

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON GOVERNMENTAL
OPERATIONS

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B E F O R E: Ben Kallos
Chairperson

COUNCIL MEMBERS:

David G. Greenfield
Mark Levine
Ritchie J. Torres
Steven Matteo

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

Roy Mogilanski
Financial Information Services Agency/Office of
Payroll Administration

Laura Badamo
FISA/OPA Assistant Executive Director and Deputy
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Mohamed Hafeez
Deputy Executive Director of Administration at
OPA

Neil Matthew
Deputy Executive Director of Payroll Operations
at OPA

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

Glenn Newman
President of the Office of Administrative Tax
Appeals at the Tax Commission

Fidel Del Vallo
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Zachary Carter
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Commission of Department of Citywide
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Ricardo Morales
Deputy Commissioner of Asset Management at DCAS

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Citywide Chief Procurement Officer

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

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Keith Kerman
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Emily Dean
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Manhattan Community Board Four

George Fernandez
Manhattan Community Board 12

Mel Wymore
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Executive Director of Board of Elections

Dawn Sandow
Deputy Executive Director of Board of Elections

Peggy Farber
Citizens Union

Michael Hentz
District 33

CHAIRPERSON KALLOS: I hereby call this meeting of the Governmental Operations Committee to order. I'm Council Member Ben Kallos. I chair the Governmental Operations Committee. You can Tweet me at BenKallos. This is our Fiscal 2016 Preliminary Budget and Preliminary Mayor's Management Report hearing. I'd like to thank my colleague Council Member Steven Matteo who has a perfect attendance record and always joins us bright and early at these hearings exactly on time, if not before so. So, I just wanted to recognize that. I'd also like to thank our Finance Division Unit Head, John Russell [sp?] and congratulations on his new title since our last finance hearing, as well as our Finance Analyst Kenny Grace, as well as our Committee Counsel David Sietzer [sp?], and Analyst Laurie Wen [sp?]. Today we'll hear from agencies that perform various citywide services. The Committee will review their financial plans, budget proposals, performance measures, and other operational issues. The agencies that will testify today are the Financial Information Services Agency, FISA, Office of Payroll Administration, OPA, Department of Records and Information Services, fondly known as DORIS, Office of Administrative Tax

Appeals or Tax Commission, Office of Administrative Trials and Hearings, also known as OATH, the Law Department, the Department of Citywide Administrative Services, also known as DCAS, the Community Boards, and the Board of Elections. Afterwards, the general public will have an opportunity to weigh in some eight hours from now. In particular, the committee would like to focus on operational efficiencies that generate cost savings, efforts to reduce reliance on outside contractors and the management of capital contracts including best practices so as to avoid cost overruns. With regard to the Preliminary Mayor's Management Report we will discuss the relationship between agency budgets and agency performance and what steps will be taken to improve agency performance. We will evaluate current and proposed initiatives and what we can expect in terms of return on our investments. Coming from my background in finance, I believe any time we are investing additional funds in anything, we should be seeing improvements. Ultimately, the goal of the committee throughout these hearings is to ensure that the city tax payers are getting the best bang for their buck. First off, we'll hear from Roy

Mogilanski, Acting Director of both Financial Information Services Agency and the Office of Payroll Administration. Welcome. FISA controls and coordinates data processing function and operations for the city's payroll, accounting, and purchasing systems, management of the citywide Financial Management System, FMS, generates and distributes reports for accounting and budget oversight and provides online access to budgetary related data released [sic] by city managers and others. FISA's proposed budget for Fiscal Year 2016 totals 104.9 million, including personal services funding of 48.6 million to support 459 fulltime positions. The Office of Payroll Administration is also responsible for the distribution of payrolls, accounting for payrolls administration of payroll deductions, check distribution services and maintenance of the integrity and accuracy of the Payroll Management System, PMS, and supporting the development and implementation of PMS. Its proposed budget for Fiscal Year 2016 totals 27.7 million, including personal services funding of 16.2 million to support 203 fulltime positions. During today's hearing, we will examine various aspects of both agency's budgets

2 and discuss the operations and upkeep of several
3 citywide IT systems including FMS, the city Financial
4 Management System, CityTime, the city's timekeeping
5 system, NCAPS [sic], the city's Human Resources
6 database and the payroll management system. We would
7 also like to hear about efforts to convert consultant
8 positions to city positions as well as discuss
9 details about the plan to co-locate FISA with OPA.
10 We look forward to your testimony. And before we
11 have a practice for other government agencies of
12 asking them to take an affirmation. So, if all who
13 will be providing testimony or responding to any
14 questions can raise their right hand and turn on
15 their mics. Do you swear or affirm to tell the truth
16 before this committee and respond honestly to Council
17 Member questions?

18 : I do.

19 CHAIRPERSON KALLOS: Everyone else, I
20 need to hear from you, too.

21 : I do.

22 : I do.

23 : I do.

24 CHAIRPERSON KALLOS: Let the record
25 reflect, all folks sitting at the table have said, "I

2 do.” And without anything further, please provide
3 your testimony.

4 ROY MOGILANSKI: Thank you. Good morning
5 Chair Kallos and members of the Committee on
6 Governmental Operations. My name is Roy Mogilanski
7 and I’m Acting Executive Director of the Financial
8 Information Services Agency known as FISA. I’m
9 joined at the table this morning by Laura Badamo,
10 Assistant Executive Director and Deputy General
11 Counsel, Edward Fitzpatrick, the Deputy Executive
12 Director for Administration, Velu Pillai, the Deputy
13 Executive Director for Shared Systems, and Peter
14 Reddy, the Deputy Executive Director for Financial
15 Systems. The portion of the Mayor’s Preliminary
16 Budget that pertains to FISA will allow it to
17 maintain its current levels of service. The Budget
18 provides FISA with the resources it needs to support
19 the citywide financial, payroll, human resources, and
20 time keeping applications which it maintains for city
21 officials who utilize them to carry out their charter
22 mandated activities related to budgeting, financial
23 planning, accounting, procurement, payroll, pension,
24 and personnel functions. FISA provides services to
25 various entities through the operation and

1 maintenance of major information systems such as the
2 Payroll Management System, known as PMS, the
3 Financial Management System, known as FMS, the
4 Pension Payroll Management System, PPMS, the New York
5 City Automated Personnel System, known as NYCAPS, and
6 CityTime. FISA provides technical expertise in
7 support primarily through the Office of Management
8 and Budget, the Office of the Comptroller, the Office
9 of Payroll Administration, the Mayor's Office of
10 Contract Services, the Office of Labor Relations, and
11 the Department of Citywide Administrative Services.
12 FISA ensures citywide system access and provides
13 technical assistance to all agencies processing
14 transactions at FMS, PMS, PPMS, NYCAPS, and CityTime.
15 Today, the systems that FISA supports are utilized by
16 tens of thousands of users in the performance of
17 their duties on behalf of the people of our city.
18 The Financial Management System, or FMS, supports the
19 base functions required of the citywide budget and
20 accounting system. FMS processes data for inclusion
21 in the city's financial plans, the budget, the
22 Comptrollers annual statements, and all required tax
23 reports. In calendar year 2014, FMS generated
24 approximately 690,000 disbursements valued at
25

approximately 45 billion dollars. FISA would like to report a positive trend toward greater use of electronic funds transfer or EFT by vendors and other payees receiving payments from the city. In calendar year 2010, approximately 41 percent of the city's total disbursements were made using EFT. Today, the EFT percentage has grown to approximately 69 percent. This greater use of EFT is due to a number of complementary initiatives such as legislation by the City Council, which makes EFT the preferred method of payment by agencies, a nominal paper check fee that has generated over 1,400,000 dollars for the city since the end of Fiscal Year 2011 and aggressive vendor enrollment activities. FISA, working with DCAS and MOCS, continues to implement procurement improvement initiatives. Our current effort is the roll out of online order processing for selected contracts. FISA, working with MOCS, is upgrading the Pay Information Portal, known as the PIP, to include a new feature that allows users to self-identify their businesses as veteran owned, minority owned, women owned, or as a worker cooperative. FISA, working with the Office of the Comptroller, continues to implement initiatives to improve vendor

interactions with the city. The initiatives currently in progress are the development of E-signature functionality for W9 form submission and a set of usability improvements to the Payee Information Portal. The Debt Management System is the official repository of debt data pertaining to bonds issued by New York City and the Transitional Finance Authority. The application is used by investment banks, bond counsel and city employees. The DMS application includes over a 100 years of historical data. FISA completed the initial implementation and continues to maintain the application and apply enhancements as prioritized by DMS stakeholders. An enhancement is underway to DMS to include bonds issued by the New York City Water Finance Authority. The Payroll Management System, or PMS, is the computerized application used to produce the city's payroll. PMS processes over nine million payments for the city's workforce annually by running over 300 pay cycles per year that produce payrolls valued at approximately 28 billion dollars. FISA is working on several initiatives to move non-payroll functionality out of the payroll management system as part of the strategy to update the 30 year old main

frame base system on which PMS runs. In the past year, union dues assignment processing and contractual salary increase in processing has moved from PMS into NYCAPS, and Police Department time keeping has been fully moved into CityTime. During the coming year, additional functionality to calculate the payment of uniform allowance will be processed in NYCAPS and new web based entry and inquiry screens will be developed. The Pension Payroll Management System is used for producing payments to New York City retirees. For calendar year 2014, PPMS produced over 3.8 million payments for approximately 317,000 New York City recipients by running close to 180 pay cycles valued at approximately 22 billion dollars. FISA manages the distribution of retiree checks, 1099 forms and quarterly statements to pensioners. The New York City Automated Personnel System, or NYCAPS, is a citywide human resources and benefits system, which processes transactions for city employees. In the past year, work was completed to move Department of Education employees into NYCAPS. FISA is now working with CUNY to implement the employees of the community colleges into NYCAPS. In addition, NYCAPS process

2 health benefits for all New York City retirees. The
3 CityTime System is a unified and automated time
4 keeping system which interfaces with the city's
5 Payroll Management System to support accurate time
6 and attendance records and payroll calculations.
7 FISA continues to be on target to meet the objectives
8 set forth in the FISA Board Resolution of June 2011,
9 which calls for replacement of consultants with city
10 staff. From the time FISA assumed responsibility for
11 the implementation and maintenance of CityTime, the
12 number of consultants on the project has been reduced
13 from 71 to six with a result in savings of over five
14 million dollars per year. Overall, FISA has
15 tremendously reduced its reliance on consultants. In
16 Fiscal Year 2011, FISA has 194 consultants. It
17 currently has 30 consultants in total. FISA
18 continues its efforts to reduce these numbers even
19 further. FISA continues to provide the Department of
20 Information Technology and Telecommunications, or
21 DOIT, with data on citywide job postings for the open
22 data website. FISA also provides the New York City
23 Comptroller's Office with payroll, contract and
24 payment data for Checkbook 2.0 website. We continue
25 to actively provide support as they design additional

2 components of checkbook. FISA's staffing for Fiscal
3 Year 2015 and Fiscal Year 2016 is an authorized 459
4 employees. FISA's total January planned budget
5 allocation for Fiscal Year 16 is 105 million dollars,
6 49 million for personnel services and 56 million for
7 other than personnel services. And at this point,
8 I'd be happy to answer any questions the Council may
9 have.

10 CHAIRPERSON KALLOS: If you would not
11 mind, in your joint role over Financial Information
12 Services Agency and the Office of Payroll
13 Administration, if you don't following your testimony
14 for FISA with your testimony for OPA, we can make
15 sure we address both of the--both of our questions
16 for both agencies at the same time as there is a
17 close nexus between the agencies as indicative of the
18 fact that one person is able to oversee both.

19 ROY MOGILANSKI: Okay. So you'd like me
20 to read my testimony for OPA now? Okay. I'd like to
21 say hello again to the Chair Kallos and the Committee
22 on Governmental Operations. My name is still Roy
23 Mogilanski, and I'm the Acting Executive Director of
24 OPA as well as FISA. Joining me today from OPA who
25 are--you can gather around--are Mohamed Hafeez, the

2 Deputy Executive Director of Administration, Neil
3 Matthew, the Deputy Executive Director of Payroll
4 Operations, and Jerri Stepanek, the Deputy Executive
5 Director of Systems and Support.

6 CHAIRPERSON KALLOS: Let the record
7 reflect that the Office of FISA at OPA now outnumber
8 the City Council in this hearing.

