

**Testimony of Kim Yu, First Deputy Director, Mayor's Office of Contract Services
Before the New York City Council Committee on Contracts
October 25, 2023**

Good afternoon, Chair Won, and Committee members. My name is Kim Yu, and I am the First Deputy Director of the Mayor's Office of Contract Services (MOCS). Director Flores sends her apologies that she could not attend today's hearing due to family matters, but our office is more than willing to continue the conversation with you beyond this hearing. I am joined by my colleagues Yexenia Markland, Chief Change Officer, and Matt Sullivan, Deputy Chief of Staff, as well as our counterpart Diane Mamet, Deputy Director of Contracting at the Mayor's Office of Nonprofit Services. Thank you for inviting us today to discuss the bills introduced as part of this hearing.

As we have shared, a top priority for our agency continues to be making the City a better business partner, particularly to the nonprofits who deliver the essential services that helped sustain our City over the past few years. This work has been guided and informed by the recommendations from the Joint Task Force to Get Nonprofits Paid On Time, and has yielded several major reforms over the past year and a half that we believe will make a lasting difference in how the City contracts with nonprofits. We shared out a long list of these achievements in a communication to the sector in August, but I would like to highlight a few major ones:

- Last year, the "Clear the Backlog Initiative" resulted in clearing \$4.2 billion in contract dollars of unregistered contracts and amendments over the course of a 12-week sprint, and we continued to clear most of the \$7 billion by the end of 2022.
- For Fiscal Year 2024, 81% of human services contracts beginning July 1 were submitted to the Comptroller ahead of the new fiscal year, a near 25% increase from the prior year despite a major increase in contracting volume. As of this month, we have reached 99% submissions for this portfolio.
- In working with the City Council, we have found a major time-savings through the implementation of multi-year base contracts for Council discretionary awards, which allow repeat awards to access funding without going through the full procurement process each year. We estimate a nine-month reduction in cycle time for out-year awards after the first year of implementation.

- We've amended the standard human services contract to include language that would provide an allowance for increased funds beyond the contract maximum to a certain threshold. This alleviates the number of amendments that agencies and providers need to process, which will speed up cashflow.
- We also increased the threshold for Financial Control Board reviews of Mayoral contracts. The threshold for FCB review on new contracts was increased to \$50 million or more. We anticipate that this will remove weeks of administrative processing time for applicable contract actions.

And there are many other accomplishments to date which will have a tangible impact on our business process. We would be happy to set up some time to brief your staff more fully on the work we have led to overhaul the City's procurement process.

Turning to the focus of today's hearing, MOCS generally supports the goals evident in the legislation – holding agencies accountable for timely payment to nonprofit organizations and using technology to make contracting more efficient. This spirit of accountability was a catalyst in the launch of our data transparency portal Passport Public, which provides unprecedented insight into the city's main procurement system through data analytics.

Intro 982 would require interest to be paid on late payments under city contracts with nonprofit organizations. Our mission at MOCS is to facilitate on-time registration through every tool available to us – policy, process, or technology. In alignment with this effort and pursuant to PPB Rule 4-12, we provided summary data on the timeliness of agency contract submissions in this year's annual indicators report. In it, we share that "the Citywide Chief Procurement Officer has not deemed any agencies to be substantially late, [but] recognizes that there is still progress to be made." Similarly, the report also shares out data on the Returnable Grant Fund, showing that over \$100 million in loans were provided against nearly 200 applications in Fiscal Year 2023 – a significantly lower number of applications than in most years past. The relatively low number of loan

applications indicates that providers generally had a better experience with contracting in FY23, corresponding to trends we see elsewhere in the data.

The CCPO's determination and the accompanying public reporting show that our new transparency tools are effectively holding us accountable for the ultimate goal of getting nonprofits paid on time. This work will continue on multiple fronts, and while we have made significant progress, we will be the first to tell you that there is more to do. While we support the general goals evident in Intro 982, we are seeing progress in the initiatives currently underway, and the administration cannot commit to any new legislation which would incur a fiscal impact in the current budgetary environment.

Intro 1048 would require the establishment of a Document Vault to store certain procurement-related documents, a feature of the HHS Accelerator system that MOCS is decommissioning in the coming year. We have heard widespread feedback from the sector that they wanted to replicate this feature in PASSPort, so we are actively working on the introduction of a new Document Vault in the coming year. We are happy to work with the Chair to review potential legislation on this effort, and appreciate the Council recognizing the importance of these PASSPort enhancements.

Thank you for hosting this hearing and thank you to the many nonprofit providers in attendance and watching on the stream. We acknowledge the extraordinary work you have done for our City, especially over the past few years, and I hope I have shown today that the City is committed to making our contracting process work better for you. It will take time for us to do this work, but it is absolutely a priority, and I am proud of how much we have accomplished already. Along with my colleagues, I am now happy to take any questions you may have.

CATHOLIC COMMUNITY RELATIONS COUNCIL

191 Joralemon Street, 2nd Floor, Brooklyn, New York 11201

Testimony of Joseph Rosenberg
Executive Director, Catholic Community Relations Council
Before the New York City Council Committee on Contracts
Int. 982
October 25, 2023

Good morning, Chair Won, Councilmember Brannan and members of the Committee on Contracts. I am Joseph Rosenberg, Executive Director of the Catholic Community Relations Council, representing the Archdiocese of New York and the Diocese of Brooklyn on legislative and policy issues. I am here today on behalf of Catholic Charities of both respective Dioceses to express our strong support of Int. 982 and our thanks to Councilmember Brannan for introducing this measure.

New York City's contract procurement process for nonprofit providers has long been in need of significant reform. We appreciate the Mayoral Administration, the City Council, and the NYC Comptroller's efforts to streamline and improve the process and welcome the recent initiative allowing nonprofits to enter into multiyear discretionary funded contracts without registering a new contract every year. But the unfortunate fact remains that the procurement system in our City is broken.

Too often City funds awarded to providers fail to cover the full costs required to help assist the populations intended to be served, and in a great many instances, the nonprofits do not receive the awarded monies for the contract services until many months after the term has started. As a result, the nonprofit sector must often reach into their scarce reserves or obtain bridge loans to finance the services under the contract terms because the promised contracted funding from New York City has not been delivered. The for-profit sector would not abide by such treatment, but nonprofits do so due to their mission-based focus and the realization of how important their services are to needy New Yorkers. The City's failure to provide prompt payment is an untenable situation. It creates tremendous financial pressures on the nonprofit sector providers and does a disservice to the vulnerable populations that the contracts are intended to assist. It is a long-standing problem recognized by all City agencies and nonprofits, but little has been done to mitigate it.

This is why Int. 982 is such a significant and important initiative. This legislation by, requiring interest payments to nonprofits on contracts paid out many months after being awarded, recognizes the inequity of how nonprofit providers are treated. The interest rate

would be established by the New York State Commission of Taxation and Finance and the nonprofit provider would be entitled to receive the interest payments calculated from the date the contract monies were scheduled to be paid as specified in the contract. The legislation importantly clarifies that the interest payment would not reduce the amount of funds payable to the nonprofit under the contract terms.

It is recognized in the legislation that essential services cannot be conducted without the promised financing behind them. Its passage by the City Council is an important and vital step in assisting nonprofit providers to be able to continue to assist the homeless, the hungry, and the most vulnerable New Yorkers amongst us.

