COVID-19-related contracts in order to identify
20 deficiencies. This broad contractual review would
21 require significant resources that we do not have. To
22 attempt this work with our current staffing would
23 significantly damage our ability to pursue our
24 current docket of active investigations.

1
2 Second, the bill asks that DOI report the
3 results of the review and other specific vendor
4 information in a public database. DOI does not
5 maintain this information as a general matter. We are
6 an investigative agency, and, while we, of course,
7 can obtain such information for our investigations,
8 our role is not to parse city contracts or manage
9 city contract data as a general matter. Putting aside
10 our limited resources, the tasks contemplated by this
11 bill are not the best use of our expertise.

12 Third, many COVID-19-related contracts
13 have already been awarded during the height of the
14 pandemic, and our understanding is that most of them
15 have concluded or are winding down. Thus, there is
16 the question whether this is an appropriate use of
17 resources at this time.

18 DOI's appropriate role in the wake of a
19 disaster or crisis has always been to use our
20 integrity monitoring expertise to assist. We did so
21 in the wake of Hurricane Sandy with the Rapid Repairs
22 Program, an emergency initiative to fulfill New
23 Yorkers' basic needs including heat, hot water, and
24 electricity. DOI implemented a monitoring program for
25 RRP to oversee repairs by contractors at over 13,000

1 residential units. That monitoring led to a number of
2 recommendations for improvement of the Build It Back
3 Better program, criminal convictions of those who
4 sought to defraud the City of disaster relief funds,
5 and a significant cost savings to the City.
6

7 Similarly, during the pandemic, when the
8 regular procurement rules were suspended so the City
9 could obtain essential items such as PPE, DOI
10 proactively offered to conduct and performed vendor
11 namechecks for agency contracting officers, even
12 though in that period such namechecks were not
13 required. We also asked the Mayor's Office of
14 Contract Services to provide us with the contracts
15 related to COVID-19 on a rolling basis and gave that
16 list to our Inspectors General. They took a number of
17 steps to ensure the integrity of the vendors. Among
18 other things, they discussed the emergency contracts
19 with the agencies they oversee, checked certain
20 vendors through a matrix of databases, and
21 investigated whether certain purchases were made and
22 if they comported with the intended purpose. DOI also
23 conducted criminal investigations of COVID-19-related
24 fraud and misconduct. One case resulted in a federal
25 conviction of a New Jersey man for a 45-million-

1 dollar scheme to defraud the City during the height
2 of the pandemic by trying to supply PPE that he did
3 not possess. In another matter that is pending in
4 federal court, four defendants were charged with
5 abusing the City's COVID-19 Hotel Room Isolation
6 program by falsely claiming to be healthcare workers
7 and by selling hotel rooms to ineligible individuals,
8 defrauding the government of 400,000 dollars. In our
9 experience, the most effective way to address
10 integrity concerns related to emergency contracting
11 is by engaging an outside integrity monitor that
12 reports to DOI. Our proposed approach has been used
13 numerous times during prior crises in the city that
14 have called for large-scale contracting endeavors,
15 including, for example, in the wake of Hurricane
16 Sandy and in the cleanup of Ground Zero. While my
17 predecessor reasonably suggested the appointment of
18 an integrity monitor for emergency COVID-19
19 contracting as an oversight option in her 2020
20 testimony, that appointment likely is no longer
21 timely given the limited number of remaining COVID-19
22 contracts.
23

24 With respect to Bill 301, DOI has
25 previously recommended that city contractors be

1 required to make disclosures to aid the City in
2 identifying potential corruption and conflict of
3 interest risks. While this bill may seek to
4 accomplish the same result, DOI disagrees with the
5 Bill's approach and, in particular, the requirement
6 that standards and procedures be imposed on
7 contractors so that the contractors can determine
8 whether corruption or conflicts exist and make a
9 certification with respect to those issues. The
10 determination and certification that the Bill asks
11 vendors to make is usually made by law enforcement or
12 other authorities such as the Conflict of Interest
13 Board based on laws that are complex and that may
14 differ across state and federal jurisdictions. Such a
15 certification could not be made without a full
16 internal investigation, even if a vendor was well-
17 positioned to evaluate whether any identified conduct
18 constituted corruption or a conflict of interest. To
19 extent, this requirement prompts a vendor to conduct
20 its own investigation. That could have a negative
21 impact on current or future DOI investigations, and,
22 furthermore, the requirement that certifications be
23 made public also could interfere with ongoing
24 investigations. We share the Council's commitment to
25

1
2 eradicating corruption and conflicts of interest in
3 city contracting but note that our proposed approach
4 to this issue was quite different. We recommended in
5 our 2021 report on corruption vulnerabilities in
6 connection with non-profit contracts that the City
7 require disclosures of information from vendors so
8 that the City could exercise its oversight
9 responsibility with more complete information among
10 other measures.

11 Intro Bill 453, turning now to that Bill,
12 the last one, would require that employees of city
13 vendors report corruption, fraud, waste, abuse, and
14 conflicts to DOI and to cooperate with any
15 investigation. Putting aside any implementation
16 issues, DOI supports the imposition of a reporting
17 requirement on city vendors. As the Council is well
18 aware, reporting of suspected or potential
19 corruption, fraud, or misconduct is critical for DOI
20 to accomplish its mission. The affirmative reporting
21 obligation of New York City employees is a
22 cornerstone of the City's anti-corruption efforts.
23 The City's Whistleblower Law's prohibition on
24 retaliation against city employees and employees of
25 city contractors further demonstrates the City's

1 intent to root out corruption and protect those who
2 come forward to report it. Imposing a reporting
3 requirement on city contractors certainly will aid in
4 DOI's and the City's critical anti-corruption
5 mission.
6

7 Thank you very much and I am happy to
8 answer any questions that Council Members may have.

9 CHAIRPERSON BREWER: We have Council
10 Member Velazquez, I believe Council Member Gennaro
11 was here earlier, he stepped out for a minute,
12 Council Member Ariola is on Zoom, Council Members
13 Nurse, Joseph, and Lee.