9 ROY MOGILANSKI: And I hope you forgive
10 me, but I've been at the job a little bit over three
11 weeks, so I figured it's good to have some support
12 here, people who actually know more of the details
13 than I do. The portion of the Mayor's Preliminary
14 Budget that pertains to OPA will allow OPA to
15 maintain its current levels of service. The budget
16 provides OPA with the necessary resources to support
17 employee and retiree payrolls, including the
18 management and reconciliation of the city's payroll
19 bank accounts. In furtherance of [off mic] OPA
20 maintains and enforces uniformed payroll policies and
21 procedures, coordinates payroll matters among city
22 agencies, the New York City Housing Authority, and
23 elected officials. OPA ensures the continued
24 security, integrity and effectiveness of the city's
25 payroll systems as well as compliance with

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requirements of federal, state and city tax authorities while using technology to the greatest possible advantage in support of its operations. The following divisions carry out much of the activity related to the core mission of OPA. OPA payroll operations manages the payroll check and direct deposit distribution to all city agencies. In Calendar Year 2014, over nine million payments were made to active city employees. Over 7.7 million of these were direct deposit payments and over 1.7 million were paper checks. This reflects the direct deposit participation rate of 81.5 percent. OPA also funds 18 payroll related bank accounts. In addition, OPA manages the retiree payroll distribution for the pension systems. In Calendar Year 2014, over 3.7 million payments were made to city retirees, over three million of these were direct deposit, and over 590,000 were paper checks. This reflects the direct deposit participation rate of 84 percent. Paper check stop payment notices and check replacements are processed by OPA. In Calendar Year 2014, 5,120 paper checks were replaced. The use of direct deposit is promoted by OPA. Toward that end, the agency partners with seven financial institutions in the

free checking with direct deposit initiative. As part of its fiduciary responsibility, OPA is responsible for reporting wages, pension distributions and withholding tax information to federal and state taxing authorities. These entities include the city, NYCHA, the New York City Municipal Water Finance Authority, the New York City Retirement System Pension Trust, and the New York City Retirement System Trust. OPA ensures the city complies with ordered deductions that have been served upon city employees. Some of these ordered deductions include child support, the Internal Revenue Service tax levies repayments, agreements, credit or garnishment orders, higher education loan orders, and national medical support notices. OPA is responsible for collecting and remitting city employee's voluntary payroll reductions and data including union dues, life insurance premiums and political dues to internal and external entities. The city's commuter benefits program is administered by OPA. The expanded Transit Benefit Program offers eligible employees the opportunity to use pre-tax and post-tax earnings to cover certain public transportation costs throughout the New York tristate

area. At the end of February 2015, more than 55,000 city employees were participating. In November 2014, the program added the premium metro card to the existing transit benefit options. The premium metro card is an annual unlimited ride metro card that is accepted wherever the 30 day unlimited ride metro card is accepted. OPA's citywide system support services mission is to maintain and provide citywide agency support and training for use of OPA citywide systems as well as support for use of internal OPA systems used by OPA's Payroll Operations Division. OPA is responsible for the business functionality addressed by eight major citywide systems covering payroll, pension and time keeping functions. These systems include the Payroll Management System, the Pension Payroll Management System, the Workers Compensation System, CityTime, the city Human Resources Management System, the W2 replacement and corrections system, the welfare benefit annuity system, and E-forms/E-stubs. In addition to maintaining and ensuring that these systems meet business needs, OPA also provides support and help desk functions. This unit addresses agency questions and issues and disseminates information pertaining to

OPA citywide systems. OPA's responsibilities cover a broad range of activities, including business analysis, requirements gathering, validating payroll results, data assurance for tax filings, and troubleshooting system business issues. OPA assess and makes system update recommendations based on changes to over 180 union agreements, as well as legislative or other required business changes. An important function of OPA support services division is its proactive agency outreach. This approach focuses on assisting agencies with correcting transactions, recommending business process changes and communicating system updates to the user community. OPA also engages agencies to participate in software testing to ensure that software usability meets business needs. OPA has authorized fulltime staffing levels of 203 for fiscal year 2015 and for fiscal year 2016. OPA's total January planned budget allocation for Fiscal Year 2015 is 28.6 million dollars, 17.1 million for personnel services and 11.5 million for other than personnel services. For Fiscal Year 2016, the January budget allocation is 28.2 million dollars, 16.7 million for personnel services and 11.5 million for other than personnel

2 services. Thank you, and I'll be happy to answer any
3 FISA or OPA related questions that you may have.

4 CHAIRPERSON KALLOS: Thank you all for
5 joining us. I'd like to open up by just following up
6 on items from last year, which may be before your
7 time, but hopefully with a great team we've got
8 assembled here you can address it. So, last year,
9 nearly 300 million dollars were erroneously [sic]
10 paid out to over 31,000 pensioners. OPA said the
11 reason was due to a system test that failed. Last
12 year, OPA said that over 99 percent of that money was
13 recovered. What is the current amount outstanding?
14 What steps has OPA taken to recover the remaining
15 money, and what additional changes to the system have
16 been made to make sure that this does not happen
17 again?

18 ROY MOGILANSKI: I can answer that one.
19 That's an easy one. We recovered all the money. All
20 the money has been repaid to the city. My, if I may,
21 my first responsibility is Acting Executive Director
22 is the integrity of the disbursements that are going
23 out. To that end, I've asked staffs of both FISA and
24 OPA to review all processes and procedures to see if
25 there's any single points of failure, what can be

2 done both electronically and/or manually to make sure
3 that errors like these don't happen again. So,
4 that's--both agencies realize that's first priority.
5 We're reviewing all systems. We had, after the
6 incident last year, we had KPMG come in. They're an
7 auditing and accounting firm. They brought in some
8 special expertise on these kinds of systems. They've
9 made some recommendations for how we can do things
10 better now and in the future. And in addition, what
11 I'd like to establish is I know DOI uses the term
12 "integrity controller" but I'd like to establish
13 within FISA and OPA an integrity monitoring unit that
14 report directly to me whose sole responsibility would
15 be to monitor the processes that result in
16 disbursements of funds and to make sure they're being
17 followed correctly and the amounts going out are
18 correct. And that's something I hope to implement in
19 the near term future.

20 CHAIRPERSON KALLOS: Is the new integrity
21 unit reflected within the Fiscal Year 16 budget
22 proposal?

23 ROY MOGILANSKI: It's not, however, it
24 doesn't have to be a large unit personnel-wise. It
25 can be one or two or three people, but there's--that

2 would be their sole responsibility is to monitor the
3 processes that are already in place. So it's not as
4 if they would be putting new processes in place.
5 We've established processes that should work
6 properly. There is electronic checks. There is
7 human being checks. This unit, this person's sole
8 job would be to make sure that other people are
9 following the procedures properly and they would
10 report directly to me. So they would have the
11 authority to make sure that these things were done
12 correctly.

13 CHAIRPERSON KALLOS: At what cost?

14 ROY MOGILANSKI: Again, I assume the
15 minimal, the cost of salary of one or two or three
16 people. These would be city employees.

17 CHAIRPERSON KALLOS: 150,000? 300,000?
18 Are these civil servants, or?

19 ROY MOGILANSKI: They would be civil
20 servants, right. We're reducing consultants we
21 already have. So I wouldn't bring in consultants to
22 do this. So I would say between 200 and 300,000
23 dollars.

24 CHAIRPERSON KALLOS: Thank you.

25 Electronic funds transfer utilization with 69 percent

2 last year and you've testified that it hasn't grown
3 over the last year. Why not and what plans do you
4 have to improve it?

5 ROY MOGILANSKI: Why not, I'm not really
6 sure. It seems like it would be easier, more
7 convenient, safer for everyone to use it. For
8 payroll checks and pension checks, the participation
9 rate is much higher. I believe it's over 80 percent
10 in each of those cases. For city vendors, it's about
11 69 percent. We do have ongoing outreach programs to
12 try and get vendors to accept electronic funds
13 transfer. There is a per check fee. Its three
14 dollars and 50 cents per paper check that we thought
15 would dissuade some people from wanting paper, but
16 they still--we're not legally allowed to mandate EFT.
17 So that if anybody requests a paper check, we have to
18 supply it to them, but we are constantly hoping to
19 get that number out. We have outreach programs. We
20 have--the one time payments drive that percentage
21 down. People who think it's not worth the trouble to
22 sign up for electronic funds transfer since they're
23 only getting one check from the city or they assume
24 they are, but it's something that we agree we will

2 continue to try and increase the percentage of
3 participation.

4 CHAIRPERSON KALLOS: Which seven financial
5 institutions did you partner with for the free
6 checking with direct deposit initiative, and how are
7 you letting the receivers of the nine million
8 payments you make a year aware that they can get a
9 free checking account because of their direct
10 deposit?

11 ROY MOGILANSKI: The seven institutions
12 are Bank O'Popular [sic], Carville [sic] Federal
13 Savings Bank, Citi Bank, Flushing Bank, Abib [sic]
14 American Bank, Neighborhood Trust Federal Credit
15 Union, and Sterling National Bank. And here too, we
16 have a constant outreach to employees and pensioners
17 to use electronic funds trans--direct deposit in
18 their cases. We're partnering with the Department of
19 Consumer Affairs Office of Financial Empowerment to
20 try and get people to open up. Many, surprisingly,
21 many of the city employees are unbanked. So, we have
22 this program where if there is check is deposited
23 directly they get free checking. The Office of
24 Financial Empowerment is reaching out to people as
25 well to try and encourage them to open up bank

2 accounts and to get the EFT, the direct deposit
3 checks made. So, we do have constant outreach
4 programs. The success rate, again, is over 80
5 percent, but we'd like to increase it.

6 CHAIRPERSON KALLOS: Can addition--how are
7 you--can any bank, anyone representing a bank, anyone
8 who currently banks with a bank watching this hearing
9 now have their institution participate? Is this open
10 to everyone or is there any--

11 ROY MOGILANSKI: [interposing] The banks--
12 -Mohamed, please correct me. The banks have to--or
13 Neil--have to apply--

14 [off mic]

15 CHAIRPERSON KALLOS: Yeah.

16 MOHAMED HAFEEZ: They have to be on the
17 listing of the City Banking Commission in order to be
18 able to participate.

19 CHAIRPERSON KALLOS: And so every single
20 bank that's listed on the City Banking Commission has
21 been offered to participate and--

22 MOHAMED HAFEEZ: [interposing] Yes.

23 CHAIRPERSON KALLOS: then similarly so, I
24 have a bank account, and every month with my bank
25 statement they send me a whole list of offers. Is it

2 possible to when you mail a paper check to include a
3 one pager saying these are the banks you can get free
4 banking with?

5 ROY MOGILANSKI: We actually do.
6 Periodically we put a message on the--there's a memo
7 line on checks, and we put rotating messages there,
8 and one of them is the--consider direct deposit or
9 something to that. I don't know the exact wording,
10 but something marketing direct deposit to employees.
11 And periodically we have outreaches to employees. We
12 talk to the personnel departments of all the city
13 agencies. We give them literature to give to the
14 employees to encourage direct deposit. So we're
15 trying.

16 CHAIRPERSON KALLOS: Perfect. I do direct
17 deposit, so to the extent that you can send me a copy
18 of what that looked like, I'd love to be--I'd love to
19 see it. And as a person who banks with TD Bank, I
20 would also love to have TD Bank added just so that I
21 don't have to pay fees anymore either. I'd love to
22 get as many banks signed up, and we'd be interested
23 in working closely with you on that. It's great to
24 see that in terms of the CityTime there was a
25 commitment to reduce from 71 consultants, and that

2 number is actually dropped to six, which is a great
3 number. However, last year it was testified that
4 you'd be going down to five. So, I guess the one
5 question is just you got very close to goal, just
6 what missed it, and is there a goal to reduce that
7 headcount to zero and bring them all in as well as
8 the 30 consultants that are left additionally?

9 ROY MOGILANSKI: Yes, the goal is to
10 reduce consultants to zero. That, I can't give you a
11 time frame for that, but it's something we're
12 actively working on. Those, the six remaining
13 CityTime consultants are basically-- a lot of the
14 work that they're being assigned will result in us
15 being able to replace them with city employees. OPA
16 is down to zero consultants now. FISA's at 30, but
17 again, FISA a few years back had almost 200
18 consultants. So we're making steady progress in
19 reducing consultants and the goal is get them to
20 zero.

21 CHAIRPERSON KALLOS: Is that--you
22 mentioned not being able to give a specific time
23 frame, but is it, in terms of ballpark, is it next
24 year we'll have the same conversation or as in you'll
25

2 think you'll be able to eliminate all the outside
3 contractors by next year?

4 ROY MOGILANSKI: I can't promise you. I
5 don't want to make a false promise by saying we can
6 get rid of them all in a year. A lot of them do work
7 on our systems that's very complex and they're not
8 easily replaced because of their skill set, but I
9 will be commit to have a goal of being in single
10 digits of total consultants by this time next year.
11 That gives me a little bit of room to--

12 CHAIRPERSON KALLOS: And are you currently
13 working out of the municipal building or out of 450
14 West 33rd?

15 ROY MOGILANSKI: Well, FISA's based at
16 450 West 33rd Street. OPA's actually in three
17 locations right there, right now. They're in a
18 municipal building. They're in Two Lafayette Street,
19 and there's a component up at 450 West 33rd Street.
20 However, OPA will be colocated with FISA hopefully
21 by the end of this calendar year so that both
22 agencies will be at 450 West 33rd Street. Since the
23 agencies work so closely together, they work on
24 different facets of the same system, I think that'll

2 be a great benefit to both agencies to have them both
3 physically located in the same place.

4 CHAIRPERSON KALLOS: What cost savings do
5 you see with this colocation?

6 ROY MOGILANSKI: I don't have specific
7 cost savings for the colocation, but there should be
8 some efficiencies in that we'll be sitting in a
9 collocated place and that the efficiencies of
10 interactions between the two agencies should
11 increase, but I don't have the specific number.

12 CHAIRPERSON KALLOS: With regard to the
13 expense budget, in the capital budget we can budget
14 for things and if we don't spend it, it relates [off
15 mic] that we ultimately don't end up taking. With
16 regard to the expense budget, it's limited. We have
17 77.7, at this point, billion dollars. That's up from
18 the 73 million that we had when I first got elected,
19 which is great, but one of the challenges is just
20 that any money we budget one place can't be spent in
21 that year by another agency. FISA and OPA have a
22 history in the fiscal 2014 and fiscal 2015 and now
23 for fiscal year 2016 budgeting with a surplus will
24 you will actually have more funding than you need
25 based on previous years. Can we expect a budget

2 surplus in the coming year, and can you estimate the
3 current budget surplus and any places where we can
4 actually make sure we're budgeting more accurately so
5 that we can spend that money where we need it?

6 ROY MOGILANSKI: I think both OPA and FISA
7 will have somewhat of a budget surplus again this
8 year. We are constantly working with OMB, both
9 agencies, to try and get the numbers right. OMB
10 doesn't like to give extra money to agencies that
11 won't be used either, because they'd like to use it
12 at other places. So, OPA will have a larger surplus
13 in its budget because there was money there for
14 CityTime maintenance and support. The responsibility
15 for CityTime maintenance support has been transferred
16 almost completely to FISA. So, OPA will be able to
17 give a significant amount of money back. However,
18 for next fiscal year and future fiscal years, we're
19 working with OMB to try and get the number correct.

20 CHAIRPERSON KALLOS: If you can brief
21 the--provide and answer to the City Council Finance
22 Department and my Committee just about how much you
23 expend to have surplus and your--how much you will be
24 choosing to reduce your budget between the current
25

2 proposal for the preliminary budget and the final
3 budget.

4 ROY MOGILANSKI: Be happy to provide
5 that.

6 CHAIRPERSON KALLOS: Thank you. With
7 regard to cost overruns, capital cost overruns, the
8 city has a history of making contracts with somebody.
9 So let's say we agree pay somebody a dollar for to
10 wax [sic] Law School again for a magic acorn or for
11 black eye--for the magic eight corner. We're going
12 to give them a dollar. The city has a tendency of
13 saying we'll pay a dollar for that magic acorn and
14 then somehow ending up because of whatever additional
15 costs there were for transporting that magic acorn,
16 we now end up paying a \$1.60. And while on that
17 scale its okay, but when we're talking about a
18 billion instead of--1.6 billion instead of one
19 billion, that is a problem. Historically, OPA and
20 FISA have had the issue of CityTime which was
21 originally contracted for 63 million and eventually
22 hit 700 million. Are there any current contracts
23 that you have within your two agencies that are
24 currently overrunning their original contract bid?