The passage of Int. 682 would be of tremendous assistance to the beleaguered nonprofit providers of New York City, but even more importantly, to the hundreds of thousands of needy residents of our City who rely on these lifesaving services.

Thank you.



**Testimony of Caitlyn Passaretti and Rebecca Charles, Policy and Advocacy Associates
Citizens' Committee for Children of New York**

**Committee on Contracts
Nonprofit Contracts
October 25th, 2023**

Since 1944, Citizens' Committee for Children of New York has served as an independent, multi-issue child advocacy organization. CCC does not accept or receive public resources, provide direct services, or represent a sector or workforce; our priority is improving outcomes for children and families through civic engagement, research, and advocacy. We document the facts, engage and mobilize New Yorkers, and advocate for solutions to ensure that every New York child is healthy, housed, educated, and safe.

We would like to thank Chair Won and all the members of the Committee on Contracts for hosting this hearing on the interest to be paid on late contract payments to community-based organizations (CBOs). We appreciate the focus being brought to this important issue.

CBOs play a pivotal role in providing vital services and support to New York families. They address some of the most pressing issues that New Yorkers face, including education, healthcare, housing, and social services. However, CBOs often operate with limited financial resources and must adhere to strict budgets. Late payments for services rendered can place an enormous burden on these organizations, jeopardizing their ability to carry out their mission effectively.

Since FY'22, there has been a monumental delay in payments to CBOs contracted through the City's early childhood education system. In September of 2022, Seachange reported \$464 million owed to child care providers for the FY'22 fiscal year (a fiscal year that concluded in June 2022).ⁱ The DOE has taken several important steps to address this crisis, including committing to meet the center-based contract payment floor of 75% of the full contract value, employing rapid response teams to work with providers, and permitting the batching of multiple months of invoices to help expedite catching up – all solutions that CCC supports. However, we continue to hear distress from providers about payments owed for FY'22, FY'23, and now FY'24. Sadly, this is occurring at a time when early childhood education providers in contract with the City's Department of Education continue to suffer severe financial hardships due to delayed payments, leading to center closures and lapses of care for families.

The inability to be paid on time has already had devastating consequences in the youth services space. Sheltering Arms, a 200-year-old organization, closed its doors last year due to millions of dollars in late contract payments. The Urban Resource Institute and New York Times have reported on how similar bureaucratic challenges of getting agencies paid are massively disrupting programming for youth and their families. The Human Services Recovery Task Force reported that 70% of organizations said they had a delayed payment from the City, and the average amount of the delayed payment was \$8,025,000.ⁱⁱ It is essential to stabilize the sector that provides services and resources to youth and families, especially as the City expects COVID funds to run out. Investing in youth and ensuring the organizations that serve them exist cannot be an afterthought.

CCC supports Int 0982-2023 to require interest to be paid on late payments to CBOs. This legislation is an important step towards ensuring that CBOs are compensated adequately for the time and effort they put into providing services to New Yorkers while being able to keep up with inflation. It would also send a message that the city values the work of nonprofits and is committed to supporting

them. This measure will not only protect non-profit organizations from financial strain but also incentivize the City to process payments in a timely manner, something that it has been failing to do for the last three fiscal years. This legislation would ensure a more level playing field between CBO providers and their City-employed counterparts, help CBOs fulfill their obligations to their employees and those they serve, and enhance stability of the systems in which these CBOs serve.

Part D of Int 0982-2023 reads:

If any interest payment required pursuant to this section is made from amounts appropriated for program purposes such that it reduces the amount available to be spent on the program, the contracting agency shall notify the council in writing of the amount of such reduction and the reason why other funding could not be used for such interest payment.

CCC recommends that this language be struck from the bill, as it creates a potential loophole for city agencies to waive the interest payments by simply citing their budget numbers, rendering the bill ineffective. This practice happens frequently among state agencies in regard to a similar law at the state level.

By supporting this legislation, the City Council would be taking a significant step towards safeguarding the stability and effectiveness of non-profit organizations and, in turn, ensuring the well-being of the constituents they serve. We urge the City Council to pass this important bill, and to continue identifying solutions to address the deep-seated contracting challenges facing so many of our essential CBO providers.

Thank you for your time and consideration.

ⁱ September, 2022. “Early Childhood Education: How Much More Can Nonprofits Endure?” SeaChange. Retrieved from: [SeaChange-Research-Note-Early-Childhood-Education.pdf](https://seachangep.org/research-note-early-childhood-education) (seachangep.org)

ⁱⁱ Urban Resource Institute. New Report: Nonprofits that Carried NYC Through the Pandemic Now Face Existential Threat Due to Lack of Government Support. (2021) <https://uriny.org/download/new-report-nonprofits-that-carried-nyc-through-the-pandemic-now-face-existential-threat-due-to-lack-of-government-support/>



**Testimony of Day Care Council of New York
Before the New York City Council Committee on Contracts, Honorable Julie Won, Chair,
Regarding Interest on Late Payments to Nonprofits**

October 25th, 2023

Prepared by Gregory Brender, Chief Policy and Innovation Officer and Shelby Lohr, Policy Analyst

Thank you Councilmember Won and members of the Committee on Contracts for the opportunity to testify. My name is Shelby Lohr and I am here on behalf of the Day Care Council of New York.

The Day Care Council of New York (DCCNY) is the membership organization of early childhood provider organizations in New York City. DCCNY supports its member organizations and New York City's early childhood field at large through policy research and advocacy, labor relations and mediation, professional development and training for early childhood educators, directors, and staff, and referral services for parents looking to find child care. DCCNY member organizations provide early care and education at over 200 sites in neighborhoods across all five boroughs.

Most DCCNY member organizations work with contracts with the New York City Public Schools. DCCNY member organizations also provide early childhood education through privately-funded programs and the Federal Office of Head Start. DCCNY member organizations operate in all five boroughs and employ over 4,000 New Yorkers, most of whom are black and brown women. DCCNY is proud to be a member of Campaign for Children, and our recommendations are aligned with that coalition.

Late DOE Payments

Late payments continue to put New York City's early childhood education providers at risk of closure and in a state of crisis. DCCNY visited dozens of provider sites over the summer and surveyed over 250 early care and education providers. Of those providers, 64% remained

unpaid for previous months' services. That is, the majority of early care providers had to rely on personal loans and business loans to cover this payment gap.

In interviews with DCCNY member organizations, we heard time and again that late payments added significant financial strain, particularly because providers must bear the brunt of late fees and interest incurred for the months awaiting NYCPS/DOE payments. Of the centers that had to bridge payment gaps, 25% obtained a business loan, 26% took out a personal loan. Other options providers sometimes took to help with these costs included external grants (13%) and private funds (34%).

When these loans cover an entire payroll, the interest for even a single month creates a crippling financial burden, especially for the already resource-limited early care providers.

Unfortunately, issues with late payments remain a core challenge to the operation of early childhood education facilities. This has been demonstrated through surveys and research time and again.

In October 2022, DCCNY conducted a survey of 159 centers and Family Child Care Networks operating through FY 2022 contracts with DOE.