14 CHAIRPERSON WON: Thank you so much
15 everyone for joining us and thank you so much to MOCS
16 and DOI Commissioners for testifying.

17 To start, is there a process by which
18 MOCS considers debarment information from city
19 agencies such as debarment lists of the Business
20 Integrity Commission when reviewing potential
21 contract awards? If yes, please explain the process
22 by which MOCS considers and reviews such information
23 to ensure that principals of companies looking to do
24 business with the City have not formerly been
25 debarred by other city agencies. If no, why does MOCS

1 not review that information, particularly when the
2 information speaks directly to potential integrity
3 issues?
4

5 DIRECTOR FLORES: Thank you for your
6 question, Chair. At Mayor's Office of Contract
7 Services, we take in a number of lists and a number
8 of different sources of information which is in
9 PASSPort including debarment lists from entities that
10 have the authority to debar vendors such as United
11 States Department of Labor and others, and that is in
12 addition to information that's updated by vendors who
13 are doing business with the City regarding the
14 entity, regarding principals, and, in addition to a
15 multitude of data that we make available in PASSPort,
16 we actively also seek out information that may not be
17 provided to us on the lists but is timely that may
18 result in a caution or is populated in PASSPort. We
19 have the ability now with having an online system
20 through PASSPort to have that information be much
21 more timely than it was in the past when we only had
22 a paper system and everything was through data entry
23 and so we take it very seriously, the Mayor's Office
24 of Contract Services, to ensure that we have robust
25 information in our PASSPort system so that agencies

1 have everything at their fingertips in addition to
2 their own research and their own information when
3 determining whether or not a vendor is responsible,
4 whether or not they can be awarded a contract.

5
6 CHAIRPERSON WON: Yesterday, I found out
7 that there is currently a vendor that is debarred
8 from the federal government and there's ongoing
9 investigations, but, because it has not been
10 finalized, the City continues to do business with
11 them. Can you help me understand why that is?

12 DIRECTOR FLORES: Chair, I'm not familiar
13 with the particular circumstance of the vendor, but
14 there, obviously, is due process in terms of what
15 information we put in and the details regarding
16 particular investigation. I will say that there are
17 questions within PASSPort filings that require both
18 the entity and principal to affirm whether or not
19 there is an investigation, there are certain
20 standards about what types of investigations, and
21 also an obligation, in addition, if an agency comes
22 aware of information that they should be contacting
23 our office so that we can determine in consultation
24 either internally with our counterparts and other
25 stakeholders and other oversight agencies whether or

1 not the information rises to the level of including a
2 caution, but that depends on each particular
3 circumstance with the investigation and the status of
4 what would be entered in and when but happy to work
5 with you offline about that specific vendor and I
6 mentioned our Counsel, Annie Meredith, is here and we
7 can dig into that with you.
8

9 CHAIRPERSON WON: Yeah, we'll definitely
10 be following up on that contract. Would an individual
11 that has been previously prohibited from doing
12 business with one city agency or from receiving a
13 permit to operate in a specific sector be allowed to
14 receive a contract by another agency?

15 DIRECTOR FLORES: First, I would start off
16 with terminology in prohibition. As the Commissioner
17 mentioned in her testimony and briefly in my
18 testimony, the determination of responsibility is
19 made on a contract-by-contract basis, which is why
20 it's so important for us to have updated and accurate
21 information in our PASSPort so that the agency can
22 make that determination. It is each agency's process
23 and supported by the Charter and the PPB rules to
24 make the determination based on all of the
25 information available, whether it's a contract with

1 that vendor for their particular contract needs,
2 goods and services, so it is possible for one agency
3 to review information and determine that in light of
4 the information not to move forward, but the scope of
5 work for another agency, they may make a
6 determination that they can move forward.
7

8 CHAIRPERSON WON: Other than PASSPort,
9 what other processes are in place to share
10 information between agencies regarding potential
11 integrity issues that have been flagged during
12 contract performance?

13 DIRECTOR FLORES: PASSPort, obviously, is
14 the source of information. However, we have ongoing
15 conversations and very strong relationships, again,
16 with our other oversights including Department of
17 Investigations. This administration, I think as was
18 mentioned in opening testimony, takes this very
19 seriously and has created the Mayor's Office of Risk
20 Management and Compliance, and that Office, we work
21 very closely, as the Commissioner also mentioned, on
22 known issues to sort of determine what best practices
23 can be put into place, not only citywide but in
24 relation to a particular portfolio, but we work very
25 closely with all of our oversight agencies and also

1
2 other investigatory entities. It may not necessarily,
3 depending on if the information at that particular
4 time cannot be shared for legal reasons, we do
5 communicate closely with our agencies and, in some
6 cases, also with the Council related to pending
7 contract awards.

8 CHAIRPERSON BREWER: This may not be
9 directly related, but at a recent meeting on NYCHA
10 and our Committee, as you probably heard, we were
11 having some problems at Jacob Riis, and the prime
12 contractor hired contractors to do testing that were
13 not licensed to do so in New York and you know the
14 end of the story, problems. How would that have been
15 stopped by any of the work that you've been doing or
16 it is not relevant because those contractors, then it
17 turned out they'd done it before, and we didn't know
18 it until recently. That's another whole story, so how
19 would this have been caught by some of your processes
20 or how it should've been caught?

21 DIRECTOR FLORES: Thank you for that
22 question, Chair. First, I'll start with speaking
23 broadly around subcontractors. As the Commissioner
24 mentioned, there's a dollar threshold for filing for
25 contractors. That also applies to subcontractors with

1 particular dollar amount, 250, aggregate in the 12-
2 month preceding period, and so we do enter
3 information as well into PASSPort regarding
4 subcontractors and doing business with the City,
5 there's an obligation to file. When agencies, and
6 I'll speak regarding Mayoral agencies, when Mayoral
7 agencies are moving forward with a subcontractor,
8 their prime is moving forward with a subcontractor,
9 there's a process in the Procurement Policy Board
10 rules that requires the agency to approve of the use
11 of a subcontractor and there's certain information
12 and a baseline standard that's required to be
13 reviewed, approved, and documented in the agency's
14 contract files. We work really closely with our non-
15 Mayoral agencies, NYCHA included, does work with us
16 and their vendors do file in PASSPort and they have
17 access to the same information that Mayoral agencies
18 have.
19

20 Having said that, I think obviously
21 there's room for improvement overall, and it's part
22 of our reform sort of analysis of how we can further
23 leverage the tools that we have including PASSPort
24 for information regarding subcontractors. I think
25 they'll be opportunity in the future to really

1
2 improve the type of information and how timely we
3 have it available in PASSPort, but there is a process
4 in place and there is a requirement to review that
5 information before making a determination to move
6 forward with a subcontractor.