25 ROY MOGILANSKI: I'm happy to say no.

2 CHAIRPERSON KALLOS: Oh, wow, that is
3 absolutely great. One concern I have is just with
4 regard to CityTime. The final cost of CityTime was
5 about 135 million to 186 million. Is that--134 to
6 186 million? Do you have an exact figure on that
7 yet?

8 ROY MOGILANSKI: I don't. And that's if--

9 CHAIRPERSON KALLOS: On the record.

10 : We can get back--

11 ROY MOGILANSKI: I don't have that number,
12 but I can certainly check it and get back to you.

13 CHAIRPERSON KALLOS: And that was after
14 we received the repayment of 500 million, but so
15 based on our numbers it's somewhere between 134 and
16 186 million. I'd love to find out what that exact
17 number is. So, that's the sticker price. And so it
18 appears that we have--FISA has an expense budget for
19 Fiscal Year 2016 for 10 million dollars for the
20 CityTime system maintenance and OPA's budget also has
21 an additional 10 million dollars, and that's on the
22 expense side, and then on the capital side, we are
23 borrowing in order to spend another 6.4 million
24 dollars to expand CityTime, which takes us to another
25

2 26.4 million dollars on top of the 134 to 186 million
3 dollars we've already spent.

4 ROY MOGILANSKI: A couple of points that
5 you made I'd like to address. The 10 million dollars
6 or close to it for OPA, most of that will not be
7 spent. As I mentioned before, the money, the
8 responsibility for maintenance support of CityTime
9 has moved to FISA. So, when we get back to you with
10 the money that might be going back of the surplus,
11 the significant portion will be that CityTime nine
12 point something million dollars. So, there's not a
13 duplication. There's not 10 million in FISA and 10
14 million OPA. The 10 million OPA is going away for--

15 CHAIRPERSON KALLOS: [interposing] Okay,
16 so that is 10 million dollars we can give back to the
17 general fund.

18 ROY MOGILANSKI: Well, close to it, yes.
19 And the 6.4 million you mentioned, that's--CityTime's
20 been operational for a number of years now. There's
21 a normal upgrade and replacement cycle for hardware
22 and software. What that 6.4 million dollars in
23 capital funds is earmarked for is hardware and
24 software upgrades or replacements of things that have
25 aged out in the CityTime system. So that's not new

2 development cost or implementation cost, that's part
3 of the normal cost of running a system long term, but
4 they are--those costs are eligible for capital, so
5 they're in the capital budget, the 6.4 million.

6 CHAIRPERSON KALLOS: Can you break down
7 the 6.4 between hardware and software costs?

8 ROY MOGILANSKI: I can't right now, but I
9 can get back to you with that information.

10 CHAIRPERSON KALLOS: And is this being
11 paid to a vendor or is this being paid to city
12 employees to update the code for CityTime?

13 ROY MOGILANSKI: Well, it's capital
14 money. It has to be a vendor. It's a hardware
15 manufacturer or a software manufacturer, so it would
16 be a vendor.

17 CHAIRPERSON KALLOS: With regard to--so,
18 I would be remiss if I didn't say, and I think most
19 of your staff would be surprised if I did not say
20 that if we were to--I don't think we should buy a new
21 CityTime, but this is an example where if we were
22 using free and open source software, we would
23 actually own the software and we'd be able to make
24 modifications to it without having to go back to the
25 same vendor any time we want to make changes, but--

2 and so how is the 10 million dollars in the FISA
3 budget for maintenance different than the 6.4 in the
4 capital?

5 ROY MOGILANSKI: There's the maintenance
6 portion where we keep the equipment, we keep the
7 hardware and software, but there's an annual fee to
8 the vendor for hardware or software maintenance for
9 normal upgrades for new versions of the software to
10 make sure that we get bug fixes, to make sure that if
11 anything goes wrong with the hardware we're not
12 charged for its repair. So, most of that 10 million
13 is for normal hardware and software maintenance for
14 the traditional. And as you pointed out, CityTime
15 was built on the old paradigm of systems where you
16 buy the computer equipment and keep it in your
17 offices where you buy licenses for the software and
18 you pay a vendor to build something, and
19 unfortunately, all of those have associated
20 maintenance costs that are ongoing and the vast
21 majority of that 10 million is normal hardware and
22 software maintenance for an operational application.

23 CHAIRPERSON KALLOS: I guess for me it's
24 just a little frustrating because in the private
25 sector we buy a computer. We own the computer. we

2 don't have to keep to paying the company we bought
3 our computer from for the privilege of owning the
4 computer, and most of them we can buy with the
5 support contract up front and then after that when I
6 buy Microsoft Windows to run my computer if I choose
7 to purchase it or Microsoft Office, I don't then have
8 to say, "Okay, I spend 150 dollars on Microsoft
9 Office, but in order to have the privilege of
10 continuing to use Microsoft Office after I've already
11 purchased it, I now have to pay another 15 dollars a
12 year just for the purpose of running it on my
13 computer after I've already paid for it once."

14 ROY MOGILANSKI: Yes.

15 CHAIRPERSON KALLOS: So to the--is there
16 any opportunity to renegotiate the CityTime contract
17 to make sure it's more favorable to the city?

18 ROY MOGILANSKI: The city--there's a
19 number of individual contracts, so the short answer
20 is yes, we can always negotiate with the vendors for
21 better deals. Again, it's the old paradigm of doing
22 things. The vendor's business model in many cases is
23 built on those maintenance charges. So they're very
24 reluctant to set a precedent where they're giving any
25 customer a much better deal because that word will

2 get out. So, yes, we will try, and there's always
3 hope for success.

4 CHAIRPERSON KALLOS: With regard to the
5 alternate data center funding, the capital plan
6 includes 33.2 million dollars for FISA's alternate
7 backup data center scheduled to be committed in
8 Fiscal Year 2017. Can you provide details on this?
9 And last year it was testified that it was
10 challenging to move all the data to CLAD [sic]
11 because of the variety of platforms your programs ran
12 on because your priorital [sic] system ran on a main
13 frame computer. Is there a plan to modernize? And
14 just by way of background, in the private sector at
15 least, we pay by cycles for computers. So, if you're
16 going to go to the EC3 Cloud or the Ama--this is what
17 you get for electing a software developer. But
18 anyway, we pay based on bandwidth and computer usage.
19 So you can actually throw an entire server in the
20 cloud and pay for the fact that you're leasing the
21 hard drive space, and then if something goes wrong,
22 you scale up the virtual server almost immediately
23 and it goes from a dormant server sitting in a closet
24 that doesn't do anything and doesn't really cost you
25 more than pennies a month or pennies a day to a full-

2 fledged server and at that point you're paying as if
3 it is an operational server, and then as soon as
4 you're done with the crisis or emergency, you're able
5 to scale it back down, but because you're not using
6 it for active queries, you're paying much less.

7 ROY MOGILANSKI: A couple parts to your
8 question. First the alternate data center. FISA's
9 disaster recovery plan has been fined since the last
10 time the hearings were held. FISA was originally
11 going to be a co-owner of the alternate data center
12 in New Jersey with DOIT, the Department of
13 Information Technology. That's changed. DOIT is now
14 going to be completely in charge of that site, and
15 FISA's going to be using it on a limited basis for
16 disaster recovery. So, that 33 million dollars in
17 capital that you mentioned before, Councilman, will
18 not be going to the alternate data center, or at
19 least a large portion of FISA's needs won't be served
20 the alternate data center. So, that plan will
21 probably change over the next year or so of how and
22 where we will be siting disaster recovery. The other
23 point you mentioned about using the cloud for
24 disaster recovery is something I'm a very big
25 supporter of. That can and will be done for all of

the systems that FISA runs that are not main frame based. We've done some research and because so many of our core systems like PMS and a portion of FMS are based on the main frame. You can't get a cloud based disaster recovery plan put in place. They're just not set up for that. The main frames are not--don't lend themselves to sitting, waiting to be used. So part of FISA's overall strategy is to eventually evolve off of the main frame completely, and that's one of the issues that we would avoid, the ability to have, to be cloud based if we don't have the main frame. And if I may, the payroll management system, which is the biggest application we have running on the main frame now, what FISA and OPA have been doing over the last couple of years is carving off pieces of functionality off of the existing Payroll Management System and putting them into systems like NYCAPS and CityTime that the city runs on non-main frame platforms. And the hope is, because PMS is over 30 years old, the hope is to carve down PMS to its core kernel of functionality so that it can be replaced much more easily than building a massive new system, and that new system would be based on a different platform other than the main frame. So

2 that's our strategy for PMS going forward and we're
3 actively involved in doing that.

4 CHAIRPERSON KALLOS: So, PMS is on the
5 main frame and what else?

6 ROY MOGILANSKI: PMS is on the main
7 frame. A portion of FMS is on the main frame, the
8 workers compensation system and the Pension Payroll
9 Management System. So it won't be easy, and those
10 are all very complex, very big systems. It won't--we
11 can't just say we'll be off the main frame in three
12 months or six months, but that is the strategy, and
13 PMS is the biggest of those systems and we're working
14 on that one first to replace it and move it away from
15 the main frame.

16 CHAIRPERSON KALLOS: We are a city that
17 plans five years ahead. I wish we'd plan further
18 ahead than five years. Do you have a five year plan
19 to--and proposal for capital or to transition away
20 from PMS, FMS, workers comp, and PPMS on a main frame
21 system, and do you have estimates as to how much you
22 believe that will start, what that will cost?

23 ROY MOGILANSKI: I don't have a specific
24 time frame. Five years seems like a reasonable
25 amount of time. Although, as a technologist, you

2 know, it's incredibly difficult to forecast
3 technology 18 months out, let alone five or more
4 years out, but the goal is to use software as a
5 service as much as possible, to use the cloud as much
6 as possible, to every time a new application comes
7 around or an application has to be upgraded or
8 updated, to take a look at options, to not just build
9 it the way we always have in the past by hiring a
10 vendor and having it custom made and buying our own
11 computers and storing them and having backups, but to
12 move into the 21st century and realize we're 15 years
13 in, it's time for us to speed up our pace, but to
14 move with the evolving technology climate and to take
15 advantage of the savings that are associated.

16 CHAIRPERSON KALLOS: And I just want to be
17 very clear for you and also for anyone watching, free
18 labor [sic] our open source software is a license.
19 It isn't a specific vendor. It can be written by
20 city employees, which is my preference, but it can
21 also be written by vendors. The only difference is
22 that if you don't like the vendor, you get to keep
23 your code after you fire the vendor, and often when
24 you're dealing with that type of code base, there are
25 other vendors who can step in and work with it,

2 because generally there's many vendors working with
3 it. So, with regard to the types of products we're
4 talking about, the PMS, workers comp and PPMS, there
5 are other cities that are dealing with this. There's
6 about 300 other cities facing these challenges.
7 There's a federal government. There's 50 state
8 governments, all of them trying to deal with this.
9 SO, would you explore working on creating joint
10 contracts and joint code bases with them so that we
11 change the model from it being a vendor that gets
12 paid 700 million dollars to build one thing for one
13 city and then resells that same code base to
14 everybody else versus taking those profits away and
15 placing that with cost savings for government so that
16 we're not all paying for the same product that the
17 people have to pay for over and over again?

18 ROY MOGILANSKI: Absolutely. I would be
19 an enthusiastic supporter of that kind of joint
20 consortium with other governments.

21 CHAIRPERSON KALLOS: With regard to FMS,
22 FMS is made by CGI. CGI makes other products. Could
23 there be a different timeline with FMS in particular
24 since I think this is one of the last main frame
25 cities left to work with FM--with CGI to adopt their

2 more modern products? I believe the CGI took the FMS
3 code base and is reselling it under a different name
4 in other locations and including in the federal
5 government and we're one of the last ones left using
6 the old code base. So it may be something where that
7 might be one of the easiest places to move.

8 ROY MOGILANSKI: And actually we've done
9 so for the accounting portion of FMS has moved off
10 the main frame and is based on a unique system. So,
11 we've already done about half of what you're
12 suggesting.

13 CHAIRPERSON KALLOS: And with regard to
14 FMS, the capital plan currently includes a commitment
15 for 4.1 million dollars. What are we going to use
16 that for?

17 ROY MOGILANSKI: It's a combination of
18 upgrades. It refreshes of the hardware and software,
19 but also the pay information portal. New
20 functionality is being put in. There's E-signature
21 functionality being done for W9 forms, and we're in
22 the planning stages of some software upgrades that'll
23 happen next spring. So, that the 4.1 million dollars
24 is for a number of different items.

2 CHAIRPERSON KALLOS: Does any of that pay
3 for FMS leaving the main frame so that we can get
4 them into the cloud where they are for so many other
5 cities and states and localities?

6 ROY MOGILANSKI: Not yet, but again, we
7 will.

8 CHAIRPERSON KALLOS: With regard to
9 CityTime, has the Board of Elections gone onto
10 CityTime yet?

11 ROY MOGILANSKI: They have.

12 CHAIRPERSON KALLOS: Are there any
13 outstanding city agencies that aren't on CityTime?

14 ROY MOGILANSKI: All of the mayoral
15 agencies are on CityTime. There are some elected
16 officials that are not as of yet, although some
17 elected officials are.

18 CHAIRPERSON KALLOS: Which elected
19 officials are on CityTime and which ones aren't?

20 ROY MOGILANSKI: The Comptroller's Office
21 is on CityTime. The DA's offices are on CityTime. I
22 believe the Manhattan Borough President is in process
23 of going on. A couple of the public administrators--

24

25

2 CHAIRPERSON KALLOS: How much would it
3 cost for the City Council to go on CityTime, and
4 could the City Council actually go on CityTime?

5 ROY MOGILANSKI: The short answer is yes,
6 we would welcome you onto CityTime. I believe
7 there's already been discussions with Council staff
8 about moving onto CityTime.

9 CHAIRPERSON KALLOS: With regard to
10 NYCAPS, has DOE been fully incorporated into NYCAPS?

11 ROY MOGILANSKI: Yes, they have.

12 CHAIRPERSON KALLOS: Great. With regards
13 to your contracts budget, OPA's Fiscal 2016 contracts
14 budget totals approximately 10.9 million dollars for
15 12 contracts. What percentage of these contracts
16 will be issued to minority and women business
17 enterprises?