The survey uncovered that:

- 29% of respondents had at least one unregistered contract
- Only 13.2% of respondents were able to submit an invoice through PreKids Vendor Portal for their June 2022 expenses
- 41.5% of respondents had missed payroll or delayed vendor payments due to delayed payments from DOE

In September 2022, SeaChange Capital released a research note using data from Checkbook NYC showing:

- A cumulative cash flow deficit of \$464 million in City contracts when comparing the funds approved to invest in early childhood education and the funds received by providers
- Nineteen organizations with a deficit of \$5 million or more
- Deficits were as high as \$35 million in individual organizations.¹ Thanks in large part to the City Council bringing attention to the issue, the Department of Education made a public commitment to:
 - Pay all providers at least 75% of their negotiated contract value for FY 2022. Providers were guaranteed this level of funding in the requests for proposals which they responded to in 2019.
 - Establish a rapid response team to help providers address issues with their FY 2022 invoices

¹ SeaChange Capital Partners. Early Childhood Education: How Much More Can Nonprofits Endure? September 23, 2022
<http://gd7xi2tioeh408c7o34706rc-wpengine.netdna-ssl.com/wp-content/uploads/2022/09/SeaChange-ResearchNote-Early-Childhood-Education.pdf>

A follow-up analysis from SeaChange Capital uncovered that, based on the information publicly available in Checkbook NYC:

- There was a \$95 million gap between what has been paid to providers for their FY 2022 contracts and the guaranteed 75% minimum of contract value
- There is a \$398.8 million gap between what has been paid to providers for FY 2022 and funds budgeted for their contracts And this is just for FY 2022. We are now more than eight months into FY 2023 and the outdated systems that DOE uses continue to prevent providers from being paid on time.

This crisis is causing:

- Missed payroll, forcing ECE committed staff members to look for new jobs or struggle to make ends meet
- Missed payments to vendors
- Missed payments for employee benefits

DCCNY appreciates the City Council's work to ensure that child care providers are paid on time. On-time payment is crucial for the stability of New York City's child care providers.

Thank you for the opportunity to testify. We are happy to answer any questions and can be reached at gbrender@dccnyinc.org and slohr@dccnyinc.org.



**Testimony of Day Care Council of New York
Before the New York City Council Committee on Contracts, Honorable Julie Won, Chair,
Regarding Interest on Late Payments to Nonprofits**

October 25th, 2023

Prepared by Gregory Brender, Chief Policy and Innovation Officer and Shelby Lohr, Policy Analyst

Thank you Councilmember Won and members of the Committee on Contracts for the opportunity to testify. My name is Shelby Lohr and I am here on behalf of the Day Care Council of New York.

The Day Care Council of New York (DCCNY) is the membership organization of early childhood provider organizations in New York City. DCCNY supports its member organizations and New York City's early childhood field at large through policy research and advocacy, labor relations and mediation, professional development and training for early childhood educators, directors, and staff, and referral services for parents looking to find child care. DCCNY member organizations provide early care and education at over 200 sites in neighborhoods across all five boroughs.

Most DCCNY member organizations work with contracts with the New York City Public Schools. DCCNY member organizations also provide early childhood education through privately-funded programs and the Federal Office of Head Start. DCCNY member organizations operate in all five boroughs and employ over 4,000 New Yorkers, most of whom are black and brown women. DCCNY is proud to be a member of Campaign for Children, and our recommendations are aligned with that coalition.

Late DOE Payments

Late payments continue to put New York City's early childhood education providers at risk of closure and in a state of crisis. DCCNY visited dozens of provider sites over the summer and surveyed over 250 early care and education providers. Of those providers, 64% remained

unpaid for previous months' services. That is, the majority of early care providers had to rely on personal loans and business loans to cover this payment gap.

In interviews with DCCNY member organizations, we heard time and again that late payments added significant financial strain, particularly because providers must bear the brunt of late fees and interest incurred for the months awaiting NYCPS/DOE payments. Of the centers that had to bridge payment gaps, 25% obtained a business loan, 26% took out a personal loan. Other options providers sometimes took to help with these costs included external grants (13%) and private funds (34%).

When these loans cover an entire payroll, the interest for even a single month creates a crippling financial burden, especially for the already resource-limited early care providers.

Unfortunately, issues with late payments remain a core challenge to the operation of early childhood education facilities. This has been demonstrated through surveys and research time and again.

In October 2022, DCCNY conducted a survey of 159 centers and Family Child Care Networks operating through FY 2022 contracts with DOE.

The survey uncovered that:

- 29% of respondents had at least one unregistered contract
- Only 13.2% of respondents were able to submit an invoice through PreKids Vendor Portal for their June 2022 expenses
- 41.5% of respondents had missed payroll or delayed vendor payments due to delayed payments from DOE

In September 2022, SeaChange Capital released a research note using data from Checkbook NYC showing:

- A cumulative cash flow deficit of \$464 million in City contracts when comparing the funds approved to invest in early childhood education and the funds received by providers
- Nineteen organizations with a deficit of \$5 million or more
- Deficits were as high as \$35 million in individual organizations.¹ Thanks in large part to the City Council bringing attention to the issue, the Department of Education made a public commitment to:
 - Pay all providers at least 75% of their negotiated contract value for FY 2022. Providers were guaranteed this level of funding in the requests for proposals which they responded to in 2019.
 - Establish a rapid response team to help providers address issues with their FY 2022 invoices

¹ SeaChange Capital Partners. Early Childhood Education: How Much More Can Nonprofits Endure? September 23, 2022
<http://gd7xi2tioeh408c7o34706rc-wpengine.netdna-ssl.com/wp-content/uploads/2022/09/SeaChange-ResearchNote-Early-Childhood-Education.pdf>

A follow-up analysis from SeaChange Capital uncovered that, based on the information publicly available in Checkbook NYC:

- There was a \$95 million gap between what has been paid to providers for their FY 2022 contracts and the guaranteed 75% minimum of contract value
- There is a \$398.8 million gap between what has been paid to providers for FY 2022 and funds budgeted for their contracts And this is just for FY 2022. We are now more than eight months into FY 2023 and the outdated systems that DOE uses continue to prevent providers from being paid on time.

This crisis is causing:

- Missed payroll, forcing ECE committed staff members to look for new jobs or struggle to make ends meet
- Missed payments to vendors
- Missed payments for employee benefits

DCCNY appreciates the City Council's work to ensure that child care providers are paid on time. On-time payment is crucial for the stability of New York City's child care providers.

Thank you for the opportunity to testify. We are happy to answer any questions and can be reached at gbrender@dccnyinc.org and slohr@dccnyinc.org.



Testimony

New York City Council Committee on Contracts
October 25, 2023

Submitted by:

Gloria Kim

Director of Policy Research and Impact
Human Services Council of NY

Introduction

Good afternoon, Chair Won, and members of the New York City Council Committee on Contracts. My name is Gloria Kim, and I am the Director of Policy Research and Impact at the Human Services Council (HSC), a membership organization representing over 170 human services providers in New York City. HSC serves our membership as a coordinating body, advocate, and intermediary between the human services sector and government. We take on this work so that our members can focus on running their organizations and providing critical direct support to New Yorkers. These are the nonprofits that support our city's children, seniors, those experiencing homelessness, people with disabilities, individuals who are incarcerated or otherwise involved in the justice system, immigrants, and individuals coping with substance abuse and other mental health and behavioral challenges. We strive to help our members better serve their clients by addressing matters such as government procurement practices, disaster preparedness and recovery, government funding, and public policies that impact the sector.