7 CHAIRPERSON WON: If a vendor has
8 previously had integrity issues regarding past
9 contract performance, what criteria lead them to be
10 banned from receiving future contracts versus being
11 able to receive a contract but with a DOI-appointed
12 monitor? I'm trying to understand the benchmarks.

13 DIRECTOR FLORES: Thank you for that
14 question. There is a sort of holistic review of each
15 contractor in determining whether or not to either
16 award a contract and, as I mentioned in my testimony,
17 throughout the life of the contract what actions, if
18 any, should be taken regarding integrity information
19 which includes performance and so it's a
20 determination based on the needs of the City and the
21 ability for other transactions to meet those needs of
22 the City for goods and services, and it's important
23 for us to have the flexibility as is allowed within
24 the Charter and the PPB to ensure that we're
25 protecting the City from waste and fraud and also

1
2 make sure that we're getting those goods and services
3 so there's not a sort of one-size-fits-all approach
4 to how to deal with a performance issue. In some
5 cases, it may be that the city agency no longer will
6 contract with that particular vendor. In other cases,
7 I think as was also mentioned in the Commissioner's
8 testimony, there may be sort of a higher level of
9 engagement, either with a corrective action plan or
10 monitoring agreement reporting directly to the
11 Department of Investigations.

12 CHAIRPERSON WON: Is there a written set
13 of criteria or quality control for these vendors or
14 is it case-by-case basis is what I'm hearing?

15 DIRECTOR FLORES: As it relates to
16 performance evaluations, performance evaluations do
17 have sort of a standard set of questions and
18 categories and criteria by which agencies review
19 performance on an annual basis, and, obviously,
20 that's sort of a summary of the contractual
21 obligations regarding performance that is specific to
22 each contract in that scope of work.

23 CHAIRPERSON BREWER: Just regarding
24 M/WBES, I don't know if it's you or SBS, but what are
25 the steps for bidders and contractors to be properly

1 vetted to verify that they M/WBES, and does MOCS
2 review and audit agency specific goals for awarding
3 contracts to these bidders? I must admit I thought it
4 was SBS but please answer.
5

6 DIRECTOR FLORES: Thank you, Chair, for
7 that question. You're right. The Department of Small
8 Business Services is responsible for the
9 certification process and so reviewing a vendor's
10 information to determine whether or not they meet the
11 standards for being certified as an M/WBE is a
12 purview of the Department of Small Business Services
13 so that is at the vendor level for certification. At
14 the contract level, our office does review contracts
15 from city agencies, and, in terms of whether or not
16 there are goals and the level of goals in a
17 particular contract, that is something that is within
18 the purview of our office and reviewing either prior
19 to the solicitation going out and throughout the
20 process. We work very closely obviously with the
21 Department of Small Business Services to ensure that
22 our system has accurate information regarding
23 certification and any changes to that certification
24 is accessible to agencies.
25

1
2 CHAIRPERSON BREWER: Just to go back to
3 the non-Mayoral, the H and H, the NYCHA, I don't even
4 know if DOE, ADC, how do you do the same for them as
5 you do with the Mayoral or you don't? This NYCHA
6 debacle was pretty extreme so how do you deal with
7 those agencies just on an overall basis? Is it the
8 same as the Mayoral?

9 DIRECTOR FLORES: It's not the same.

10 CHAIRPERSON BREWER: I knew the answer
11 already.

12 DIRECTOR FLORES: As I mentioned, I want
13 to make it clear that PASSPort in terms of filings
14 and vendor's obligation to file and subcontractors
15 and that information both being entered into and
16 accessible within the PASSPort is the same across all
17 agencies so NYCHA, H and H and all of the Mayoral and
18 non-Mayoral agencies can access and interact with our
19 office as it relates to the vendor filings. We do not
20 have oversight of the non-Mayoral agencies in terms
21 of their procurement processes.

22 CHAIRPERSON BREWER: Okay. Something to
23 talk about. In August, Mayor Adams announced an
24 Emergency Procurement declaration as we know for the
25 shelter and services for people seeking asylum. What

1 goods and services has the City procured pursuant to
2 this declaration. Of course, we want to know about
3 the money and, of course, are there more goods and
4 services to be purchased? Some of us have been quite
5 familiar with this issue.

7 DIRECTOR FLORES: Thank you for that
8 question, Chair. Obviously, the crisis and the
9 emergency that the administration and the city is
10 dealing with now is a new crisis in terms of
11 comparison to previous emergencies that the city has
12 encountered. The Adams' administration acted swiftly
13 with compassion in order to ensure that we are
14 meeting the needs at this time of asylum seekers.
15 Obviously, that impacts a number of different goods
16 and services to be provided and is ongoing. There's a
17 collaboration centralized with City Hall among
18 multiple agencies that are ensuring that we're being
19 actively participating and making sure that we have
20 all of the services and goods available. I did not
21 come today, I apologize, Chair, with that summary
22 information but happy to follow up afterward with
23 what we have at hand at this time, which obviously is
24 an ongoing, changing situation but happy to follow up
25 after this hearing.

1

CHAIRPERSON BREWER: Thank you.

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CHAIRPERSON WON: Did MOCS perform the
standard integrity checks for contracts relating to
the migrant crisis?