18 ROY MOGILANSKI: I have the number for
19 that.

20 CHAIRPERSON KALLOS: For both FISA and OPA
21 if possible.

22 ROY MOGILANSKI: It's about 15 percent to
23 minority and women businesses.

24 CHAIRPERSON KALLOS: And do you have a
25 goal to get to a higher number than that?

2 ROY MOGILANSKI: Yes. We are working with
3 MOCS. We are committed to increasing the number of
4 minority and women vendors that we use both at FISA
5 and OPA.

6 CHAIRPERSON KALLOS: I'd like to thank you
7 for your exhausted testimony and having the answers
8 to all our questions and your commitment to provide
9 answers to the questions that we're not able to
10 answer, and also your commitment and vision for our
11 future and planning five years out. I'm very pleased
12 to have had you all here today. Thank you for
13 joining us. At this point I will recess the
14 Committee on Governmental Operations until 11:15 when
15 we will hear from the Department of Records and
16 Information Services.

17 [gavel]

18 ROY MOGILANSKI: Thank you.

19 [recess]

20 CHAIRPERSON KALLOS: [gavel] We're now
21 bringing the Committee on Governmental Operations out
22 of recess for our hearing on the Department of
23 Records and Information Service. I'd like to welcome
24 the Commissioner Pauline Toole. The Commissioner of
25 DORIS serves as the Chief Archivist, Librarian and

Records Officer for the Mayor, Borough Presidents and City Council. Today, we'll discuss the Department's 2016 Preliminary Proposed Budget which includes several new needs. We will also examine operational performance and ideas you may have to improve the Department's efforts to fulfill its mission. We look forward to your testimony. At this time, I will ask you to affirm to tell the truth, the whole truth and to respond to Council Member questions honestly.

PAULINE TOOLE: I affirm that I will tell the whole truth and all of the truth and respond honestly to questions.

CHAIRPERSON KALLOS: Thank you very much. Please provide your testimony.

PAULINE TOOLE: Thank you. Good morning, Chairperson Kallos and members of the committee. I am Pauline Toole, the Commissioner of the city's Department of Records and Information Services commonly known as DORIS. I'm joined by key staff, Naomi Pacheco, the Director of Administration, Joseph Mathis, the Budget Director, and Ken Cobb, the Assistant Commissioner who is at the table with me. DORIS is a small agency with a big mission, to preserve and make available government information

both from the past and the present. The agency has three divisions, the Municipal Records Center, the Municipal Archives and the Municipal Library. The Municipal Records Management Division develops and enforces the city's record management policies, operates record storage facilities in two locations with a combined capacity of 730,000 cubic feet and provides records management services to 50 city agencies, 10 courts and the five district attorney offices. The Municipal Archives preserves, catalogs and makes available city government's historical records. The earliest records in the archive is a land grand deeding Lady Deborah Moody the tract currently known in Graves [sic] End from 1645. The archives hold collections as varied as the Alms House [sic] ledgers dating from 1759 through 1936, the Tweed Ring Court records from the 1870's, World Trade Center materials documenting people's responses to that tragedy, the Brooklyn Bridge engineering drawings from Washington Robling [sp?], and the Central Park drawings. There are more than 200,000 cubic feet of historical records stored at Bush Terminal and 30,000 cubic feet of records in our headquarters at 31 Chambers. Our materials include

manuscripts, maps, photographs, architectural models, video, auger recordings, and mayoral gifts. The Municipal Library provides the public with published documents about city government. The holdings include published reports from the separate cities of Flushing and Brooklyn prior to the consolidation of New York City in 1898 and reports issued by various agencies for the past 117 years. Since 2003, the libraries operated an online portal for government publications. Our mission is to foster civic life by preserving and providing access to the historical and contemporary records of New York City government to ensure that city records are properly maintained following professional archival and record management practices and to make materials available to diverse communities both online and in person. The preliminary budget provides a total Fiscal Year 2016 allotment of 5,943,429 dollars for operating costs, which includes personnel service funding of 2,755,000 dollars rounding up and OTPS funding of 3,188,000, also rounding up. The fulltime headcount has increased by six from 38 city funded positions to 44 city funded positions. The preliminary plan represents an increase of 545,515 dollars from the

current spending plan funding. During the past Fiscal Year agency funding was increased to support our archival and information services programs and we expect that funding to continue in the upcoming Fiscal Year. DORIS also received 354,311 in direct grants during Fiscal Year 2015, which includes 200,000 dollars to administer the local government's record management improvement fund grants, LGRMIF, that are allotted to DORIS and other city entities, 37,750 to preserve and index historical Brooklyn maps, 74,853 to continue preserving historical NYPD photographs, and 41,708 dollars to begin preserving historical HPD photographs. During the past 12 months, DORIS has undertaken initiatives to better fulfil our charter mandated responsibilities, recognizing that the agency had been on the chopping block for the previous 20 years. We have identified areas for improvement and increased efficiency. We've shored up operations and are now either fulfilling our mandates or are on track to do so. For example, you may recall that in last year's testimony I reported on the status of the government publications portal required by Section 1133 of the Charter. The purpose of the portal is to make

current government reports available to the public.

You can think of it as I do as the online municipal

library. A year ago, only 48 percent of agencies had

provided electronic reports for electronic online

posting at some point between 2003 and 2014, and the

system for accessing the report frustrating end user

because only in very rare instances could a person

actually download a report. I'm happy to report that

the beta version of our publications portal just went

live, and it's user friendly, easy to navigate and

full of reports. We have worked with agencies during

the past nine months. There still are some reports to

load, but we have either posted or expect reports in

the near future from all mayoral agencies and

offices. Additionally, the Municipal Librarian is

developing a database of every required report so we

can remind agency representatives to send the

required copies ahead of time. In the next phase of

the portal development, we expect to add additional

functionality such as the web casts of agency board

meetings. The portal has been a collaboration

between DORIS and DOIT. It utilizes open source code

and encourages feedback from the user community. DOIT

worked with the DORIS team to make the portal more

robust so it could handle hundreds of requests at one time. In future stages we will add increased functions such as archived websites. Based on the re-launch of the portal and the DORIS mission to provide government information to the public, we are embarking on a key mayoral initiative, the open FOIL [sic] platform. The platform shares the same architecture and programming language that was employed in the government publications portal. We will be phasing this portal in during the upcoming Fiscal Year and we'll keep you abreast of developments. And of course, we recognize that this effort takes a team, and we will again be collaborating extensively with DOIT. In 2014, the newly appointed municipal archivist began assessing the state of the archives and established two overarching goals. One, to ensure that there is a plan to accession [sic] all records of historical value and that the plan is followed. And two, to broaden access to city government's historical materials by making them available digitally and in thematic exhibits. The archival staff has been surveying agencies in the offices of elected officials to determine the existence of historical

records that may not have been transferred during the past 20 years. We have a longstanding arrangement by the way with the La Guardia Wagner archives to care for the Council records. So, you're out of the loop on this one this time. We anticipate making all of the collections available online, but realize such an initiative will take several years. In the interim, our online gallery at www.archives.nyc showcases the records of New Amsterdam. We will add a gallery of highlights from our newest exhibit that would make history a march through the archives next week. In connection with the Bronx exhibit, we placed three satellite exhibits at sites in the Bronx and we are exploring additional community based exhibits. We have been working with record managers from several city agencies to review practices and policies and develop a proposal for 21st century records management. Almost all of the existing record retention schedules for city agencies were adopted in the 1980's and must be revised. And of course, technology changed dramatically in the past 30 years, so our new guidelines will reflect that most records have been created digitally and can be retained electronically. The recent city storage fire

2 illustrated the negative impact of fire and water on
3 hardcopy records. Storing records, particularly
4 those born digital in the cloud will eliminate this
5 problem. Our increased headcount of six positions
6 permits us to add skills to fulfill these plans.
7 This includes three new technology hires, a developer
8 and a project manager for the open foil project, and
9 a developer who primarily will be working on an
10 online archival system similar to that used by the
11 Smithsonian Institute. We also are hiring two new
12 archivists who will be processing historical
13 collections and a citywide records manager whose
14 critical role is to establish and enforce record
15 management policies for all city agencies. In sum,
16 during Fiscal Year 2015, DORIS put in place the
17 technology, human capital and other resources to
18 fulfill our charter mandated responsibilities. During
19 the upcoming Fiscal Year we will build on this
20 foundation, continue to improve operations and make
21 our holdings more available to the public. Thank
22 you.

23 CHAIRPERSON KALLOS: Thank you very much
24 for all of your great work. As you know, I am a
25 strong--well, I'm a free libra [sic] and open source

2 software developer and have been a strong advocate.
3 So thank you for your great work on the publications
4 portal and using a free and open source code base.
5 Where is that code base posted and hosted?

6 PAULINE TOOLE: It's posted on GITHA
7 [sic].

8 CHAIRPERSON KALLOS: Great. So, if--do
9 you happen to know the GITHA Burefo [sic] name so
10 that anyone watching online or reading this
11 transcript can find it easily?

12 PAULINE TOOLE: I do not, I regret to
13 say.

14 CHAIRPERSON KALLOS: But it is linked
15 from the portal?

16 PAULINE TOOLE: Yes.

17 CHAIRPERSON KALLOS: And with regard to
18 the project for the municipal librarian of
19 identifying all the required reports from the
20 agencies that is an extraordinary task, and I'm sure
21 that as they're working on it I know that the Council
22 has a similar project, if not a similar list. So, I
23 think there's a chance for collaboration not only
24 between DORIS and DOIT, but also with the City
25 Council, and I do want to thank you for your

collaboration on the records portal with our, the City Council with this committee and with the Borough President Gale Brewer. With regard to the preliminary mayor's management report--for the day, I'll be trying to focus on making sure that we are investing in performance enhancements and just looking at it and throughout the PMMR, I don't know if I have a--do we have a spare copy for--do you need a copy?

PAULINE TOOLE: I don't have one with me, but we're fairly familiar with it.

CHAIRPERSON KALLOS: What I've noticed is a lot of your targets are represented by asterisks. So I wanted to ask why that is and if we could find actual targets versus the asterisk. What does the asterisk mean? And this is with regard to Goal 1A, provide the public and city agencies with access to public records and publications. And for that one I've got a whole lot of asterisks. And along those same lines, in Fiscal Year 12, there were nearly a quarter million records digitized and preserved. In Fiscal Year 13 we were at 121,955, Fiscal Year 14, 101,033, and for Fiscal Years 15 which we are currently and then 16 the goal is once again 260,000.

2 However, for the four month's actuals we are seeing
3 numbers of 45,000, 46,000, give or take respectively.
4 So, I was curious about the challenge you may be
5 facing with regards to digitizing records.

6 PAULINE TOOLE: Turning this over to
7 Assistant Commissioner Ken Cobb for the response.

8 KEN COBB: Thank you, Council Member.
9 The--on your last point, quantitative records
10 digitized you will see very soon in the indicators
11 jumping up into the millions literally because we are
12 in the process of digitizing our 10.5 vital record
13 collect, the historical birth, death and marriage
14 certificates. So that numbers' going to zoom
15 tremendously.

16 CHAIRPERSON KALLOS: So, in the PMMR, it
17 says 4.6 million for the fourth month actual for
18 Fiscal Year 15, but we weren't sure if that was a
19 mistake.

20 KEN COBB: No, it's correct.

21 CHAIRPERSON KALLOS: Okay. So to that end,
22 can we change the target in the PMMR from 260,000
23 since it appears that you've already exceeded your
24 targets, and it seems that when you're trying to set
25

2 targets, we like to set targets we haven't already
3 passed?

4 KEN COBB: Right. Like some of the
5 targets in the past, they're funded by a special
6 project or a grant, or in this case this is a special
7 contract. So this year, yes, the number is going to
8 be super high. The next year it might revert back
9 down again. But we can adjust it, yes.

10 CHAIRPERSON KALLOS: And do you have
11 targets for the number of library items available and
12 publication reports acquired and records accessed in
13 municipal archives and walk-in and program attendees
14 at the visitor center?

15 KEN COBB: they're not targets for those
16 indicators. The ones that--you'll see we do have
17 targets for several of our indicators but not
18 everyone. Not every indicator.

19 CHAIRPERSON KALLOS: So, why not [sic]?

20 KEN COBB: This was something we worked
21 at with the Mayor's Office of Operations. I guess
22 the feeling was that the--it was either a target that
23 we did not have as much control over. For example,
24 let's pick one out here.

2 CHAIRPERSON KALLOS: So I guess the
3 question would just be why leave them in the PMMR if
4 we're not actually going to do anything about them
5 and we're not going to use them at all?

6 PAULINE TOOLE: Well, some of them are
7 also targets that are in development. So, on the
8 municipal library, the publications that we receive
9 are now quantifying the number of online publications
10 we expect to receive, that would be a target. And
11 typically they would count every report issued on
12 paper. We're going to move away from that to a
13 combination of online and hardcopy materials
14 received, and then the number in the visitor's
15 center, the visitor's center and library combination
16 has only been open a very short amount of time. So
17 we need to work on developing what are the targets.

18 CHAIRPERSON KALLOS: So, can we hope that
19 by the time we have the Mayor's Management Report we
20 will actually have targets listed under the measures
21 or see those measures gone because the Mayor's
22 decided that these are not things that the
23 administration currently cares about anymore?

24 PAULINE TOOLE: We certainly can.
25

2 CHAIRPERSON KALLOS: Thank you. I just--I
3 believe in we set targets. We set targets beyond
4 where we are already and then we archive them, or we
5 say, okay, this is the target and we actually set it
6 to what we're currently achieving, but the MMR
7 becomes a useless document if we don't actually use
8 it. So, similarly for providing city agencies, the
9 courts and district attorneys with record storage
10 retrieval and retention scheduling services, there
11 are a number of stars there. Agency customer service
12 has no targets whatsoever currently, and so if those
13 can be set that would be amazing. And currently what
14 we're looking at is under Fiscal Year 12, Fiscal Year
15 13, Fiscal Year 14 they were over 92 percent, whereas
16 for Fiscal Year 14 the four month actuals at 77
17 percent, while Fiscal Year 15 you actually had 100
18 percent. So, to the extent we can try to set targets
19 at what they've been, which may be 100 percent and 90
20 percent or whatnot that would be amazing.

21 PAULINE TOOLE: I think another thing
22 that we're working with the Mayor's Office of
23 Operations on is to figure what are the best
24 measurements, what are the best metrics for measuring
25 the work of the Department, and as we retool

2 operations, some of those will be about engaging
3 communities differently. Some of those will be on
4 the online use of our materials, and we will
5 definitely be working with them on that.