The government has transferred most legally mandated human services for New Yorkers to the nonprofit sector to save on costs. Nonprofits are not just more cost-effective, but also deliver higher quality services than government can alone, by combining government and private resources and being more agile and able to adapt to community needs. By being ingrained in communities, they are trusted messengers, can address emerging needs more quickly than government, and enhance basic services for better outcomes. But as the sector has stretched to meet community needs, providers are met with chronic delays in payment, underfunding, and a lack of sincere collaboration to create meaningful and lasting interventions, which strips away limited resources. City and State agencies have forced nonprofit human services providers into financial and programmatic precarity that threatens the availability of high-quality services for New Yorkers, especially when they need them most.

Support for Int. 0982

HSC supports interest to be paid on late payments under city contracts with non-profit organizations. We thank the City Council for their commitment to procurement reform and understanding the chronically delayed procurement process that providers face. As you know, Sheltering Arms, a 200-year-old nonprofit, recently closed and a contributing factor was the millions of dollars in late contract payments. For too long nonprofits have incurred substantial costs for service delivery before they have a legal right to be paid and are often forced to borrow

to meet payroll. Interest payments on such borrowings are not reimbursable, except in rare cases, and must therefore be paid from reserves already stretched to the breaking point. And that assumes that an organization can find a willing lender. According to a survey of HSC members, in 2020, nearly 46% of respondents were forced to take out loans or draw on a line of credit due to withheld or delayed payments – sometimes at significant cost. The average annual cost of interest on interest-bearing loans is reported as \$223,000.

It is imperative that any interest payment required by the contracting agency is not taken out of program budgets. Although the current legislation is written to state the contracting agency must notify the Council in writing as to why interest payments could not be funded other than through program budgets, human services organizations are already facing severe underfunding while being asked to provide high quality programs. The sector cannot be asked to perform at the same level while providing increased services if these interest payments come out of program budgets. There also needs to be an incentive for government to pay on time, and if there is not an economic impact except to the community, that may not be achieved. As nonprofits struggle to borrow to make rent and salaries, this impacts the resources they can put into additional programming, strategic planning, and compensating the workforce.

Support for Int. 1048

HSC supports the establishment of a document vault to store certain procurement-related documents. This is an important step in ensuring that PASSPort becomes a one-stop-shop for all procurement-related needs so that providers do not have to use multiple procurement systems. As HHS Accelerator is decommissioned and PASSPort is developed to take over all procurement functions, HSC looks forward to the implementation of document vault for a more streamlined procurement process and better user experience.

Conclusion

Although the Joint Task Force to Get Nonprofits Paid on Time took on a great effort in creating substantial reforms to address the procurement challenges that nonprofits face, there are still compounding delays in the contracting process that force providers to undertake costly borrowing to make payroll and rents, often accruing interest not covered by government contracts. Over the years the sector has also seen real progress in contracting only for it to unravel in future years, so current data of timeliness does not mean that it will span future years or Administrations. Progress now does not speak to permanent solutions, and that is what the sector needs- permanent contracting solutions. City agencies are not getting a deal by chronically underfunding human services contracts to balance the budget; it is further harming the low wage workers the City relies on to keep these programs running while pushing community-rooted nonprofits into failure during a time of increased need. It is fundamental to support procurement legislation that tackles delays in the procurement process and ensures that providers are paid on time.

Thank you for providing me with this opportunity to testify. We greatly value our partnership with you and the City Council and know you stand with us in our call to support the human services sector.

Gloria Kim

Director of Policy Research and Impact
Human Services Council of NY
king@humanservicescouncil.org

New York City Council, Committee on Contracts
Hearing on Int. No. 982
October 25, 2023
Testimony of The Legal Aid Society
By Kendi Rainwater, Deputy Chief Operating Officer

My name is Kendi Rainwater and I serve as Deputy Chief Operating Officer at the Legal Aid Society. Legal Aid and our fellow public defender and civil legal services organizations provide critical constitutionally and legally mandated services to millions of low-income New Yorkers each year.

We defend people against incarceration, deportation, and eviction. We connect people to lifesaving benefits, housing, food, job training, and substance and mental health support. The Legal Aid Society handles approximately 300,000 individual legal matters a year and is a lifeline to low-income New Yorkers in need.

I am here to talk about critical contracting shortfalls that threaten the ability of providers like us to serve the New Yorkers who need us most. The contracting crisis is multifaceted and touches every point along the timeline from the issuance of the procurement to registration and payment. The delays create unsustainable instability in our organizations making it extremely difficult to plan and forcing us to scramble to make payroll.

The allowance clause amendments and multi-year discretionary contracting reforms are absolutely steps in the right direction, but fundamental issues with registration and payment remain.

Delays in contract registration create major cash flow challenges that delay or preclude us not only from hiring staff, but also from purchasing critical services and paying rent and other vendors, which in turn result in late fees and higher vendor prices and disqualify us from lines of credit. When the City forces us to front costs before a contract is registered, the provider makes what is, in effect, an interest-free loan to the city. This must be fixed.

Once the contracts are registered and we can begin invoicing for payment, the invoicing process itself is extremely onerous and inflexible. It involves detailed line-item reviews that require pages of information and record keeping to meet extremely detailed and often shifting requirements. Invoicing is further delayed by the budget modification process, which can delay payments by weeks as costs and needs shift throughout the year.

But perhaps the most painful part of this process is that when the City fails to pay us on time and we therefore can't spend all the funds in a single year, the City then keeps whatever we don't spend, effectively cutting our funding and reducing the services we can provide.

Ensuring timely contract registration and payment is critical for organizations like ours to function. We would like to thank Chairperson Won and Council Members Brannan, Yeger, Hanif, and Brewer for their time and dedication to this issue and for their advocacy on behalf of providers like us and the communities we serve. The reforms that are needed are significant, and interest on late payments, together with other changes such as increasing contract advances to 50%. are essential.



TESTIMONY REGARDING

Int. No. 0982-2023

TITLE: A Local Law to amend the administrative code of the City of New York, in relation to interest to be paid on late contract payments to non-profit contractors

SUBMITTED TO

THE NEW YORK CITY COUNCIL'S
COMMITTEE ON CONTRACTS

MOBILIZATION FOR JUSTICE, INC.

100 William Street, 6th Floor

New York, NY 10038

(212) 417-3700

www.mobilizationforjustice.org

1. Introduction

Mobilization for Justice's (MFJ) mission is to achieve justice for all. MFJ prioritizes the needs of people who are low-income, disenfranchised, or have disabilities as they struggle to overcome the effects of social injustice and systemic racism. We provide the highest-quality free, direct civil legal assistance, conduct community education and build partnerships, engage in policy advocacy, and bring impact litigation. MFJ also promotes diversity, equity, and inclusion in our workplace, and understands the need to eliminate all racial disparities to achieve justice for all.

MFJ appreciates the opportunity to express to the New York City Council Committee on Contracts our support for improving accountability in the City's procurement process by mandating the City to pay interest on late contract payments to non-profit contractors. We know firsthand how late contract registration and reimbursement delays negatively impact the operations of nonprofit human service providers that rely on City contracts to provide critical services. We support the passage of Int. No. 0982-2023 to amend the administrative code of the City of New York, in relation to interest to be paid on late contract payments to non-profit contractors.