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DIRECTOR FLORES: The integrity check,
Chair, in the case of Emergency Procurement just to
make a distinction, the process for procurement
contracting and therefore integrity reviews follow
just a little bit of a different path than a non-
emergency contract, and so we're working really
closely obviously with our partners. The agencies, as
always, in particular in this emergency are looking
all available contracting in terms of selecting
vendors at the time of an emergency. This particular
process is following the standard Emergency
Procurement process which means that both under the
Charter and the Procurement Policy Board rules
agencies receive authority, approval from the
Comptroller's Office and the Law Department to use
this method and ultimately, when contract actions or
amendments to existing contract to address the
emergency are ready for registration, those will be
sent to the Comptroller so we're actively working in
partnership with all of our agencies but the process

1 for integrity review is slightly different than a
2 competitive contract.
3

4 CHAIRPERSON WON: Can you help us
5 understand what the difference is?

6 DIRECTOR FLORES: Starting with sort of a
7 baseline for a competitive contract using a
8 competitive sealed bid or an RFP for example, an
9 agency is putting out a solicitation, vendors are
10 responding to that solicitation, they're doing an
11 evaluation of the vendor's ability to perform those
12 services. When there's a potential award to be made
13 to the contract or contractor, then the agency
14 follows the appropriate path for oversight, whether
15 it's public hearing, the Law Department, Office of
16 Management and Budget, and also the review of the
17 vendor's integrity which may include as the
18 Commissioner mentioned earlier a piece of the
19 process, vendor namecheck, reviewing all of the
20 pertinent information in PASSPort and other resources
21 and making a determination that the vendor is
22 responsible and then moving on to registration.

23 In the case of an emergency, again, it's
24 important that this particular method allows the City
25 to quickly respond to potential danger to property or

1 to life and so that preapproval as I mentioned
2 earlier by the Comptroller Office and the Law
3 Department gives the agency the authority to use that
4 method. They are required to use the most competition
5 as practicable, again, with the first and foremost
6 being able to respond to the emergency. When
7 selecting a vendor or vendors that may be able to
8 perform the work, agencies do review some integrity
9 information obviously, but there is another step
10 later on in the process when they're ready to compile
11 the contract for registration. There's a major
12 distinction that in the Emergency Procurement method,
13 unlike a non-emergency situation, the contract in
14 non-emergency situations is only implemented when
15 registration happens. Here, again, the Emergency
16 Procurement method allows agencies to make decisions
17 that are in the best interest of the City including
18 that the vendor has the business integrity to do
19 business with the City but there's an additional step
20 later on in the process.

22 CHAIRPERSON WON: For the public, to make
23 sure that I'm hearing correctly, for emergency
24 contracting or emergency procurement, the standard
25 integrity check is not performed?

1
2 DIRECTOR FLORES: Thank you, Chair, for
3 the opportunity for that clarification. There are
4 responsibility determinations that are done for all
5 contracts. The engagement with the contractor in the
6 emergency situation happens earlier, obviously, in
7 the need to respond to the emergency, and there are
8 reviews that are done by the agency on a case-by-case
9 for each contract need, and the responsibility
10 determination that is standard happens at a later
11 time so there are multiple times within the Emergency
12 Procurement process that an agency is reviewing the
13 contractor's information to determine to move
14 forward.

15 CHAIRPERSON WON: Is there a standardized
16 later time for these contracts or it's a case-by-case
17 basis when we talk about the timeframe of a later
18 time?

19 DIRECTOR FLORES: There is not a timeframe
20 set in the rules. Again, I would say that the
21 immediate issue is responding to the emergency,
22 getting that preapproval from the Comptroller and Law
23 Department for the use of that method, reviewing
24 information regarding vendor or vendors that the City
25 intends to enter into that Emergency Procurement and

1 then the contract documents and other steps in the
2 process would happen, as in any procurement, happen
3 depending on a number of factors. I think overall we
4 hope to get to a place even with competitive
5 procurement that there's more of a reliability
6 especially from a vendor's perspective of how long
7 the process would take. At this time, it really
8 varies.
9

10 CHAIRPERSON WON: Within my District, I
11 have more than 20 shelters, and half of them were
12 emergency shelters due to COVID and the migrant
13 crisis. The contracts were awarded to vendors who did
14 not show up even though they were paid for that
15 contract or they were awarded that contract for more
16 than two weeks so they were just empty hotels. I'm
17 trying to understand what review process there is to
18 ensure that they are carrying out the work that they
19 have been awarded for even in the case of an
20 emergency, especially in what timeframe. Sometimes
21 it's two weeks, sometimes it's six weeks where the
22 hotel remains empty because a vendor is not around.

23 DIRECTOR FLORES: Thank you, Chair. I
24 can't speak to the specifics of those particular
25 locations or contracts. There may be not only in the

1 circumstances that you're describing but in other
2 circumstances an intent obviously, an approval to use
3 the Emergency Procurement method, but there's a
4 negotiation with each contractor in terms of when
5 those services are to begin so I definitely need to
6 follow up with you afterwards to provide more
7 information, but obviously the administration takes
8 very seriously holding our vendors responsible to the
9 expectations of the contracts so happy to work with
10 you after this with more specifics.

12 CHAIRPERSON BREWER: What, if any,
13 exceptions were made during the review process for
14 facility construction, I think you know what we're
15 talking about, or service contracts related to the
16 asylum seekers and the crisis that they're facing?
17 Obviously, maybe it's back to the questions I asked
18 earlier, but were there exceptions made?

19 DIRECTOR FLORES: Thank you, Chair. If I
20 may ask, is the question whether or not the process
21 was similar to what I described earlier in terms of
22 terms of the emergency process?

23 CHAIRPERSON BREWER: Yes, exactly. In
24 other words, were there exceptions to the review
25 process for things like the purchase of the tent or

1 other kinds of facility construction? In other words,
2 what kind of process did it go through, the review
3 process, if any?
4

5 DIRECTOR FLORES: Thank you, Chair, for
6 the clarification. The processes that are being used
7 for Emergency Procurements follow what I described
8 earlier, and, as I said, the agencies in any
9 situation, whether it's this situation or another
10 emergency situation do make every effort to leverage
11 existing contracts, for example, in that case
12 obviously if they're leveraging existing contracts
13 for a particular emergency then those particular
14 contractors had been previously vetted through a
15 competitive process but also locating vendors to meet
16 needs that may not have been leveraging an existing
17 contract so the processes are similar to the ones I
18 described earlier for all emergencies.