6 CHAIRPERSON KALLOS: Great. In terms of
7 storage space, so physical storage space, I guess a
8 quick question would be what is the current status of
9 physical storage space and the records management
10 division, and similarly, what is the status of the
11 digital storage space, and have we seen any cost
12 savings from that, or from digitizing documents and
13 removing them? And then similarly, I run a paperless
14 office. What are you doing with regards to quality
15 control? I found that sometimes I'll ask for
16 something to get digitized and then the digital
17 version will not actually be as good as the original,
18 and then we'll have to redo it multiple times until
19 we actually get something that stands the test of
20 archival quality.

21 PAULINE TOOLE: Okay. So on the record
22 storage space, we have 738,000 cubic feet that is at
23 two locations, Bush Terminal and a warehouse in
24 Maspeth [sp?], Queens, and our records management
25 division maintains records for a number of city

1 agencies at those locations as cited in the
2 testimony. Those are active records, the records
3 that agencies might need. They have an--they haven't
4 hit the end of their retention period. We also have
5 a small record center at White Street that previously
6 was off the record, Center for the Office of the
7 Mayor, and we've recently taken on the responsibility
8 of managing that. I think as our initiative for
9 holding digital, born [sic] digital records in
10 electronic storage comes to fruition. We will see a
11 decrease in the amount of paper records and the
12 quantity of storage space that the city is going to
13 require is just going to drop, and that will be done
14 by managing the retention schedules that each agency
15 has so that they conform to more modern practices,
16 which generally means the series of records would be
17 held for shorter periods of time. And those that are
18 born digitally would be retained digitally, and the
19 city is committed to adequately storing those
20 documents and those other kinds of records in the
21 cloud. In terms of digitization and having quality
22 control, the program we have digitizing the vital
23 records is really quite extraordinary and as all of
24 these millions of images are fed through the machine,
25

2 there's a team of people operating each machine
3 catching errors, and then at the end there are
4 quality control people who look at every image, and
5 they are uniformly beautiful.

6 CHAIRPERSON KALLOS: One item just of
7 note, and I had suggested working with our City
8 Council's office, but with regard to the reports that
9 you're looking at, the Report and Advisory Board
10 Commission from the 2010 Charter revision also did
11 similar reports on reporting. So have you reached
12 out to them?

13 PAULINE TOOLE: Yes, we have that report
14 and we are--we used it as a base document and we are
15 filling in the gaps and adding reports that--so we
16 have what we think will be a more comprehensive list.
17 And when it's complete, we'd be totally happy to
18 share it.

19 CHAIRPERSON KALLOS: Great.

20 PAULINE TOOLE: We post it online as far
21 as that goes, you know.

22 CHAIRPERSON KALLOS: According to the
23 preliminary management report, the number of records
24 preserved and digitized in 13 and 14 were
25 significantly lower than in 2012. The average time

2 to process requests for records went up dramatically
3 due to a 97 percent increase as a result of an
4 agreement with the world's largest online resource
5 for family history records. Can you explain why more
6 city funding could be used for record retrieval for a
7 private website? Does the world's largest online
8 research, family history research contribute
9 financially to this partnership?

10 PAULINE TOOLE: The world's largest
11 genealogical research center has the indexes to our
12 records posted on their site. So people who do
13 genealogical research can go to their site and find
14 the location of any number of documents, and then by
15 using those indexes, they can connect with us either
16 online or by snail mail and request copies of the
17 birth, death or marriage certificate they might be
18 interested in, and we provide that document to them
19 mimeograph version but soon to be in the upcoming
20 beautiful digitized version for a fee that is set
21 through a process with OMB.

22 CHAIRPERSON KALLOS: Local 11 of 2003
23 requires agencies to send all reports done pursuant
24 to a local law or executive order to DORIS and to
25 DORIS to post such reports. You testified last year

2 you were undertaking review of agency compliance with
3 Local Law 11 of 2003. What have been the results of
4 your review?

5 PAULINE TOOLE: Well, I think it's summed
6 up in the testimony to the extent that, you know,
7 between, in that 10 year period, 48 percent of
8 agencies submitted some documents. Sometimes they
9 stopped. Sometimes they submitted all the way
10 through. And in the intervening period, we
11 determined that in order to have the most reports
12 available on the government publications portal we
13 needed to outreach to every single entity and require
14 the reports to submit along with the appropriate Meta
15 data so things could be searched, and now we are at
16 100 percent compliance with the mayoral agencies.
17 So, I think the result of that outreach and survey
18 produced what we hoped to be the conclusion, which is
19 full participation. And then the report that the
20 Municipal Librarian is doing is basically a time
21 table for when to expect the next set of reports and
22 a way to manage the flow of information into the
23 portal.

24 CHAIRPERSON KALLOS: I'd like to wrap up.
25 In this age of document destruction being a very

2 popular word and document destruction policies being
3 one of the things people now google more than
4 anything else, something that us employment lawyers
5 are very familiar with, but the general public had
6 not previously been. Goal 2C is dispose of all
7 records according to their scheduled retention
8 period. We now kind of live in world where we no
9 longer need to dispose of as many records, because
10 they can just be scanned, and we don't need to retain
11 the digital copy and to the extent it is very
12 inexpensive and our storage space in the cloud is
13 almost limitless. Can you talk a little bit about
14 this according to the PMMR? In Fiscal Year 2014 we
15 disposed of 11,282 records and in Fiscal Year for the
16 fourth month period we disposed of 2,695. So how
17 does that work and are we still maintaining digital
18 copies or are we deleting the digital copies in
19 addition to the physical copies?

20 PAULINE TOOLE: The metrics in the report
21 are largely based on historical practices throughout
22 the city, which means that they're based on hard
23 copies, and the way the process works is that every
24 agency has a retention schedule that gives the length
25 of time any particular series of records should be

2 retained. When the documents hit the end of their
3 retention period, the Commissioner of the agency
4 sends a destruction request that is reviewed by the
5 Department of Records and Information Services and
6 then it's reviewed by the Law Department and then
7 comes back to the department of Records and
8 Information Services and then is reviewed by the Law
9 Department and then comes back to the Department of
10 Records and Information Services for the archivist to
11 determine whether or not those records have
12 historical value, in which case instead of being
13 shredded, they're moved to the archives. And that
14 process is very cumbersome, and it is one of the
15 processes that we're reviewing and we propose
16 changing in our upcoming initiative. The--one of the
17 gaps in the process is that for the Law Department
18 review and sign off there is--they have many
19 divisions and each division sometimes has to look at
20 the destruction request, which is--it just takes them
21 a lot longer to be able to complete that given the
22 complexity of all the litigation they're dealing
23 with.

24 CHAIRPERSON KALLOS: Would you be--as you
25 reconsider how you quantify the PMMR, I think a

2 critical indicator would be a question of how many
3 documents were requested to be destroyed, how many of
4 them are being historically preserved versus
5 destroyed and just having some sort of reporting to
6 understand. So, I would just love to learn a little
7 bit more. Are we talking about payroll records and
8 just copies of people's pay stubs or are we talking
9 about something larger and just what types of things
10 are we destroying, why and what things are we trying
11 to preserve and determine to not be destroyed and for
12 what reasons. So, I'd love to learn more about that
13 as--

14 PAULINE TOOLE: [interposing] Sure.

15 CHAIRPERSON KALLOS: we go through it.
16 And just overall, thank you for your great work on
17 the portal, and thank you for pursuing the open foil
18 and everything else, and look forward to continuing
19 to work together. Great work.

20 PAULINE TOOLE: Thank you very much. We
21 look forward to collaborating.

22 CHAIRPERSON KALLOS: We would like to
23 welcome the President of the Office of Administrative
24 Tax Appeals on the Tax Commission, Glenn Newman. The
25 Office of Administrative Tax Appeals consists of two

divisions, the Tax Commission and the Tax Appeals Tribunal. The Tax Commission is responsible for conducting hearings on appeals of real property tax assessments determined and released by the Department of Finance each year. The Tax Appeals Tribunal conducts hearings to resolve disputes between tax payers and the Department of Finance regarding taxes, other than the New York City Real Property Tax including business income and excise taxes. The Fiscal 2016 Preliminary Budget for the Office of Administrative Tax Appeals totals 4.5 million dollars including 4.2 million in personal services funding to support 41 fulltime positions. Today, we would like to examine the office's budgetary needs and discuss ways we can improve or enhance your operations. As is our practice, I'd like to ask you to affirm to tell the truth before this committee and to respond honestly to Council Member questions.

GLENN NEWMAN: I will.

CHAIRPERSON KALLOS: Thank you very much, and I'd like to recognize that we've been joined by Council Member Levine, and you may now proceed with your testimony.

GLENN NEWMAN: Thank you, Mr. Chair. The Office of Administrative Tax Appeals was established by Local Law 57 of the year 2007, and it brought together the city's two agencies that hear tax appeals, the Tax Appeals Tribunal and the Tax Commission. The Tax Appeals Tribunal is the independent forum to hear appeals of Finance Department determinations relating to the city's non-property taxes, the general corporation tax, bank tax, unincorporated business tax, commercial rent tax, real property transfer tax and others. The tribunal consists of two divisions, an Appeals Division and an Administrative Law Judge Division. The Appeals Division consists of three Commissioners appointed by the Mayor to hear appeals from the Administrative Law Judge or ALJ Division where the trials of the tax matters take place. I am the President of the Tax Appeals Tribunal. Two colleagues on that tribunal are Robert Firestone and Ellen Hoffman. After determination by one of the three Administrative Law Judges, either the tax payer or the Department of Finance represented by the corporation council may appeal to the Commissioners at the Appeals Division. Only the tax payer may

1 appeal a Commissioner's decision, Commissioner's
2 decisions, and that appeal goes directly to the
3 appellate division of the New York State Supreme
4 Court for review. These cases can involve many
5 substantive and procedural issues such as what income
6 is taxable, what deductions are proper and the
7 apportionment of income to the city. There are about
8 70 cases pending, and the cases can proceed for
9 months or years as hearings and briefing of
10 complicated issues are presented. The Tax Commission
11 is the city's independent forum for administrative
12 review of property tax assessments. Pursuant to New
13 York City charter and administrative code, the Tax
14 Commission's mission is to ensure determinations of
15 real property tax assessment protests are faire and
16 efficient in order to provide an effective
17 administrative review of property tax assessments
18 within the city of New York. Annual assessments are
19 the basis for the real property tax levy, the city's
20 largest source of revenue. An assessment encompasses
21 a tax lot's tax class, market value and eligibility
22 for full or partial exemption. The amount of a tax
23 lot assessment or its assessed value for tax lots
24 where the assessment increases are not limited by
25

law. It is based upon the property's market value to which the assessment ratio for the tax class is applied. The tax imposed on a tax slot for a Fiscal Year is the produce of its taxable assessed value, the overall tax rate applicable to its designated tax class as adopted by the City Council. Each January, the Department of Finance, a sister agency, publishes tentative assessments for the more than one million tax slots in the city of New York. The Finance Department sends a notice of value to the owner or designee of each tax slot in connection with the property taxes to be leveed for the next Fiscal Year that starts July 1. In addition, Finance publishes assessment ratios for the four property tax classes and the guidelines they use to value properties. Each year, the Department of Finance calculates individual assessments and the assessment ratio for each of the four tax classes, considering the fluctuations in the real estate market, physical alterations and/or changes in the tax status issuing a final assessment role on May 25th. State and local laws provide the right and means for tax payers to obtain administrative review of the individual real property tax assessments. Tax rates are not subject to

property specific challenge. The claims in an application for correction that the Tax Commission may review are misclassification, that is the property is assessed in the wrong tax class for its type and use under the four class system, excessiveness, principally that the property fails to receive all or a portion of a partial exemption, inequality, that is, the property's assessed value is set at a higher proportion of market values then applied to other similar properties in the same tax class, and for unlawfulness, which is principally that the property fails to receive a complete tax exemption. The accepted methodologies for value and real estate use sales of comparable properties, income generated by the property or the cost of reproducing the structure. The speech of our individual assessments are an inevitable feature of an advelar [sic] on property tax. The Tax Commission is an accessible form that expeditiously resolves assessment disputes, orders from remedial action where appropriate in accordance with the applicable law and appraisal concepts. The existence mission and authority of the Tax Commission, an administrative agency of the city of New York are

required pursuant to the New York State Real Property Tax Law and the New York City Charter and Administrative Code. I do always like to point out that the Tax Commission has been in existence since 1857. I'm not quite that old, but we have a long history at the Tax Commission. The fair and effective operation of the Tax Commission in its discharging its functions is an integral part of a tax administration in the city of New York. Fair and efficient review processes are essential for reduce in costly litigation of assessment disputes. Appropriate action by the Tax Commission brings closure to many claims that might be further contested in courts, costing additional time and resources for both tax payers and the city. Moreover, tax payers may be inclined to moderate their demands with a genuine prospect of timely relief from the Tax Commission in lieu of overpaying for taxes for a number of years while pursuing relief in court under an Article Seven proceeding that is defended by the Law Department and any settlements are subject to the approval of the Comptroller or expensive risk laden trials and related proceedings in court. Another feature of the Tax Commission's operation is the

longstanding practice of employing a standard acceptance agreement, which requires the discontinuance of all pending judicial proceedings with respect to prior years when accepting an offer of reduction by the Tax Commission. This benefits the city by eliminating thousands of pending Article Seven proceedings. In sum, though a small agency in the context of staffing and expense budget allocations, the Tax Commission is an integral component of the New York City tax administration system. Pursuant to the charter, the Tax Commission Proper consists of a President, that's me, and six Commissioners appointed by the Mayor with advice and consent of the Council to staggered six year terms. The President is head of the agency serves fulltime, while the six Commissioners serve part time. Each member of the Commission must have at least three years of business experience in real estate or real estate law, and additionally, the Commission must include at least one resident of each borough. The Tax Commission strives to meet a challenge to provide fair and efficient hearings on protest of property tax assessments and maintain the essential features of the agency's operations. We have statistics. I