2. Human service organizations contracting with the City face severe cash flow deficits due to late contract payments.

It is widely known that backlogged City contract payments cause severe cash flow deficits and threaten the existence of many organizations in the City's human services sector. Some organizations have been forced to shut down.¹ In addition to legal services, this sector delivers a range of crucial services from health and homeless services to youth and senior programming. In recent years, the majority of City nonprofits reported delayed contract payments and nearly half were forced to take out loans or draw on lines of credit because of delayed funds. The average annual cost of interest for those loans can amount to hundreds of thousands of dollars.² It is manifestly unfair that due to the delays, the contractors that the City relies on to maintain its human services infrastructure are forced to taken on an additional financial burden of loans and lines of credit to simply stay in business. Furthermore, borrowing costs have skyrocketed in the recent high interest rate environment, making this mode of survival even riskier.

MFJ receives the majority of our funding from the City. Like so many other City nonprofits, MFJ is perpetually budgeting around delayed contract payments while attempting to meet program expenses, payroll, rent and other operating expenses. The constant uncertainty about cash flow makes the financial management of our organization extremely challenging and significantly hinders our long-term fiscal and operational planning. MFJ's main concern is our

¹ See, e.g., David Brand, *200-year-old NYC youth charity to shut down after years of late contract payments*, The Gothamist (February 21, 2023) at <https://gothamist.com/news/200-year-old-nyc-youth-charity-to-shut-down-after-years-of-late-contract-payments>.

² Human Service Council, *Essential or Expendable? How Human Services Supported Communities Through COVID-19 and Recommendations to Support an Equitable Recovery*, available at <https://bit.ly/3md1TwY>.

ability to provide continued services to low-income City residents, something we cannot do without a stable financial backing for our programs.

3. Interest on late contract payments is an essential and overdue first step in addressing a wider problem of late contracts.

While MFJ applauds the City's recent efforts (such as the Joint Task Force to Get Nonprofits Paid on Time) to shine a light on long-standing problems in the procurement system, it is time to introduce concrete and systematic steps to alleviate the financial pain that nonprofits contracting with the city experience on a daily basis. MFJ considers paying interest on late contract payments the absolute minimum that the City can do to mitigate the harm that its broken procurement system is currently causing. Paying interest is a matter of basic fairness that has sorely been missing until now, and it will prevent many nonprofit providers, including MFJ, from spiraling into debt. Considering that organizations that contract with the City take enormous financial risks by providing services and accruing expenses months before receiving even partial payments for their work, it is time for the City to act now.

4. In the alternative, increase advance contract payments from 25 to 50%.

MFJ recommends that the City consider another form of relief to human services nonprofits: increasing advance contract payments from 25 to 50%. Currently, human service contracts are eligible for advance payments of 25% of their annual budgets at the start of each fiscal year. These advances are issued automatically upon contract registration and budget approval. Because contract registration and budget approval frequently occur very late in the fiscal year, a 25% advance does not provide sufficient additional liquidity to contractors. An advance of 50% would appropriately reflect the current reality of late contract registration and substantially ease cash flow problems for nonprofit organizations receiving City funding.

5. Conclusion

MFJ respectfully urges the City Council to pass Int. No. 0982-2023 to amend the Administrative Code of the City of New York in relation to interest to be paid on late contract payments to non-profit contractors.

Why the City Should Pass Int 982 into Law

Testimony for New York City Council Committee on Contracts

Julie Won, Chair

Wednesday, October 25, 2023

by

Thelma Dye, PhD, The Hilde Mosse Executive Director and CEO and
Paula Magnus, Deputy Director
Northside Center for Child Development, Inc.

Northside Center for Child Development, Inc. (“Northside”) fully supports Int 982.

Northside is a 77-year-old not-for-profit Social Service Agency which, through contracts with DOHMH, BOE, DYCD provides approximately 700 children and their families a day with high-quality behavioral health and educational services in Manhattan, Brooklyn, and the Bronx. During FY 18 to FY 22, Northside ended those years with operating deficits averaging \$617,709. These five annual deficits are the end result of operating at a deficit during every month of each of these fiscal years. We had similar negative balances in previous months and years. This constant strain is made worse by the fact that, like most of the City’s Social Service Contractors, Northside must start paying employees to provide services on its contracts with the City on July 1st of each fiscal year, but often, these contracts aren’t registered and paid on for five to six months after that. But as Northside’s recurring annual operating deficit shows, not-for-profits like Northside are not liquid enough to be in position to be incurring these costs so far ahead of reimbursement dates.

We’re confident that if passed into law, Int. 982 will greatly enhance the ability of the City’s Social Service not-for-profits to meet payroll obligations and other obligations with less risk of insolvency.

We thank Chairperson Lee, Council Members on the Committee on Contracts, and your staff members for conducting the hearing and for considering this testimony.

The Cost Savings and Efficiency [Int 1048](#) will Yield if Passed into Law

Testimony for New York City Council Committee on Contracts

Julie Won, Chair

Wednesday, October 25, 2023

by

Thelma Dye, PhD, The Hilde Mosse Executive Director and CEO and
Paula Magnus, Deputy Director
Northside Center for Child Development, Inc.

Northside Center for Child Development, Inc. (“Northside”) fully supports Int 1048.

Expanding on the tremendous merit of Int. 1048, we note Northside has social service contracts with the Department of Health and Human Services, the Administration for Children’s Services, the Department of Youth and Community Development, the Board of Education, the Department of Design and Construction and that in FY 22, Northside supplied these agencies with 44 Insurance Certificates.

Instead of having each City Agency request General Liability Insurance Certificates (and accompanying Broker’s Certificates) naming one City Agency, we suggest that the City accept General Liability Insurance Certificates where, in the Standard Accord 25 Certificate of Insurance forms, in the “Description of Operations” data field, it can say:

“The City of New York, all New York City Agencies, and their officials and employees are included as additional insured.”

Likewise, on DBL-120.1 Disability Insurance Certificates, the data field titled, “Name and Address of Entity Requesting Proof of Coverage (Entity Being Listed as the Certificate Holder)” could be filled, perhaps, saying, “The City of New York, 1 Centre Street, New York, New York, 10007.”

Storing such “omnibus” General Liability Insurance, Broker’s Certificates, and Disability Insurance certificates in a document vault on the City’s Passport Website would eliminate having, as is the case with Northside, officials at seven (or more?) different city agencies ask for the same set of these three insurance documents. It would also reduce the cost of doing business for thousands of the City’s Contractors and their Insurance Agents.

In addition, as undoubtedly contemplated by Int. 1048, for all City Agencies the following documents should be submitted just once by City Contactors to the Document Vault:

1. The Doing Business Data Form
2. The Conflict of Interest and Disclosure Compliance Certification

3. Board of Directors List Certification of Abuse and Neglect
4. The CHAR 500, 990 & Audit
5. The Tax Affirmation Form
6. The Lobbying Certification Form
7. The LL34 Documentation/Uploads

We're confident that if the City passes Int 1048 into law, by eliminating situations where half a dozen or more City Officials are asking for the same set of Insurance Documents and other documents, it will yield tremendous cost savings for the City and free up City staff and Social Service sector staff to do more productive things than the current unnecessarily costly, duplicative process requires.

We thank Chairperson Lee, Council Members on the Committee on Contracts, and your staff members for conducting the hearing and for considering this testimony.