19 CHAIRPERSON BREWER: Okay. I believe we're
20 going to have another hearing in the future on the
21 issue of the cost and benefits you could say of some
22 of these emergency contracts so maybe we could
23 discuss it then.

24 Also, were the M/WBE contracts for
25 emergency contracts for this particular crisis? Do

1
2 you know if some were (INAUDIBLE) on that topic,
3 M/WBEs for emergencies that we're facing today?

4 DIRECTOR FLORES: M/WBEs are always a high
5 consideration for the administration in all cases
6 including emergency situations, and that would
7 include both as prime contractors and potentially
8 subcontractors which I'm sure, you know, Chair, may
9 be part of the process anytime during a contract
10 depending on the needs. I don't have in front of me
11 today, Chair, specifics on those contracts regarding
12 M/WBEs as it's an everchanging, ongoing situation,
13 but definitely look forward to circling back with you
14 when we have more information to provide to you
15 regarding M/WBEs.

16 CHAIRPERSON BREWER: Thank you very much.
17 We're going to switch to the Department of
18 Investigations. I know that you talked about the
19 integrity monitor process. I know Chair Won and I
20 were just wondering why the numbers have gone down so
21 we'd like to understand it. Are the agreements
22 typically the result of deferred prosecution
23 agreements, proactive work by DOI, complaints, and
24 just in terms of the numbers and why?

2 COMMISSIONER STRAUBER: Sure. Thank you,
3 Chair Brewer. First of all, just give you the
4 background. There are really two types of integrity
5 monitorships that DOI does. One I would call
6 proactive monitors and two would be rehabilitative
7 monitors. A proactive monitorship is a situation
8 where the City is undertaking a large capital
9 project, and a decision is made that given the scope
10 of the project and the expense engaging an integrity
11 monitor at the outset before there are any potential
12 concerns about fraud or corruption is a cost-saving
13 measure because having someone on board to oversee
14 whatever that work is is going to have a deterrent
15 effect so that's a proactive monitorship. In that
16 situation, we would work with the contracting agency
17 to develop a scope of work for the monitorship, we
18 would issue an RFP for the monitor, and we would then
19 select a monitor that would be paid for by the City
20 and usually out of the budget for the project, and
21 there is such a monitor, for example, for the
22 Borough-Based Jails project. That's just one example
23 of a proactive monitorship.

24 A rehabilitative monitorship, as the
25 Director just mentioned, is really for companies that

1 have had some sort of problem, they've been the
2 subject of an investigation, they're indicted or
3 convicted, either the company or the principals, but
4 for whatever reason there is a need for the City to
5 continue working with that company and that could be
6 because they provide a service that is not really
7 readily available from any other entity. It might be
8 because they're in the midst of a significant
9 contract and changing vendors at that stage in the
10 game could cause delay and significant expense to the
11 City so there are a number of reasons why the City
12 might choose to continue working with an entity that
13 has integrity issues. When that happens, the general
14 process would be that DOI would work with the agency
15 to address the need for a monitor and then again
16 negotiate the terms with the vendor and with their
17 legal representative, what the terms of the
18 monitorship would be, and I think it's important to
19 note here that this is not just a question of having
20 an outside entity supervised by DOI to sort of watch
21 the progress of the project. The other thing that is
22 typically part of these monitoring agreements, we
23 might, for example, require the company, let's say
24 there are indicted or convicted principals of the
25

1 company, we would often require that they be removed
2 from the company so that they are no longer
3 benefiting from the contract although the entity can
4 continue to perform the work. We might also require
5 that the company put in place policies and procedures
6 designed to address corruption issues, waste issues,
7 whatever the issues that specific entity had might
8 be, and also that they would provide training to
9 their employees. The goal, yes, it is to oversee the
10 project and the entity. It is also, if possible, to
11 try to rehabilitate the entity. It may be that at the
12 end of this process this entity transforms into one
13 that the City will want to have a continuing
14 contracting relationship with. That's an overview of
15 the process and, whichever monitorship we're talking
16 about, DOI plays an oversight role so we obviously
17 involved in the terms of the monitorship, and then we
18 are receiving sort of real-time reports from the
19 monitor of what they're seeing. That way, if there
20 are issues that arise during the monitorship, we can
21 address them with the vendor, their counsel, and the
22 contracting agency.
23

24 To your question about numbers, at least
25 the numbers from recent years if we go back to Fiscal

1 Year '18, we had 15 integrity monitorships that year
2 and going forward in '19 we had 13, in '20 we had 12,
3 in 2021 we had 10, and '22 we were back up to 12 so
4 to some extent there's a downward trend, but I just
5 want to flag that in '18 the 15 monitors include 4
6 that were part of the Build Back Better, the post-
7 Hurricane Sandy rebuilding and so to some extent,
8 that number you could argue is...

10 CHAIRPERSON BREWER: Those are the ones
11 that the houses never ended up what they were
12 supposed to be?

13 COMMISSIONER STRAUBER: There were some
14 issues that came out of that rebuilding, yes, there
15 were some criminal cases that came out of that, but
16 that number 15 really incorporates four monitorships
17 from that time so you could argue that that's because
18 the project was so big we had four separate ones but
19 it's really one event so I think that if you look at
20 it that way the trend is a little sharply downward.
21 You know, the need for these monitors, it comes out
22 of the City needing to continue to use an entity that
23 has had issues and so the more of those there are,
24 the more of these monitorships we would do so I
25 really can't give a more precise explanation for why

2 the number went down. We certainly haven't changed
3 our practice or approach to these monitorships. That
4 is not the reason.

5 CHAIRPERSON BREWER: Who are these
6 monitors? Are they law firms? Are they former city
7 employees? Do they have issues or has it been pretty
8 clean?