1 have a few extra copies of our annual report for
2 2014. That's posted on our website. In the 2014/15
3 tax year, the sixth full year of the integration of
4 the Tax Commission and the Tax Appeals Tribunal, we
5 had a staff of 37 fulltime employees plus three part
6 time Commissioners and an operating budget of 4.3,
7 almost 4.4 million. The Tax Commission's core
8 function ruling on annual applications for correction
9 of assessment is a great responsibility. Application
10 forms along with associated instructions and
11 information summaries, informational summaries issued
12 by the Tax Commission for use of administering the
13 formal administrative review process are revised
14 annually. The number and variety of applications
15 filed each year require a multitude of functions to
16 be performed. These include outreach to the public,
17 information sessions on the application process,
18 intake and stratification and sorting of forms and
19 documents, creating and maintaining case files,
20 records, calendaring, allocating internal
21 assignments, scheduling, preparing for and conducting
22 the hearings, performing legal appraisal and factual
23 research and analysis, rendering determinations,
24 generating and malign disposition notices, processing
25

remedial [sic] relief and communication with the Department of Finance and the Law Department. We also do auditing and compiling and analyzing our performance statistics. We do computer programming and handle customer inquiries and requests under the Freedom of Information Law. The Tax Commission staff together with Finance held outreach sessions in every borough. In 2014 and 15 we held morning and evening sessions so that hundreds of property owners were able to get information on their property tax assessments and help in filing protests. We did outreach through the City Council to maximize the impact of these and had about 600 and some odd people, I have exact numbers here, coming to those sessions. As in previous years, the Department of Finance sent renewal of property tax exemptions to not for profit organizations, requiring them to provide updated information to establish their exemption from property tax. This resulted in 194 applications protesting the denial or reduction of their exemptions as compared to 184 in the prior year. These matters require additional outreach to those claiming exemption. There are in-person hearings and extensive documentation of the exempt

2 status of the organization and the use of the
3 premises. Many of these organizations do not have
4 professional staff and so the Tax Commission spends a
5 considerable amount of time explaining the
6 requirements for exemption and how to present the
7 facts needed to prove their claim. In 2014, the Tax
8 Commission received 52,221 applications covering
9 193,305 separately assessed tax lots. The aggregate
10 value of those applications is 177.6 billion dollars
11 in assessed value. It's about 70 percent of the
12 assessment roll. The Tax Commission conducted 24,254
13 substantive hearings in 2014, and in exercising our
14 two year jurisdiction we took remedial action that in
15 the aggregate granted 5.8 billion dollars in
16 assessment reductions yielding approximately 521
17 million dollars in tax relief to agree of tax payers.
18 In conjunction with its disposition of applications
19 in 2014, the Tax Commission brought to closure 16,495
20 pending judicial review proceedings where they
21 claimed errors totaling about 60 billion dollars.
22 I'll be glad to answer your questions if you have
23 any.

24 CHAIRPERSON KALLOS: Thank you very much.
25 In your testimony you indicated that there are--well,

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2 first, thank you for all the great work you do. You
3 are with the--with the few employees you have, the 37
4 fulltime employees, you are certainly able to handle
5 cases in the thousands. So, thank you for that. In
6 the testimony you indicated that we had three part
7 time Commissioners, and earlier you mentioned that
8 there's a President followed by six Commissioners.

9 GLENN NEWMAN: Right, that's the
10 authorization. The Charter says six Commissioners.
11 We have three that--

12 CHAIRPERSON KALLOS: [interposing] And you
13 are one of the Commissioners?

14 GLENN NEWMAN: That would make four. I'm
15 the full time. Three of the part time Commissioner
16 positions are filled. There are three that are
17 vacant.

18 CHAIRPERSON KALLOS: And how long have
19 they been vacant?

20 GLENN NEWMAN: In 2013 the Staten Island
21 representative resigned and in think in 2012 was the
22 last time we had a Bronx representative.

23 CHAIRPERSON KALLOS: The 2013 was Bronx.
24
25

2 GLENN NEWMAN: Staten Island resigned in
3 2013 and the Bronx I think has been vacant since
4 2012.

5 CHAIRPERSON KALLOS: And what about the
6 last one?

7 GLENN NEWMAN: That's an at large. That
8 person also resigned in 2013.

9 CHAIRPERSON KALLOS: Okay. So they
10 ostensibly [sic] resigned for the new Administration
11 to fill their space?

12 GLENN NEWMAN: They resigned for any
13 number of reasons, including the fact--[off mic].
14 Apparently, two people left at the very beginning of
15 2014, whether it was December 31st of 2013 or the
16 very beginning of 2014. We can check that. The
17 salary for these part time positions is 25,600
18 dollars a year. So nobody's getting rich in this
19 position. We do require the equivalent of 100 days of
20 work for that 25,000 and frequently it turns into
21 more than the 100 days as the cases are submitted and
22 the hearings held and determinations are made. So,
23 it's difficult to recruit people who have the
24 expertise in real estate and real estate tax who are
25

2 willing to take a relatively minimal compensation to
3 do a real job.

4 CHAIRPERSON KALLOS: And who is
5 responsible for filling these vacancies?

6 GLENN NEWMAN: Well, these positions are
7 nominated by the Mayor and approved by the City
8 Council. I have been in touch with the Mayor's
9 appointments people and they're sending over some
10 resumes of potential candidates that we will explain
11 what the job is, talk to them and make
12 recommendations to the appointments committee.

13 CHAIRPERSON KALLOS: Has this been
14 advertised?

15 GLENN NEWMAN: Yes.

16 CHAIRPERSON KALLOS: Are they doing
17 anything for--

18 GLENN NEWMAN: [interposing] Yes, they've
19 done outreach. They have--I know we have posted
20 these positions in various publications and made
21 people aware in the real estate industry, the
22 accounting industry and law industry. So--

23 CHAIRPERSON KALLOS: So these have been
24 publicly posted?

2 GLENN NEWMAN: Yes, they are noted and
3 available.

4 CHAIRPERSON KALLOS: Thank you for being
5 an agency that publicly posts its job openings. I
6 appreciate that in a way you would not--never
7 believe. With regard to the property tax assessment
8 morning and evening sessions--

9 GLENN NEWMAN: [interposing] Yes.

10 CHAIRPERSON KALLOS: I would love to--how
11 many districts were you able to reach out to?

12 GLENN NEWMAN: We covered every borough.

13 CHAIRPERSON KALLOS: Okay.

14 GLENN NEWMAN: Two sessions. We did a
15 couple of other sessions at the request of--one was
16 out in Howard Beach at the request of Councilman
17 Ulrich. We reached out to the Finance Committee
18 asking if the Finance Committee wanted to arrange.
19 Last year, we held a meeting for the staff at the
20 City Council so that the Council Members would have a
21 resource within their office to possibly help people
22 answer simple questions or direct them to the Tax
23 Commission for their more detailed questions.

24 CHAIRPERSON KALLOS: I would love to work
25 with you to host another one of those sessions so

2 that we can provide better constituent service to our
3 8.4 million New Yorkers and to make sure that we're
4 working to bring this around as an annual program.
5 And is this focused on mainly single family home
6 owners, commercial properties, co-ops, condos?

7 GLENN NEWMAN: We answer questions for
8 everybody and Lord knows there are many questions
9 that are asked. Most of these sessions, though, are
10 attended by single family home owners and those who
11 are small commercial properties and some small rental
12 buildings. The larger properties of that 98 percent
13 of the properties in class two, three and four
14 residential apartment buildings, co-ops and condos,
15 utility properties and commercial properties are
16 represented by professionals. So the larger
17 properties have their own private, their
18 professionals that they retain to handle these
19 things. It's the small property owners and class one
20 property owners that need a little bit of assistance
21 and guidance.

22 CHAIRPERSON KALLOS: I want to thank you
23 for your 2014 report in that you mentioned 52,221
24 applications covering 193,305 separately assessed tax
25 lots encompassing 177.6 billion. I guess one

question is why this information is not included in the Mayor's preliminary management report. You're actually one of my only agencies that does not have a section in the Mayor's Management Report. Would you be--have you had discussions with the Mayor's Office of Operations to be added to the Mayor's Management Report? Do you think it would be a good idea? And would you be willing to provide some performance metrics on how we can evaluate how you're doing?

GLENN NEWMAN: Compound question. Yes, no, and we can talk about it. We have had discussions with the Mayor's Management Report. There were years. I've been doing this for 12 years now. So I think we were dropped from the Mayor's Management Report in 2003 or 2004, maybe even slightly earlier, in part because the way the Tax Commission works, which is where the volume of cases are isn't--is not appropriate for quarterly or semiannual reporting. At this point, for example, if we had the first quarter for the Tax Commission we would have the applications in but no results, no determinations. We're a very--we're a cyclical and a calendar driven process with that starting in January when the notices go out, when we do our outreach and

2 our accepting applications and helping people with
3 those applications. And then we start the hearings in
4 the beginning of April and we start making
5 determinations and those go throughout the year. So
6 it is--so we do have the annual report. It gets
7 published every march 1st. It's posted, and that
8 gives a comprehensive view of what we've done. I'm
9 not sure that we can, other than reporting on the
10 gross number of applications, there isn't that much
11 that we can do on a quarterly or semiannual basis.

12 CHAIRPERSON KALLOS: Would you be willing
13 to provide performance indicators such as--and
14 targets and goals? So, generally, as I've run my
15 companies, I've always said, "Okay, this is where
16 we're at. This is where we'd like to get. This is
17 what we're going to get for our dollars, and by
18 investing these dollars we can get a better return on
19 investments. So it just, it's hard to operate
20 without any targets or goals.

21 GLENN NEWMAN: Right, well our targeting
22 goals are to fairly and equitably determine every
23 application every year. One of the concerns I had
24 was--and discussing this I'll quote myself because
25 how better to quote? I spoke to the Mayor's

1 Management people and I said, "If you can come up
2 with an indicator or a metric for fairness, I'd love
3 to see it and I'd love to have it." They made the
4 same point that you just made, "Well, what about the
5 time it takes to make a determination or some other
6 measure?" And my response to that was, "If we
7 evaluate hearing officers on the time it takes them
8 to decide a case, they will decide the cases very
9 quickly, which could mean not giving people
10 additional time to submit additional documents, not
11 asking questions that would probe whether somebody
12 actually has a legitimate case for a reduction,
13 because they'd be more interested in disposing of the
14 case than getting the right answer." So to me,
15 timing is important and we finish every hearing other
16 than certainly the exemption cases that take a little
17 more time and a little more energy and have more
18 legal issues. Every one of the evaluation
19 applications is determined by the end of the year.
20 So, I would rather do that and get the determinations
21 correct and fair, than have somebody say, "Somebody's
22 watching me and saying I should take 30 days or 40
23 days to make a determination, but if I give the
24 person an extra two weeks to submit information, I
25

2 won't make that deadline." So my feeling is that
3 fairness is more important than the amount of time.

4 CHAIRPERSON KALLOS: Does the tribunal
5 have an annual report?

6 GLENN NEWMAN: Yes, we have. We are a
7 little bit backlogged on the tribunal annual report.
8 We can get you statistics for that. They haven't
9 posted the annual report. They handle about 60 or 70
10 cases a year. They're much more involved. We are
11 also under time constraints by the charter to make
12 those decisions within six months. So we will--we
13 can get you that information.

14 CHAIRPERSON KALLOS: So, along the lines
15 of trying to come up with some type of targeting and
16 metrics, you received 52,221 applications. According
17 to your testimony, your annual report, you conducted
18 24,254 substantive hearings. What happened to the
19 rest?

20 GLENN NEWMAN: That's a very good
21 question. There are roughly 10,000 applications.
22 Actually, it's in our annual report. We have a chart
23 that tells you which properties were ineligible for a
24 review. It runs about 10,000 a year, year in, year
25 out. Those are applications which are either filed

2 late. There are a few of those where those no income
3 and expense statement attached. You see, the Tax
4 Commission, the law requires you to file a Tax
5 Commission application to preserve your right to file
6 an article seven in court. So there are thousands of
7 applications that are just place holders. They're
8 not interested in substantive review at the Tax
9 Commission. They want to either preserve their right
10 to go to court later on or litigate in court. So, we
11 had roughly 8,000--between and eight and 10,000.
12 Actually, the number is right in our annual report,
13 7,368 properties that were not eligible for review
14 because there was either a defect in the application
15 or they didn't give us any kind of an expense
16 statement, and another--we get passes where a
17 representative will come and say, "I found an
18 application, but I'm really not interested in the
19 substantive hearing." And they pass and wait 'til
20 next year.

21 CHAIRPERSON KALLOS: Isn't the purpose of
22 this to--so the judicial system is large, cumbersome
23 and expensive, and as far as it seems, your
24 Commission is much less expensive and better bang for
25 the buck. Why are we allowing so many thousands and

2 thousands of cases to be rubber, essentially
3 rubberstamped through? Shouldn't the courts, the Law
4 Department, which is coming up after you, be saying,
5 "Listen, they did not fully adjudicate at the lower
6 level and therefore because of that defect, this case
7 must be dismissed and force it to be resolved with
8 you which would be cheaper than--

9 GLENN NEWMAN: [interposing] That, in
10 fact, is the way the Tax Appeals Tribunal works. You
11 have to exhaust your administrative remedies, make
12 your pitch, present your evidence and then go to
13 court after that and there's a different level of
14 review. The way the Tax Commission works under state
15 law, if somebody files an application, even if they
16 don't give an income and expense statement, they are
17 allowed to file in court. We've had discussions with
18 the Office of Court Administration, together with the
19 Law Department about these cases, and the judge, the
20 administrative judge asked the same question. Why
21 are there thousands and thousands of cases pending
22 that don't seem to move? And one of the
23 representatives of the practitioner side said, "Well,
24 if somebody challenges the assessment ration and
25 proves that the assessment ratio shouldn't be 45

2 percent of value for class two and four, but should
3 be some other number." Then all of these cases
4 become good cases with refunds owed. To which I
5 responded, "It's been 35 years that we've been
6 working under this current law that sets assessment
7 rations. Nobody's ever challenged them. So--

8 CHAIRPERSON KALLOS: If you would be
9 willing to provide a legislative language either for
10 the city charter or administrative code or the state
11 law, we'd be interested in seeing what would be
12 necessary to change so that people are filing claims
13 as place holders and to preserve their cases, but are
14 actually adjudicated in their cases with you. I'd
15 like to turn it over to Council Member Levine for
16 some brief questions so that we can go onto our 12:15
17 hearing with OATH.

18 COUNCIL MEMBER LEVINE: Thank you, Chair
19 Kallos. Thank you, sir, for testifying today. You
20 mentioned that most small property owners, single
21 family homeowners do not have professional
22 representation. So, I don't know if you would call
23 that pro-se representation.