**Testimony by the New York Legal Assistance Group (NYLAG)
before the NYC Council Committee on Contracts regarding
Int 982-2023 and Int 1048-2023
October 25, 2023**

Thank you, Chair Won, Council Members, and staff, for the opportunity to submit testimony to the Committee on Contracts regarding the introduction of two bills that would impact the contracting and payment process with the City. My name is Emily Ward, and I am the Director of Institutional Giving and Government Relations at the New York Legal Assistance Group (NYLAG). NYLAG uses the power of the law to help New Yorkers in need combat social, racial, and economic injustice. We address emerging and urgent legal needs with comprehensive, free civil legal services, impact litigation, policy advocacy, and community education. NYLAG serves immigrants, seniors, the homebound, families facing foreclosure, renters facing eviction, low-income consumers, those in need of government assistance, children in need of special education, domestic violence survivors, persons with disabilities, patients with chronic illness or disease, low-wage workers, low-income members of the LGBTQ community, Holocaust survivors, veterans, as well as others in need of free legal services.

Nonprofit human service providers, like NYLAG, are the individuals on the ground engaging with communities, meeting with individuals in crisis, and providing direct assistance to vulnerable New Yorkers. City government relies on nonprofit human service providers to implement critical public services designed to support and uplift New Yorkers. We bridge the gap of bringing services to those most in need in our communities, together.

NYLAG has been contracting with the City of New York to provide services to vulnerable New Yorkers for over 30 years. In FY24 alone, NYLAG holds over 25 NYC contracts and subcontracts across multiple agencies, including the Human Resources Administration/

Department of Social Services (HRA/DSS), the Mayor’s Office of Immigrant Affairs (MOIA), the Department of Youth and Community Development (DYCD), and the Department of Consumer and Worker Protection (DCWP). We believe this experience allows us to meaningfully comment on the subject of today’s hearing.

We have testified to the NYC Council many times about procurement and contracting challenges nonprofits face with the City, including the chronic underfunding of programs as well as delays in contract registration and payments. The challenges of doing business with the City negatively impact nonprofit organizations like NYLAG. While the City has made progress over the past several years with the implementation of systems like PASSPort and increased transparency, we still face contracting delays and heavy administrative burdens. NYLAG applauds the City Council for introducing the two bills that are the subject of today’s hearing, Int 982 and Int 1048, to try to mitigate the financial costs of contracting delays and ease the administrative burden of contractors.

Comments on Proposed Bills

Int 982-2023: A Local Law to amend the administrative code of the city of New York, in relation to interest to be paid on late contract payments to nonprofit contractors.

In our experience, contract payment delays occur for two main reasons: 1. Contract registration, including the registration of renewal contracts, is delayed for months or, in some cases, years into the contract term, and 2. The invoicing process is extremely onerous for contractor finance teams, further complicated by inconsistent and constantly changing requirements across agencies, and often requires a lot of back and forth with the agency before invoices are approved. In the past, NYLAG has waited years for contracts to be registered and

were not able to invoice for services until well after they were performed. Currently, we are in the second quarter of FY24 and not all our FY24 contracts are registered, meaning we cannot request reimbursements for services we have provided since the beginning of the fiscal year. These delays create a real financial challenge and come at a significant cost.

Nonprofits like NYLAG are often forced to use lines of credit or other interest-bearing loans to ensure cash flow and continue operations. We then use our limited unrestricted funding to pay the interest accrued, which prohibits us from building reserves which are intended to stabilize our organizations in times of crisis and remain nimble in our responses to the helping vulnerable New Yorkers.

NYLAG fully supports Int 982 and thanks the Council for acknowledging that the delays of doing business with the City come at a real cost to nonprofit service providers that undermines the stability of our organizations and ability to provide services. Receiving interest payments to help offset the costs we are incurring would help our fiscal stability. However, we want to encourage the Council to ensure that interest payments will not just be from a result in payment delays after the contract is registered, but also include delays resulting from late contract registration. We believe that nonprofit contractors should be entitled to interest payments calculated from the contract start date for advances and from the first quarter of the contract term, regardless of when the contract is registered.

Int 1048-2023: A Local Law to amend the administrative code of the city of New York, in relation to requiring the establishment of a document vault to store certain procurement-related documents.

NYLAG fully supports Int 1048 and thanks the City Council for acknowledging the administrative burden of the contracting process. Currently, even though organizations like NYLAG are prequalified in PASSPort and have submitted many standard procurement-related documents, we are routinely asked to upload the same documents multiple times for each individual contract. For every contract and amendment, we must individually upload all requested documents which include the Broker's Certification, Budget Detail; Certification of Client Abuse and Neglect; CHAR 500 + 990 + Audit; Disability Insurance; General Liability Insurance; Labor Peace Attestation; Labor Peace Agreement Certification; Scope of Work; Tax Affirmation; and Worker's Compensation. Despite all the contracts requiring identical certification, none of the documents carries over between contracts. This adds another layer of administrative burden to contract registration, which can delay the process. A standardization and central repository for standard documents would reduce this burden and, hopefully, speed up the registration process.

Again, NYLAG would like to thank the Committee on Contracts and NYC Council for continuing to partner with the nonprofit community to improve the procurement, contracting and payment processes. These two bills are a step in the right direction, although there is still much work to be done. By reducing the financial and administrative burden of doing business with the City, human services providers like NYLAG are better positioned to meet the needs of vulnerable New Yorkers and continue to help the communities we serve.



Testimony before the New York City Council
Committee on Contracts
October 25, 2023

Steven Jones
Chief Financial & Administrative Officer
Project Renewal

Project Renewal's mission is to end the cycle of homelessness by empowering individuals and families to renew their lives with health, homes, and jobs.

www.projectrenewal.org

My name is Steven Jones and I am the Chief Financial & Administrative Officer of Project Renewal, a New York City homeless services nonprofit agency.

For more than 55 years, Project Renewal has provided shelter, housing, health care, and employment services to hundreds of thousands of New Yorkers experiencing homelessness. Thank you to Speaker Adrienne Adams, Chair Won and the Committee on Contracts for convening this hearing, and to the entire City Council for its support of our programs.

I am here today to express Project Renewal's support for Intro 982, sponsored by Council Member Justin Brannan, which would require interest to be paid on late payments under City contracts with nonprofit organizations. It is no secret that the City's complex procurement system has led to delayed payments to nonprofits for decades, across many administrations. We are grateful for the City's recent efforts to clear the backlog of late payments and continue to improve the process.

Nevertheless, delayed cash flow is a significant impediment for nonprofits, especially frontline human service providers, placing undue burden on providers like us and interfering with the delivery of critical services. At Project Renewal, that means we are often providing essential services for New Yorkers experiencing homelessness—including operating shelters and providing food, medical care, and employment training—with no guarantee of timely payment for this work by the City. As the homelessness crisis continues to grow, demand for our services is also rising, and timely payment for these essential services becomes all the more important.

Intro 982 takes a meaningful step toward fixing a dysfunctional procurement system. Requiring interest to be paid on late payments creates a powerful incentive for the City to continue to improve its administrative payment function. It will also compensate nonprofits for the significant financial and opportunity costs of chronically late payments. We strongly encourage the Council to consider applying the interest requirement to amendments to registered contracts, as well as pegging interest accrual to the start date of services, which is often long before the contract registration is complete.