9 COMMISSIONER STRAUBER: The monitors,
10 themselves, I'm now aware of the monitors ever having
11 issues. We have a long list of firms that we have
12 worked with in the past who sort of operate in this
13 space. There are law firms, but there are also firms
14 that are really more exclusively monitoring firms.
15 They have a range of different types of expertise for
16 certain projects you might need. Engineering
17 expertise, for others it might be more standard
18 auditing expertise so it really depends on the
19 project. I'm not aware of us ever having an issue
20 with the monitors themselves.

21 CHAIRPERSON BREWER: Do you have enough
22 staff? Obviously, this is an issue. I think I was
23 helpful in getting you a little bit more money in the
24 last budget because I believe that you should have
25 enough staff, but do you have enough staff to oversee

1 the monitoring situation? I know you have to say yes,
2 but can you be more honest?
3

4 COMMISSIONER STRAUBER: I can say yes and
5 be honest in this way which is that we certainly do
6 have enough folks to oversee the monitorships that
7 we're doing. We have not cut back on monitorships
8 because of a lack of staff. However, it takes time to
9 work through these contracts and to get them up and
10 running, and what I will say is that the decrease in
11 staff, which has affected our agency as a whole
12 including our Vendor Integrity Unit, it takes a
13 little bit longer to get these monitorships up and
14 running, and that I think is the primary way where we
15 see the impact of our reduced staffing on this part
16 of our program.

17 CHAIRPERSON WON: DOI has proactively
18 launched vendor integrity monitor campaigns ahead of
19 large-scale contracting initiatives such as the 9/11
20 response. Why did it not do so for the COVID response
21 or the emergency asylum seekers refugees?

22 COMMISSIONER STRAUBER: With respect to
23 the COVID response, my understanding, and obviously I
24 wasn't at the agency at that time, was that as I
25 explained the funding for the monitor comes out of

1 the funding for the project, and at least at the time
2 that this issue was raised as a possibility, the
3 possibility of a monitor, there was not at that point
4 funding available as I understand it. In addition to
5 all of the funds that were already being expended on
6 the COVID response, there was not funding available
7 to hire an independent monitor. That's the reason
8 with respect to COVID.
9

10 I think with respect to the current
11 asylum crisis, as I understand it contracting on that
12 is very much ongoing, whether that is an appropriate
13 setup for an integrity monitor, I think is yet to be
14 seen. It's certainly something that we could discuss
15 and consider, but I think it may be somewhat
16 premature at this stage before we have a sense of the
17 full scope of expenditures to know whether it would
18 be appropriate or not, but it certainly could be and
19 we would certainly be happy to have that discussion.

20 CHAIRPERSON BREWER: Can DOI update us on
21 your efforts with Health and Hospitals following the
22 Eugene Roberson bribery case?

23 COMMISSIONER STRAUBER: Sure. Just one
24 clarification is that that was an embezzlement case
25 so not strictly speaking a bribery case. There was a

1 high level Bellevue Hospital employee who embezzled
2 over 50,000 dollars in rent checks from a hospital
3 concessions vendor. In terms of the work that arose
4 from that case, our Inspector General for Health and
5 Hospitals is currently conducting a review of the
6 processes and procedures with respect to concessions
7 licensing contracts and leasing so that's an ongoing
8 matter that also involves the Health and Hospitals
9 Corporate Comptroller and various CFOs of the Health
10 and Hospitals facilities, and the goal sort of in
11 light of the criminal case is to identify whether
12 there's any other potentially misappropriated funds
13 relating to concessions or licensing and to assess
14 the current state of internal controls around rental
15 revenues to ensure that they are sufficient to
16 monitor and minimize any ongoing risk of
17 misappropriation, and this is still an ongoing
18 review.
19

20 CHAIRPERSON BREWER: Before we go to the
21 next question, I want to thank Council Member Ayala
22 and Council Member Krishnan for being here today.

23 CHAIRPERSON BREWER: Thank you so much.
24 One of the bills we are hearing today, Intro 301,
25 would require the City's Chief Procurement Officers

1 to develop procedures for city contractors to use in
2 order to identify conflicts of interest between their
3 employees and employees of the city. Currently, are
4 city contractors required to take any affirmative
5 steps to identify such conflicts of interest, and, if
6 so, I know that Lisa Flores has said that there are
7 questions within the PASSPort system, can you provide
8 more details on that if that's the only affirmative
9 step that they're currently taking?

11 COMMISSIONER STRAUBER: I'm not sure who
12 that question is directed to. I can speak to some of
13 the recommendations we made for enhanced disclosures.
14 You may have more current information about the
15 current disclosures.

16 DIRECTOR FLORES: I think definitely you
17 should start.

18 COMMISSIONER STRAUBER: Okay. I actually
19 cannot speak in detail to exactly what is currently
20 in PASSPort. I know there is some information in
21 there from which conflict of interest issues can be
22 identified.

23 The recommendations that we made in our
24 2021 report on non-profit human services contracts,
25 and remember this was specifically directed to non-

1 profits, called for disclosure of executive
2 compensation and also called for information about
3 relationships between the contractor and the
4 subcontractor, the contractor and any other sources
5 of city income, and these were not disclosures or
6 certifications about whether or not there was a
7 conflict of interest. These are questions that would
8 just give the City more information to bolster,
9 improve, support the information it already has in
10 making conflicts of interest determinations and in
11 evaluating expenses.

13 GENERAL COUNSEL MEREDITH: Sure. I will
14 continue the response. Thank you, Commissioner. We
15 are actively reviewing DOI's recommendations as it
16 relates to conflicts of interest and really
17 appreciate their thoughtful recommendations and are
18 working with all of the stakeholders to figure out
19 the best way to incorporate and respond to those
20 recommendations.

21 In terms of current information, there is
22 language in our standard contracts that vendors must
23 disclose information as it relates to conflicts of
24 interest, and in the standard vendor disclosures that
25 are made in PASSPort as the Commissioner pointed out,

1 there is information that agencies can use and
2 leverage to look further into conflicts of interest.
3 However, as Director Flores mentioned, we are always
4 looking for ways to improve the process and welcome
5 any input or thoughts from the Council on
6 strengthening that, and we will continue to look at
7 the recommendations. We agree with the spirit of the
8 recommendations in the Bill as it relates to
9 considering conflicts of interest.
10

11 CHAIRPERSON WON: For Intro 301, it also
12 requires the Chief Procurement Officer to develop
13 procedures for contractors to use in order to
14 identify whether their employees have engaged in
15 corruption, criminal activity, or other misconduct
16 related to the contract. Currently, what affirmative
17 steps are city contracts required to take to prevent
18 this kind of misconduct?