24

25

2 GLENN NEWMAN: Well, we were told that at
3 one point to call them self-represented litigants.
4 Pro-se is easier, fewer letters.

5 COUNCIL MEMBER LEVINE: Understood. How
6 much of a challenge is that? This seems very
7 technical. I could imagine that would put the
8 property tax payer at a great disadvantage.

9 GLENN NEWMAN: That's why we do these
10 outreach sessions, and when we do our hearings for
11 the pro-se's, we send our hearing officers out to the
12 borough offices. We have some space in each one of
13 the finance business centers where we can hold the
14 hearings. We spend about a half an hour with each
15 one explaining what it is, how their assessment was
16 arrived at, what it is they need to show. We also
17 have extensive instructions for a class one property
18 owner. We advise them to go, because those
19 properties are evaluated on comparable sales. We
20 give them the link and the ability to look at every
21 sale of every property, we do. Finance keeps track
22 of every sale of every property in the city of New
23 York for the last two years. So that is the database
24 that people can go to and look and say, "Well, you
25 know, the house next to mine sold for this amount and

2 finance thinks the value is some other amount." And
3 they can give that proof. It is a challenge, though,
4 because the real property tax system is complicated
5 and when I tell people to look at their assessed
6 value, divide by six percent--for a class one
7 property owner, divide by six percent and that's the
8 effective market value. They look at me and say, "How
9 do you divide by a percentage?"

10 COUNCIL MEMBER LEVINE: I wonder whether
11 they are cases in which the property owner didn't win
12 or didn't get as much back because they lacked
13 professional advocate.

14 GLENN NEWMAN: That's a tough one. I
15 know in the hearing there were cases where property
16 owners do win and they end up paying their
17 representatives a significant portion of the refund.
18 So we do have a balance there. We try to explain to
19 people how--what they have to do to make their case.
20 That's part of our responsibility. The--I worked on
21 the Ethics Provisions for Administrative Law Judges
22 that we also use. We take guidance from that at the
23 Tax Commission, which is take the pro-se person know
24 what the issue is, explain how they can make their
25 case and let them come back with the facts of the

2 income and expense case that is needed to make that
3 case, and we do go through that at--

4 COUNCIL MEMBER LEVINE: [interposing] The
5 City Council and the Mayor as well have been looking
6 at other legal arenas, Housing court, Family Court,
7 Immigration Court and working to get the city funded
8 representation for low income tenants or other people
9 subject to rulings. I wonder whether we need to look
10 at this arena and consider such a program.

11 GLENN NEWMAN: The whole tax field,
12 business tax as well as property tax. There are a
13 lot of small property owners, small business owners
14 who can't afford--I use to say--well, when I was in
15 private practice, my billing rate was 500 dollars an
16 hour. So I made a comment to somebody in the tax
17 practice that not many people can afford a 500 dollar
18 an hour lawyer. And he said, "You've been gone for a
19 dozen years. It's a lot more than that now." And I
20 think that's a problem.

21 COUNCIL MEMBER LEVINE: Which raises my
22 next question about the role of Commissioners. I
23 would imagine if they're taking a job at such a low
24 salary comparable to what they would earn in the
25

2 private sector that does it enhance their practice?

3 They do it for a couple of years, and--

4 GLENN NEWMAN: [interposing] I hope not. I
5 hope it does not enhance their pra--anybody is taking
6 this job in order to make a name for themselves or to
7 get real estate clients, we have a problem with.
8 Most of the people that we have hearing these cases
9 that are in the part time position are retired from
10 city government. I've got somebody who was formally
11 counsel at the Department of Finance. Susan Grozman
12 [sp?] is one of our part time Commissioners. I've
13 got three other part time people, one of whom was the
14 director of our appraisal and hearing group. One of
15 them was a law department attorney in the Sesari
16 [sic] Division. The other was a Finance Department
17 attorney who dealt with property tax matters both in
18 the policy and the legal affairs office. That is the
19 way we've been finding people is to say it's not
20 their sole source of income. They're either getting
21 a pension or they have other business operations on
22 the side to supplement their income.

23 COUNCIL MEMBER LEVINE: But does other
24 prohibitions against how quickly you can leave your
25 service as a Commissioner and--

GLENN NEWMAN: [interposing] We are subject to Charter Section 68 [sic], you can't appear before the Tax Commission for one year after--

COUNCIL MEMBER LEVINE: One year.

GLENN NEWMAN: That's the rule. And most of these people I say are retired. They're not looking to expand the private practice.

COUNCIL MEMBER LEVINE: Okay. Thank you very much.

GLENN NEWMAN: Okay.

CHAIRPERSON KALLOS: Hold on. So, my--the unit head from the Finance Division just informed me that the last time there was a report from the tribunal was 2008. So, if we could please get a report going for 2014 at least, and then work on getting the old information. And again, by including something like that on the PMMR at least some of the big ballpark numbers that you do include in your reports, that would be incredibly helpful.

GLENN NEWMAN: Right. The tribunal, though, you know, is a much smaller operation, about 70 cases pending.

CHAIRPERSON KALLOS: Yes, it just--

2 GLENN NEWMAN: [interposing] It should be
3 in there.

4 CHAIRPERSON KALLOS: We're responsible for
5 oversight. I take it seriously. That's why you're
6 here now and why we appreciate having you here, and
7 just thank you for all of the great work that you do.
8 And the only think is I thank you for having a body
9 that functions much better than our own. I wish that
10 my colleagues and others did not go into lobbying or
11 something else as soon as they were done. And to the
12 extent we can fix that, that would be amazing.

13 GLENN NEWMAN: Thank you very much.

14 CHAIRPERSON KALLOS: I'd like to now
15 welcome Commissioner and Chief Judge, Fidel Del Valle
16 and his staff. The Office of Administrative Trials
17 and Hearings is an independent agency that conducts
18 administrative hearings for city agencies, boards or
19 Commissions. OATH oversees the operations of four
20 tribunals, the OATH Tribunal, the Environmental
21 Control Board, ECB, the Health Tribunal, and very few
22 people know this but the Taxi and Limousine
23 Commission Tribunal. These tribunals hold more than
24 400,000 hearings annually on a diverse range of
25 issues. OATH's proposed fiscal 2016 expense budget

2 totals 37.8 million to fund the 4 tribunals,
3 including personnel services funding of 28.4 million
4 to provide for 252 full time positions, OATH to
5 generates for the City through the collection of
6 fines issued by tribunals for various violations,
7 combined tribunal revenue totaled 137.2 million in
8 fiscal--in the previous Fiscal Year. We look forward
9 to hearing your plans to improve operations at OATH
10 and what we can expect in terms of the tribunal's
11 performance and customer service as measured in the
12 PMMR. As is our practice, we will ask you as well as
13 anyone else that you may ask to testify in response
14 to any of the questions, though I'm sure you have it
15 all. So, do you affirm to the tell truth before this
16 committee and respond honestly to Council Member
17 questions?

18 [off mic]

19 CHAIRPERSON KALLOS: You need to turn on
20 your microphone to say that.

21 FIDEL DEL VALLE: Absolutely.

22 CHAIRPERSON KALLOS: Thank you very much,
23 and if you'd like to proceed with your testimony?

24 FIDEL DEL VALLE: Good afternoon
25 Chairman, Councilman Levine, staff. I submitted a

statement, and I'm not going to read it verbatim, but I'll summarize what it says essentially. And part of it is I want to put into perspective what OATH is. I've been in my position since mid-November, and much to my amazement, a lot of people have no idea what OATH is, what it comprises and what it does. So, I'll quickly put a little header on this. OATH was originally conceived by Mayor Koch in 1979 with the concept that anyone appearing before a city tribunal should appear before a tribunal that is independent and doesn't have an interest in the outcome of whatever controversy they are being called on upon. That got sidetracked. I won't go into the details, but got sidetracked for about 35 years. And about five years ago we started to pull together what Mayor Koch's original vision was. We had the original OATH tribunal, which as originally conceived essentially did full blown trials of city agency disciplinary cases and licensing revocation cases, where somebody would be losing a serious city license, for example, a million dollar medallion in a taxi cab case. Since then, we have pulled into the OATH umbrella three other tribunals. One is the Environmental Control Board, which despite its name is just a tribunal. It

really doesn't do enforcement. It doesn't do real policy work. It basically takes in and adjudicates summonses from approximately 16 different city agencies ranging from sanitation, fire, police, buildings, and so forth. There's the Health Tribunal that was pulled in. Its title is self-explaining. It takes in summonses issued by the Health Department and the Taxi Tribunal which deals with summonses issued relating to the vehicle for hire industry, which is quite a lot. Right now, OATH is divided into mechanically into those four entities. The tribunal, the main tribunal which is the two piles what I call the trials division, the original OATH, now involves not only disciplinary cases and disability cases involving civil servants, but includes zoning matters, seizure cases, that is vehicle seizure cases under court mandate. We have to do a preliminary hearing to determine whether the Police Department can retain somebody's seized vehicle. License revocations, Conflicts of Interest Board violations, vehicle forfeitures, loft law [sic], SRO cases, Human Rights Commission violations, lobbying registration violations, and other regulatory cases, including city contracts disputes.

If a contractor believes he should be paid x amount for extra work under a contract and the city believes its y amount, it's taken to OATH for arbitration.

What our goal is--what we've found is that as of right now there is a disparate system for the public where you have four different tribunals. Each tribunal is responsible for cases from almost 20 different city agencies. All of them have different rules, different procedures, different deadlines.

What we've decided to do is to divide OATH into two divisions, a Trials Division and a Hearings Division.

The Trials Division would be what I described as the original OATH tribunal. That's the tribunal that deals with the complex cases that involve full blown trials. A disciplinary case, for example can take several days just for the trial part of it. It could involve multiple conferences before that while taking up time of an Administrative Law Judge and counsel on both sides. The Hearings Division which is what--

where you would now find taxi cases, Environmental Control Board cases and Health cases. Our more direct responses to summonses issued to individuals who could be a summons issued by a taxi inspector to a taxi driver for whatever. It could be a buildings

violations. It could be any number of sanitation violations. Sanitation is our biggest rider [sic] of summonses, and those are generally adjudicated by a hearing officer, sometimes a representative from the agency, sometimes not. Sometimes a summons is prema [sic] faced [sic] on face. Sometimes they have an attorney or inspector testify on behalf of the agency, and the respondent who's usually a business man or a member of the public. And those cases are generally very straightforward and can take place-- and can be resolved within a half hour as opposed to several weeks. Our goal is to create a uniformed set of procedures and rules for that. Our goal is to further make it easier for individuals to deal with a complex set of summonses. If you're a small business man we want you to be able to, depending on the case of course, be able to adjudi--have the matter adjudicated by telephone or video conferencing or by mail. Problem now is the procedures vary a lot from agency, enforcement agency. We are consolidating office space. We have offices in all five boroughs. In Queens in particular there are two locations which are, to put it delicately, primitive facilities. We expect to move into a new facility by the end of this

calendar year where we will consolidate Environmental Control Board hearings, Health Department hearings and TLC hearings for that borough. Our IT System, it is now four different IT systems. The first step when the consolidation began was to reconcile the different IT systems into a system that worked for communicating between the agency that's the enforcement agency and our tribunals so that the summonses and so forth would be timely received by the tribunal. And someone who had a sanitation summons could walk in and take care of the summons rather than us telling them we never heard of your summons before. To make sense of what I just said, some agencies do electronic writing of summonses. You're familiar with the Parking Violations Bureau type summons where somebody does it on a hand held device and it immediately shoots over to their computer system. Of the 16 agencies that we get summonses from, some do it that way and some of them do it with a quill pen and a paper summons that they then send to us. Sometimes we get it two or three weeks after the summons was written. In the meantime, the respondent could have shown up at our facility and wanted to pay the summons or deal with the

summons or contest the summons and we have no idea what's going on. Those cases, when we get the summonses, we have to have them scanned and then data entry put in and goes into our system, and all of those steps can inject errors into the process where at the end of the exercise if there's an adjudication, the Department of Finance doesn't know who to go and collect the money from. Our goal is to eventually have a uniform system to write those summonses and appear on our calendar and we can move them efficiently. We are moving to cross-train our hearing officers. We can have a situation where, for example, in Queens you have a hearing officer that specializes in sanitation summonses and a different hearing officer that specializes in Health Department summonses, and you could have 20 people ready to have a hearing that they walk in for the Health Department summons and five people for the other agency summons, and the hearing officer there is underutilized. Our goal is by cross-training them we can divide the work more efficiently, not have people waiting outside like it was an old fashioned dentist office to get business taken care of. That's essentially our new vision for OATH, including being able to adjudicate

1 online with what we call one click. It's kind of
2 cute, but reference to a mouse. But also
3 accessibility. The rules from different agencies for
4 a lot of this stuff are very, very complicated, and
5 we tried to put on our website how to make it easy
6 for people to understand what they're dealing with.
7 One of the things that I found frustrating is that
8 you can have somebody one day receive a Health
9 Department summons, go through the process, think
10 they know what the process is to deal with a summons
11 of the city of New York, then get a sanitation
12 summons and it's an entirely different process. And
13 when they walk away they'll just think that we're
14 inept, incompetent or just plain crazy, because the
15 process is different and each one is different.
16 That's a legacy of how things developed over the last
17 70 years. It is our job now to drag us into the 21st
18 century. One of the things that we're doing with
19 respect to the technology that I alluded to before is
20 we have four different systems for dealing with
21 summonses. The goal is by the end of this calendar
22 year to essentially have one system so that at the
23 end of this exercise that we're engaging in now
24 somebody can walk in who owns a diner on Flatbush
25

2 Avenue who may have gotten a sanitation summonses, a
3 Health Department summons, a Buildings Department
4 summons, a whatever summons and theoretically could
5 walk in with all of those summons in his hand and sit
6 down in front of one hearing officer and have them
7 dealt with at one time rather than going to different
8 offices, different boroughs, different rules,
9 different deadlines, which really makes us look like
10 the keystone cops, and I don't like looking like the
11 keystone cops. That only should pay me a lot more
12 money, and Max Senate [sic] is my boss who is not--we
13 touched briefly on the question that I know is near
14 and dear to everyone's heart here, because
15 essentially that's what brings us all together today,
16 which is revenue. By its very nature, a civil
17 tribunal, and Administrative Law Tribunal, when
18 somebody's found guilty, they're found guilty,
19 there's a fine imposed. And that is money that is
20 owed to the city of New York. I can't speak for the
21 Commissioner of Finance, but I know that we are of a
22 similar mind on this issue. To my mind, it is
23 important that, and it's consistent with the original
24 vision that created OATH, that the hearing officer or
25 the ALJ who's presiding over a case not be influenced

1 by the outcome of the case. In other words, they
2 don't care whether one side wins or the other side
3 wins, one side loses or the other side loses, and
4 nothing should even remotely influence that hearing
5 officer or ALJ leaning one way or another in fact or
6 in appearance. In the last 70 years in the United
7 States, I think I said this before, we have gone into
8 a country that's basically run by administrative
9 agencies, and adjudication of issues before those
10 administrative agencies whether it's the Federal
11 Communications Commission or the New York City
12 Sanitation Department is handled at Administrative
13 Tribunals, and how a citizen views their government
14 is not how they encounter government in Criminal
15 Court or Civil Court, because virtually nobody winds
16 up in Criminal Court, despite the statistics, but how
17 they walk away from an encounter with the government
18 when they got a summons from the Sanitation
19 Department because they didn't recycle properly. And
20 people should walk away knowing that they had a fair
21 hearing, that they had a fair opportunity to present
22 their case that city had a--was fair in presenting
23 its case and that someone gave them a fair hearing
24 and weighed the facts and came to a decision.
25

2 Whether they win or lose, I want somebody to walk
3 away believing that they got a fair hearing. We have
4 achieved that with the OATH Tribunal. One of the
5 measures for that is that more and more city
6 employees are opting to go to the civil service law
7 route on a disciplinary case which brings you before
8 the OATH Tribunal rather than the grievous procedure
9 which basically takes you within the particular
10 agencies because feedback I'm getting from union
11 leaders is that they believe that they get a fair
12 shot at OATH. I want to create that same image
13 whether you're going to the Environmental Control
14 Board, the Taxi and Limousine Commission or the
15 Health Department.