Across the sector, organizations like ours are struggling under the existing system. Nonprofits confront the same operational challenges of any enterprise—managing the balance sheet, navigating credit relationships, meeting payroll, and balancing cash flow. Overdue accounts receivable make these core fiscal responsibilities much more complicated. Unpredictable cash flow can force providers to rely on revolving credit with high variable rates. Unreliable financial projections can strain relationships with banks, creditors, and philanthropic funders. That dynamic of precarity can present significant operational challenges and harm to an organization's credibility and stability.

Project Renewal is deeply grateful to Speaker Adrienne Adams and Chair Won – and Council Members Brannan, Yeger, Hanif, and Brewer for sponsoring this legislation. Thank you for the opportunity to testify today.

UNION SETTLEMENT

Board of Directors

Dawn M. Zappetti
Chair

Courtney Dankworth
Jagdeep Dayal
Co-Chairs

William Arnold
Treasurer

Robin Sparkman
Secretary

Ed Adler
Jo-Ann Barrett
Eliezer Berrios
David Castelblanco
Susan Chapman
Henry Colen
Joe Cruz, Jr.
Kalaivani S. Duane
Edward Fitzpatrick, III
Brad A. Green
Kate Hamill
Miriam Kerson
Saliq Khan
Kevin Libby
Lateefah Odedina
Ruth E. Pachman
Drew Warshaw
Ariana Younai
Wilfred Lopez

Dr. Darlene Williams
**President & Chief
Executive Officer**

Union Settlement
118 E. 108th Street
New York, NY 10029

www.unionsettlement.org
info@unionsettlement.org

October 24, 2023

Re: Testimony in Support of Int. No. 982: Interest to be paid on Late Contract Payments to Non-Profit Contractors

Dear Members of the New York City Council's Committee on Contracts,

I am writing to express my strong support for proposed Int. No. 982 that would require interest payments to be made on late payments under city contracts with non-profit contractors in New York City. This legislation is a critical step in addressing an issue that has long plagued the non-profit sector and the communities it serves. I believe that this legislation is not only fair but also necessary to ensure the continued success and sustainability of our vital non-profit organizations.

As Chief Executive Officer of Union Settlement, I have witnessed firsthand the challenges non-profit organizations face when city contracts are not fulfilled promptly. Non-profit organizations play a crucial role in addressing the needs of our communities, from providing essential social services to supporting education, healthcare, and more. Union Settlement and our fellow non-profits rely on the timely disbursement of funds to carry out their missions effectively. The proposed legislation would bring several significant benefits to the non-profit sector:

- **Financial Stability:** Non-profit organizations often operate on tight budgets. Late payments can strain our finances, making it difficult to meet our ongoing obligations and provide essential services. Interest payments can help alleviate this financial burden.
- **Operational Efficiency:** Timely payments are essential for non-profits to plan and manage their programs efficiently. Late payments disrupt operations, hindering their ability to provide the critical services our communities depend on.
- **Accountability:** Requiring interest payments for late disbursements creates a level of accountability for the City's contractual obligations. It incentivizes the City to prioritize and expedite payments, promoting trust and collaboration between government and non-profit organizations.
- **Economic Viability:** Many non-profit organizations rely on grants and contracts as their primary source of funding. Timely payments ensure our economic viability, allowing us to attract and retain skilled staff and plan for long-term sustainability.
- **Enhanced Service Delivery:** When non-profits receive timely payments, we can focus on delivering high-quality services and expanding our reach. This benefits the city as a whole by addressing critical social and community needs.

In conclusion, I firmly believe that this legislation is a vital step toward supporting non-profit organizations in our mission to improve the lives of New Yorkers. By mandating interest

payments on late disbursements, we can ensure that organizations like Union Settlement have the financial stability and confidence we need to continue our valuable work. I urge you and your fellow council members to support this legislation, as it is in the best interest of both non-profits and the communities they serve.

Thank you for considering my testimony. I am ready to support this important legislation in any way possible and look forward to seeing it enacted for the benefit of our city's non-profit sector.

Sincerely,

Dr. Darlene Williams
President & Chief Executive Officer (CEO)



**Testimony of United Neighborhood Houses
Before the New York City Council Committee on Contracts
Council Member Julie Won, Chair**

Int. 982 - Interest to be paid on late contract payments to non-profit contractors

**Submitted by J.T. Falcone, Deputy Director of Policy & Communications
October 25, 2023**

Thank you to Chair Won and members of the New York City Council for the opportunity to testify on this important issue. United Neighborhood Houses (UNH) is a policy and social change organization representing neighborhood settlement houses in New York City that reach 765,000 New Yorkers from all walks of life.

A progressive leader for more than 100 years, UNH is stewarding a new era for New York's settlement house movement. We mobilize our members and their communities to advocate for good public policies and promote strong organizations and practices that keep neighborhoods resilient and thriving for all New Yorkers. UNH leads advocacy and partners with our members on a broad range of issues including civic and community engagement, neighborhood affordability, healthy aging, early childhood education, adult literacy, and youth development. We also provide customized professional development and peer learning to build the skills and leadership capabilities of settlement house staff at all levels.

Background

New York City relies on nonprofits to serve New Yorkers in need. From prenatal care for expecting parents, to early childhood education, to afterschool programs and in-school support, to summer camp, to youth workforce development programs like the Summer Youth Employment Program (SYEP), to college preparedness and college retention, to adult literacy and adult education programming, to adult workforce development, to aging services like Older Adult Centers (OACs) and services that allow older adults to age in place like Naturally Occurring Retirement Communities (NORCs). Further, New York City relies on these same nonprofits to help New Yorkers meet their basic needs, including housing supports, mental health programming, benefit and entitlement navigation services, legal assistance, food access, home delivered meals, transportation—the list goes on and on.

Despite relying on them to run so many critical services, New York City has not always been a good partner to community-based organizations (CBOs). Many contracts are out of date, budgets do not fully cover the costs of services, payments are regularly late, and the procurement process can drag on with needless delays to contract registration that exacerbate

preexisting issues. Mayor Adams acknowledged the issues with New York City's procurement office, co-convening The Joint Task Force to Get Nonprofits Paid on Time with Comptroller Lander as a part of their transition two years ago. The task force issued a report, *A Better Contract for New York*, that included five key recommendations to modernize and streamline New York City's contracting process while making it more equitable and transparent. Since then, the Mayor's Office, including the Mayor's Office of Contract Services (MOCS) and the Office of Management and Budget (OMB) have made progress, but there are still pain points with particular agencies that leave providers at risk.

Our settlement house members report that while payment timelines are generally shorter today than they were last year, contract registration can still drag on for months or, in some instances, over a year. Examples include:

- Extensive waiting periods to receive an executed contract causing a negative impact in their contract audit;
- City agencies often wait until contracts are processed to request additional documents—instead of at the start of the document gathering process. This makes it impossible to streamline registration processes;
- Contracts take months to appear in PASSPort, with agencies slowing down an otherwise efficient process by stalling before uploading required templates.

These examples highlight the many delays that City agencies often create that inadvertently cause delays in registering contracts and paying on time.