19 DIRECTOR FLORES: Chair, as Annie
20 Meredith, my General Counsel, mentioned there, there
21 is language both in city contracts and information
22 relating to disclosures that both either provide
23 information that can be used for reviewing potential
24 conflicts of interest and/or require vendors to
25 report conflicts of interest. As mentioned earlier, I

1 think there are really robust recommendations as well
2 that were in the DOI report from I think December
3 2021, and this administration takes very seriously
4 and is really committed to figuring out with our
5 stakeholders how do we implement the appropriate
6 procedures, have the appropriate tools to do that in
7 a way that does not burden the procurement process
8 because we do not want the unintended consequence to
9 add layers which has happened over many decades of
10 adding additional layers to processes without
11 necessarily reviewing if those layers are pertinent
12 now in the procurement system that we have now, which
13 is obviously not paper and obviously really needs us
14 to be nimble, flexible, and ensure that we both
15 balance contracting with vendors who have the
16 business integrity, vendor integrity, prevents waste
17 and fraud, and also get contractors paid on time.

19 CHAIRPERSON BREWER: I just have a quick
20 question because the PPB rules are supposed to enable
21 the agency to do some of this oversight. It's my
22 experience that sometimes it's done well, sometimes
23 it's not. I read the PPB rules because Marla Simpson
24 sent them to me. You know how Marla is, right? She
25 sent me tons of them last night. I got through as

1 many as I could. If you don't know Marla, then you
2 don't know, well you do know Marla so you know why
3 she sent them to me so my question is how are they
4 implemented? That is the goal by which you are trying
5 to achieve this kind of integrity. Is it followed?
6 How are we dealing with the PPB rules? That's what
7 I'm trying to say.

9 DIRECTOR FLORES: Thank you, Chair. Yes, I
10 do have the pleasure of knowing Marla Simpson when
11 she was the (INAUDIBLE) at my first gig at the
12 Mayor's Office of Contract Services.

13 CHAIRPERSON BREWER: That's what she told
14 me.

15 DIRECTOR FLORES: I am very familiar with
16 the PPB rules thanks to her leadership and obviously
17 her brilliance in this space and commitment to the
18 City over many years of service.

19 I think I would start off by saying we
20 are in a time when it's unprecedented that we have
21 partnerships with many stakeholders including the
22 Comptroller's Office to not only look at how do we
23 improve the processes within the existing paradigm
24 and framework but really look at what's not working,
25 what do we need to leverage, what do we need to

1 improve to ensure that it's a standardized process to
2 meet multiple goals, a standardized process to
3 ensure, again as always, this is taxpayer dollars and
4 so we hold ourselves accountable to that, ensuring
5 that we prevent waste and fraud in our oversight in
6 conjunction with DOI and others, we touch these
7 procurements at different points in the process to
8 ensure that, but also it's very important that many
9 of the rules that we have including ones, at the
10 beginning of the PPB rules, for example, there are
11 rules that still refer to VHS tapes, and that's just
12 one example of how we are not necessarily operating
13 in a paradigm with the rules that meet the current
14 needs of speed and ability to respond so we as an
15 oversight review the procurement processes and review
16 performance by agencies in maintaining adherence to
17 those rules, but I also just want to say that I don't
18 want to lose the fact that it's really important for
19 this time that we have impactful changes to the rules
20 that speeds the process, makes it more efficient,
21 more accountable and transparent just to name a few,
22 and that the integrity review process, as everything
23 in the PPB rules, is open season as we're doing
24
25

2 review of the PPB rules and other regulations for
3 reform.

4 CHAIRPERSON WON: For the PASSPort system,
5 internally as an agency who is looking to contract,
6 is there a very clear flag for those who have
7 conflicts of interest or any sort of misconduct in
8 the past?

9 DIRECTOR FLORES: Thank you, Chair. I can
10 answer that question and pass it off to my General
11 Counsel for more details, but, as mentioned earlier,
12 there are certain sort of steps or standards if you
13 will related to putting information into the system
14 as a caution, and that cautionary information then is
15 available to every agency that's doing a procurement,
16 a contract action, and alerts them to review that
17 information and take it into consideration in making
18 their award determination. Again, I can't overstate
19 again as a person who was doing procurement at the
20 time and Marla Simpson was the (INAUDIBLE) and we
21 still had (INAUDIBLE) forms which were delivered in
22 paper and data entry by individuals on a blue screen
23 with Alt-5, Alt-4, and in some cases took months to
24 put into the system. That was not a way to provide
25 the most accurate and timely information for agencies

1 to make the determinations. There's room for
2 improvement as there always is, but we are able now,
3 unlike before, to really respond quickly in putting
4 information into the system and making it available
5 to agencies.
6

7 CHAIRPERSON WON: Thank you. My last
8 question is about the report from DOI with all their
9 recommendations to reform the City's budgeting,
10 invoicing, and auditing of the contracts. Can you
11 help me understand why the recommendations haven't
12 been put into place from MOCS?

13 DIRECTOR FLORES: Thank you for that
14 question. We have reviewed early on in this
15 administration those recommendations and have had
16 both preliminary conversations with our counterparts
17 including Department of Investigations and are using
18 that as a framework for ongoing reform work. As I
19 mentioned earlier, this administration is putting
20 front and center procurement and understanding that
21 everything that the City needs and buys is reflected
22 in our procurement policies, rules, and procedures,
23 both what impacts at the selection process but also
24 on the contract management process, and many of the
25 recommendations also have to do with post-contract

1 registration and contract management and so there are
2 very robust conversations happening with our
3 counterparts around how do we implement and envision
4 implementing some of those recommendations at a
5 future state, again that are sustainable, scalable,
6 and that do not slow down the process so we will
7 continue to be working on that. It's hard, long work,
8 and we are 100 percent committed to having many of
9 those recommendations with our counterparts be
10 implemented in the future.
11

12 CHAIRPERSON BREWER: Two last questions
13 for DOI. One is, as you see all in the papers today,
14 a non-profit was in deep trouble for hiring people
15 who went to Rikers and produced drugs for those who
16 are detained. I know that program very well. They do
17 have other contracts with the City so how will that
18 be handled? They house people, etc., etc. How will
19 that be handled in the future? Why don't we start
20 with that? Would that be an opportunity for a monitor
21 or is nothing done?

22 COMMISSIONER STRAUBER: I think it could
23 be. I think the questions that go into consideration
24 of whether there's a monitorship imposed or
25 requested, when there's not a criminal charge, and

1 obviously there is no criminal charge in this case,
2 is whether there are substantiated findings of
3 misconduct. I've seen the article that you're
4 referring to as well, and so I think it's certainly
5 something that could be considered as I know the
6 Council is aware there are other aspects of Exodus'
7 work including their work with a security company
8 that the Mayor's Office referred to us for
9 investigation. That investigation is ongoing. I
10 obviously can't speak to other ongoing
11 investigations, but it's obviously well-known that
12 DOI works with the Department of Corrections to
13 investigate contraband cases so there are a number of
14 things that I think flow from the allegations in that
15 article.

17 CHAIRPERSON BREWER: I will just give an
18 example because I'm sure as the public when you read
19 that then you wonder if my son is now housed at one
20 of their facilities, will something similar happen,
21 and who's paying attention. That would be a question
22 I would ask so it's just an example.

23 COMMISSIONER STRAUBER: Yes. I can
24 certainly say that we are paying attention. I know

25

1 the Department of Corrections is paying attention so
2 this is certainly an important issue.

3
4 CHAIRPERSON BREWER: Okay. Also for the
5 future, what do you need to know to determine if a
6 monitor would be appropriate for those that are
7 dealing with the migrant crisis because there are
8 many, many contracts that are involved? How would you
9 even begin to think about it in this very fast-moving
10 situation?

11 COMMISSIONER STRAUBER: I think for a
12 situation like that we would want to have an
13 understanding of the current and anticipated scale of
14 the contracting, how many vendors are involved, how
15 long we expect the contracts to last, exactly what
16 they're for, what kind of contracts they are, really
17 sort of all the considerations that would go into
18 weighing what is the cost and expense of imposing a
19 monitor versus the amount of potential savings in
20 light of the risk of fraud and abuse that any
21 particular contracting situation poses, and that's
22 how we would go about that analysis.

23 CHAIRPERSON BREWER: Okay. Thank you very
24 much. I think we're going to go to the public
25 testimony now, but I want to thank my co-Chair and

2 also to state that this is a conversation that is
3 nuanced but it's not nuanced if the public money is
4 not spent correctly so I appreciate your oversight. A
5 lot more needs to be done. Thank you very much.

6 Now, we'll go to the public.

7 COMMITTEE COUNSEL MURRAY: Thank you,
8 Chairs. We'll now turn to public testimony. Our first
9 panelist will be Towaki Komatsu.

10 TOWAKI KOMATSU: Hi. I'm Towaki Komatsu. I
11 have testified to most of you previously, mostly to
12 no avail. I guess the people that just testified was
13 the Commissioner of DOI, someone from MOCS. I came
14 here late so I'm not sure if they testified under
15 oath subject to the penalties of perjury, but the
16 point is that they lied to your face.

17 CHAIRPERSON BREWER: They testified under
18 oath.

19 TOWAKI KOMATSU: Okay. The point is that
20 they lied to your face. Miss Brewer, you and I have
21 had conversations repeatedly about contract matters,
22 and the fact of the matter is on Saturday I filed a
23 new federal lawsuit against Urban Pathways. The point
24 is when the City issues contracts to various vendors
25 that they have public hearings, and with regards to

1 HRA, people have their 1st and 14th Amendment right
2 to go to HRA's headquarters to examine those
3 contracts prior to those public hearings. The problem
4 HRA still won't let me walk through the doors to do
5 that. There's a public hearing about a vendor named
6 IOS Acquisitions in two days. I contacted HRA to get
7 that authorization to go to its offices to see that
8 contract prior to that public hearing. Guess what?
9 They still won't play ball so the point is today's
10 hearing is about oversight, to give your team I guess
11 further responsibility to provide open spaces of the
12 City's contracting processes and procedures. Problem
13 is, you and I have had these conversations
14 previously. Not just you, but even people on your
15 Committee. I'm sure there's more people than are
16 currently here in the room today. Guess what? They're
17 not here. The point is when people take time out of
18 their day to come here to talk about fraud, waste,
19 abuse, all that stuff, they go to DOI's offices to
20 actually report that, DOI doesn't do anything. They
21 just refer the matter back to HRA so the point is
22 when you and I have these conversations, whether it's
23 about not being able to walk through the doors to go
24 to a town hall meeting to talk about waste, fraud,

1 and abuse about contracts, then why exactly should
2 people give your team authorization to provide proper
3 oversight of contracts when for the longest time it
4 hasn't been doing that.

5
6 CHAIRPERSON BREWER: Thank you very much
7 for your testimony. Thank you.

8 Council Member Yeger has joined us. Thank
9 you.

10 I also want to state that Williamsburg
11 Prep High School is up in the balcony. Thank you very
12 much for joining us. Thank you.

13 COMMITTEE COUNSEL MURRAY: We don't have
14 anyone from the public who is on the Zoom currently,
15 and there's no one else here in person who has signed
16 up to testify so I'll turn it back to Chair Brewer to
17 close us out.

18 CHAIRPERSON BREWER: Thank you very much.
19 This is an important hearing. We are going to
20 continue to follow up. I think particularly because
21 we have so many emergency contracts, they need
22 particular scrutiny. Thank you all for joining us
23 today. This hearing is concluded. [GAVEL]

24

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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 October 31, 2022