Int. 982 - Interest to be paid on late contract payments to non-profit contractors

UNH thanks Council Member Brannan for introducing Int. 982, which would require interest to be paid on late payments under city contracts with non-profit organizations. Late payments are a tremendous challenge for nonprofit CBOs like settlement houses. Many providers have been forced to take out loans and lines of credit, which incur interest, all because of the City's delayed payments, and Int. 982 sends a clear message to the Administration to address the backlog and cover any costs incurred in the future. Short of guaranteeing that the City would register contracts and make payments on time every time, Int. 982 is the next best thing, because it ensures that the consequences of late payments are not borne by nonprofits when delays are often out of their control. **UNH strongly supports this bill and appreciates the sponsors for their support.**

Recommendations

We urge Councilmember Brannan to consider the following recommendation: Part D of the bill reads:

If any interest payment required pursuant to this section is made from amounts appropriated for program purposes such that it reduces the amount available to be spent on the program, the contracting agency shall notify the council in writing of the amount of such reduction and the reason why other funding could not be used for such interest payment.

There is a similar rule in place at the state level, that gives agencies and providers the ability to mutually waive the right to this interest funding.¹ In practice, this loophole is used very often, as agencies tend to pressure CBOs into agreeing to sign that waiver. While the language of this bill is not exactly the same, we could foresee the above-quoted clause leading to a similar problem, where agencies can simply waive the interest payments by citing their preexisting budget levels. UNH is concerned that this language would be used as a loophole that would render the thrust of the bill ineffective, and we recommend striking it.

While we are sensitive to potential impact on program operations that may come from agencies bearing financial responsibility for late payments, the truth is that the risks of late payments are already causing program disruptions. UNH members report that they must weigh the financial exposure that comes from contracting with the City when deciding whether to bid on contracts and how many program slots they can accept in a given contract. In doing so, they underbid, offering fewer services than they could if operating at full capacity because they cannot risk the interest payments on a larger contract should they run into payment delay issues. A guarantee that interest payments would be covered would mean that providers are more comfortable operating at full capacity.

Thank you for your time. If you have any follow up questions, I can be reached at jfalcone@unhny.org.

¹ State Finance Law section 179-v part 7



Testimony to the NYC Council Committee on Contracts

October 25, 2023

INTRODUCTION AND THANKS

My name is Nick Brasse, Chief of Staff at Volunteers of America—Greater New York (VOA-Greater New York). I would like to thank Chair Julie Won and the members of the Contracts Committee for the opportunity to submit testimony.

VOA-Greater New York is an anti-poverty organization with a rich 125-year history of serving our neighbors in need. Our 60 programs deliver services to more than 11,000 adults and children annually.

TESTIMONY

VOA-Greater New York is supportive of Intro 982 and Intro 1048 and thank both prime sponsors Chair Won and Councilmember Brannan for protecting the financial health and long-term stability of human service organizations, and promoting systems that allow providers do fulfill their responsibilities with greater efficiency. We submit several caveats around both bills for your consideration.

Introduction # 982

Non-profit organizations like VOA-Greater New York are proud to partner with the City of New York as we address some of the most pressing housing, health, economic, and social challenges in the communities we serve. VOA-Greater New York's partnership with the City is prolific and impactful – we currently hold roughly \$100 million in City contracts to provide supportive housing, shelter, and clinical services at sites in the Bronx, Manhattan, Brooklyn, and Queens. Unfortunately, we have seen the value of delayed payments on City contracts – that is, late recognition of revenue for service-driven expenses that have already been incurred – reach as high as \$20 million in recent years. We work collaboratively with City agencies to clear the backlog as quickly as possible, but the majority of this unrecognized revenue must be floated on lines of credit, for which interest is not reimbursable.

In this high interest rate environment, VOA-Greater New York anticipates paying as much as \$650,000 in interest on lines of credit to compensate for late payments in FY24, which we must

cover using the little flexible funding we have available to us. Challenges with delayed payments, including the choice between interest payments on lines of credit or facing a liquidity crunch, are long-standing in our sector and produce a meaningful chilling effect when providers are asked to take on new contracts with the City. Supporting the City officials in addressing the most urgent challenges facing our communities should not be an inherently risky proposition.

We support Int. 0982 and thank the bill sponsors for their attention to this issue, which is critical to the non-profit sector, with a strong caveat that City agencies must provide additional funding on top of existing direct service and ICR funding in our contracts to reimburse interest payments. Particularly in an environment where homeless services providers are experiencing reductions in contract values due to PEGs, this bill has the potential to be another avenue for City agencies to force providers to stretch existing contract dollars further than reasonable. Providers are experiencing myriad challenges related to inadequate funding in contracts which are compounded by PEGs – inflation, severely underpaid staff resulting in a high vacancy rate, and insurance costs rising much faster than inflation, to name a few – and we hope this bill can be amended to close off the possibility of further depleting our existing contract dollars.

Introduction # 1048

The one-sided burden of agency interface when submitting procurement-related documents lay squarely on overworked and under-resourced organizations. The current system mandates using a duplicative process to accomplishing simple tasks that can easily be streamlined and automated by facilitating information sharing between agencies, and the document vault would do exactly that.

Creating a document vault should be done in tandem with revising the workflow of agency staff for approval of procurement-related documents. We ask the Council Members consider that any document vault include the following:

- Alert system that notifies organizations when documents are missing, require attention, or need updating.
- Ability to submit/forward documents from the vault to the requesting agency.
- Eliminate the duplication of having to resubmit documents in multiple subfolders that already exist in PASSport.
- Automate the process so that organizations don't have to manually submit documents every 6-months.

The benefits of these features will eliminate redundancies that are taxing to non-profit staff members, who facing mounting administrative burdens related to contractual obligations. We also believe that a document vault would ultimately facilitate timelier payments from City agencies. We note that it is critical agency staff members are well-trained in utilizing the document vault and any other changes to the PASSport interface, or there is a meaningful risk

of tasks not being completed timely on the agency end due to confusion around the roll-out of new systems and processes.

CLOSING

In closing, VOA-Greater New York is supportive of the intent and general approach around Int. 0982 and Int. 1048 but ask for careful consideration of the caveats noted above, which are rooted in our past experience with similar initiatives.

We thank the Council for its commitment to non-profit providers' financial health, promoting efficiency, and for holding this hearing.

Thank you.

Respectfully submitted by:

Nick Brasse, Chief of Staff
Volunteers of America - Greater New York
135 West 50th Street, 9th Floor
New York, NY 10020

THE COUNCIL
THE CITY OF NEW YORK

J1311007

Appearance Card

[Empty box]

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

Date: _____

(PLEASE PRINT)

Name: Diane Marnett - Deputy Director of

Address: _____

I represent: Mayor's office for Nonprofit Services

Address: _____

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

[Empty box]

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

Date: _____

(PLEASE PRINT)

Name: Shelby Lohr

Address: _____

I represent: Day care council of New York

Address: _____

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

[Empty box]

I intend to appear and speak on Int. No. 982 Res. No. _____
 in favor in opposition

Date: 9/25/23

(PLEASE PRINT)

Name: Kandi Rainwater

Address: W 85TH ST.

I represent: Legal Aid Society

Address: 199 Water St. Floor 6

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Frank Carucci

Address: La Mama Experimental Theatre

I represent: _____

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Mary Fulham

Address: La Mama Experimental Theatre

I represent: _____

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

in favor in opposition

Date: 10/25/2023

(PLEASE PRINT)

Name: YEXENIA MARKLAND

Address: _____

I represent: NYC MAYORS OFFICE OF CONTRACT SVCS

Address: _____

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

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Matt Sullivan

Address: _____

I represent: MICS

Address: 255 Greenwich St

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

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Kim Yu First Deputy Director, MICS

Address: _____

I represent: MICS

Address: _____

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