16 CHAIRPERSON KALLOS: Thank you very much
17 for your testimony. Thank you for your lifetime of
18 service to the city of New York for taking leads at
19 OATH. In my--in the previous testimony that was
20 provided last year I was impressed by the agency, and
21 I'm even more impressed than I was before. Thank you
22 for your commitment to a fair and equal justice
23 system and for sharing my post-modernist view that
24 our government is only as good as the belief that
25 people have in it and for that being truly where the

2 existence comes from. Again, I'd like to loud a lot
3 of what you're doing in terms of the one stop shops,
4 and in fact, if we cross-trained our people issuing
5 the summonses and violations, we'd be saving a lot of
6 the money that you'll be saving on the flipside of it
7 with regard to cross training of judges. One quick
8 question is how soon do you expect your one-stop
9 hearing centers and cross-trained, and forgive me for
10 using judges, hearing officers to be available? And
11 before I forget, we've been joined by Council Member
12 David Greenfield.

13 FIDEL DEL VALLE: The process of cross-
14 training hearing officers has already started with
15 Health and Taxi and starting very soon also Consumer
16 Affairs cases. What was the other part?

17 CHAIRPERSON KALLOS: How soon will we
18 have the one-stop--

19 FIDEL DEL VALLE:[interposing] Oh, one
20 stop--

21 CHAIRPERSON KALLOS: hearing centers up in
22 all five boroughs?

23 FIDEL DEL VALLE: That is--I expect the
24 next calendar year, in part because we have to get
25 the facilities consolidated, especially the one in

2 Queens, and we have to consolidate the IT system,
3 which I also expect to be completed. Well, our
4 target is June. I'll be happy if it's done by the
5 end of the year, knowing how IT folks progress with
6 testing and making sure that the system works. We
7 don't want to put in a system and then find out the
8 next morning that we can't find somebody's summons.
9 My goals is 2016 for most of these initiatives.

10 CHAIRPERSON KALLOS: Throughout today my
11 focus is going to be a lot on the PMMR, and I believe
12 in setting goals and achieving those goals or
13 reassessing what our goals are. So, with regard to
14 the PMMR, do you have it handy or can we provide you
15 a copy of it, but with regard to the PMR for OATH,
16 what I found is throughout it there are a lot of
17 asterisks for places your agency has not set goals
18 for itself and in terms of targets. Meanwhile,
19 you've got an agency that has amazing performance.
20 So, I guess for instance--well, yes, please. So for
21 your goal number two, adjudicated alleged violations
22 of the city's local administrative law, hear cases
23 promptly and issue timely decisions at the ECB, OATH
24 Health Tribunal, and OATH TL, Taxi and Limousine
25 Tribunal. Almost every single target is an

2 asterisks. There are no targets. Meanwhile, you're
3 doing amazing things with performance. So, I guess
4 the question is would you share why they are left as
5 an asterisks and whether or not you'd be willing to
6 set goals?

7 FIDEL DEL VALLE: Well, you have touched
8 on a very sensitive topic to me, because as I said
9 earlier, I got here in November, and looking at the
10 statistics that we generated, I had a bit of a
11 problem reconciling to me logically how they worked
12 with what should be an adjudicatory body. The long
13 term picture is this, we are going to be remodeling
14 them specifically what the metrics are. Metrics are
15 very difficult in these cases. Some things are
16 obvious. A summons is issued by a Department X, it's
17 received by us with a return date, and what is the
18 process to when that case when that case is closed as
19 far as OATH is concerned, which could be the
20 respondent paid the summons right off the bat, which
21 happens in a significant number of cases, almost 40
22 percent, I think, or they ask for an adjournment or
23 there's a default, any of those steps. We have
24 specific criteria for folks who default, folks who
25 request an adjournment, folks who request vacating a

2 default and so forth. The metrics that I saw in mind
3 did not adequately capture the work involved there in
4 what the goals should be, for example, default. What
5 was the timeline from default to somebody's case
6 finally being sent over to Department of Finance as a
7 docketed case? And is it because the person asked for
8 the case to be reopened that is to vacate the case,
9 whether it was reopened or not reopened? Those
10 things, there's got to be a way to capture that.
11 It's not easy. It gets even more complicated when
12 you get into the trials division where you could have
13 as many, for example, a disciplinary case from a city
14 agency, a law enforcement agency that I won't specify
15 right now. You could have as many as four pre-trial
16 conferences where the department or the respondent is
17 asking for discovery, where the defense, the
18 respondent's attorney is making a motion to dismiss
19 part of the charges and ALJ has to review the motion,
20 the papers submitted. It's a full court trial.

21 CHAIRPERSON KALLOS: So, I think--

22 FIDEL DEL VALLE: [interposing] It's not
23 easy to quantify that.

24 CHAIRPERSON KALLOS: So, I think that I
25 share your commitment to picking measures that are

2 correct. So, my hope is that by the time the Mayor's
3 Management Report rolls around there are new measures
4 versus just sticking with the old ones, and then
5 similarly, to the places where you actually did
6 choose to provide measures. My hope would be that we
7 would choose measures. My hope would be that you
8 would choose measures that set higher targets,
9 because if we're investing additional funding or new
10 funding there are places where the average time for
11 the OATH Tribunal to issue decisions after records
12 closed the business days. Your current goal is 25,
13 however, there is no time in the past five years that
14 you've ever done it in less than 18 days. So, let's
15 set the goal from 25 days where you will almost
16 assuredly fix--hit that, to something more
17 aspirational where it's either 18 days or 15 days,
18 which seems to be the average.

19 FIDEL DEL VALLE: That depends on two
20 things, the volume of cases that ALJ's are dealing
21 with and the complexity of the particular case. What
22 I mean is this. In the last four months we have had
23 an incredible surge in the number of cases going to
24 OATH trials, which is pushed back trial dates. A
25 year ago, you gave a trial date within two weeks.

2 Now it's taking two months to get a trial date
3 because of the volume of cases. A lot of the volume
4 of cases is a result of more and more city employees
5 choosing to go to OATH rather than the grievance
6 process. We started taking cases from the Business
7 Integrity Commission, which are giving us a large
8 volume of trials, and--

9 CHAIRPERSON KALLOS: [interposing] so you
10 anticipate that number changing based on changes. So,
11 I think that's reasonable. I just would like to make
12 sure that things are reflective of actual goals. I
13 think one of the things that you hit on in your
14 testimony is revenue. So the more revenue we bring
15 in, the more we're able to spend on essential
16 programs like education and social services and
17 whatnot. So, last year we found that 1.48 billion
18 dollars of ECB debt was outstanding and of that
19 there's 1.5 million outstanding violations and 24
20 percent of that whole amount is interest. What can
21 ECB do to make sure that we get those collections up
22 front without it going to collections? I think you
23 touched on it. How quickly are things now getting to
24 Department of Finance, and what are we doing in order
25 to collect ECB fines in a timely manner, and just how

2 are you addressing that overall problem so that we
3 can make sure that we never end up in a situation
4 again where we're looking at 1.5 billion dollars that
5 we could have collected over the past six years?

6 FIDEL DEL VALLE: Well, let me quote the
7 Finance Commissioner, "It's not ECB, that it's New
8 York City debt and Department of Finance Debt." Let
9 me clarify what I mean by that. The Environmental
10 Control Board's function is to adjudicate, and it's
11 not supposed to be to create a debt that's owed to
12 the adjudicator. I think we have learned a lesson at
13 least currently that it's not appropriate to have the
14 adjudicator be a revenue generator. Having said
15 that, it is at the same time revenue that we know
16 naturally is going to be generated from violations,
17 because not everybody's innocent. That that revenue
18 stream is not choked because there is a choke in the
19 process of adjudicating it and transmitting it to the
20 agency responsible for being the Sheriff of
21 Nottingham, basically, the tax collector, which is
22 Finance. The choke point should not be at ECB or
23 Health or TLC tribunals, because they all wind up
24 imposing fines that are owed to the City of New York.
25 We have a committee with the Department of Finance we

2 have developed whereby our goals are to transmit the
3 data necessary for Finance to collect the debt. At
4 the same time, we want to provide a mechanism whereby
5 the enforcing agencies that issue summonses have data
6 that they can use so they can analyze it and figure
7 out how to best allocate their enforcement resources
8 and train their enforcement resources. We can't tell
9 them how to do that, but we can provide them with the
10 data.

11 CHAIRPERSON KALLOS: I'd like to recognize
12 Council Member Greenfield who'd like to make a
13 statement.

14 COUNCIL MEMBER GREENFIELD: Thank you, Mr.
15 Chairman. I just wanted to note that, you know, I've
16 been sitting through these budget hearings for I
17 think this is my fifth year now, and normally when it
18 comes to OATH we have a long litany of things that
19 we'd like to see done differently and there are
20 frustrations and there are concerns, and I will say
21 I'm very pleased that this is actually the first time
22 I've sat through an OATH budget hearing where I hear
23 from the Commissioner and Chief Administrative Law
24 Judge a commitment for justice and transparency and
25 improvements that you've actually set out. So, I

2 just want to say that it's very encouraging and
3 certainly very pleased, and I actually appreciate
4 that aside from the public sector experience that you
5 have back at the TLC, recently you've had private
6 sector experience. So you get to see things from
7 both sides of the equation. I think that's a
8 significant improvement, and obviously you're
9 relatively new, so we're going to give you some time
10 to make some changes, and very appreciative at your
11 commitment to justice and to lack of conflicts and
12 transparency and really just to making things simpler
13 than what is generally a very complicated jungle at
14 OATH. So, thank you for that, and look forward to
15 having you back in the future and hearing about how
16 these things are progressing.

17 FIDEL DEL VALLE: Thank you very much.
18 I'll add a little thing that--you just mentioned that
19 I was--I was TLC Chairman back in the early 1990's,
20 and the tribunal at that time was under TLC. When I
21 left TLC, the entire package of TLC rules was about
22 four pamphlets that were about a quarter of an inch
23 thick and about five inches across and seven inches
24 high. That was it. Right now, unless you're Arnold
25 Schwarzenegger, you couldn't pick them up. It's like

18 volumes of eight and half by 11 stuff. That makes life a lot more complicated, not only for the people who have to enforce those rules, inspector on the street, but the guy answering it, and I don't think TLC is unique in that aspect. In the last 12 years there's been a bloom of regulations, and having a tribunal that is just as Kafka-esque sometimes and convoluted doesn't help the people of the City of New York. I don't think helps this country, doesn't help this government. And at least from where we sit, where we have to adjudicate this stuff, our goal is to make it as straightforward and as logical to a normal human being who doesn't get a Master of Laws degree from NYU or Columbia to plow through it. I think at the previous hearing it was alluded to, you weren't here, the issue of reps instead of attorneys appearing in cases. I have to admit that when I first encountered administrative proceedings in the City of New York at the hearings level I was appalled that people were being represented by non-attorneys. I went like, "What is, the illegal practice of law going on?" But the flipside of it was, the rules are very complicated and most people can't afford an attorney to go through it. At least they hire

2 somebody that is familiar with the rules in the
3 process. Some agencies call them expediters. Some
4 agencies call them reps, whatever. My experience
5 it's better than not having an attorney. It's not as
6 good as having an attorney, because I have seen cases
7 fail because something that if you went to law school
8 in year one, you would have jumped at a defense
9 that's not obvious in the rules because it's a
10 fundamental legal thing. But that's the world we
11 live in, and my goal is to make it more civilized.

12 CHAIRPERSON KALLOS: So, I just have to
13 say that is very high praise coming from Council
14 Member Greenfield. He is usually not nice, not as
15 nice to people who are testifying before this
16 committee, so please take that for what it is. We're
17 running about 15 minutes behind, so if you could--

18 FIDEL DEL VALLE: I'm sorry.

19 CHAIRPERSON KALLOS: That's okay. If you
20 would make your answers a little bit shorter, that
21 would be--your friend and colleague at the Law
22 Department Zach Carter [sp?] will be incredibly
23 grateful to you.

24 FIDEL DEL VALLE: That's tough for me to
25 be short and succinct.

2 CHAIRPERSON KALLOS: Fair enough. So, in
3 your testimony you indicated there was a 67 percent
4 increase in the number of alternative hearings
5 conducted by OATH since 2012 when hearings by phones
6 and hearings online were launched. You currently had
7 37,932 health hearings. So, I guess some quick
8 questions around the alternative adjudication
9 methods. What percentage of cases are being resolved
10 via the online one-click adjudication system, and how
11 much savings of money is being represented there?
12 What alternative adjudication methods are available
13 for TLC Trib--the Taxi and Limousine Tribunal, and
14 with the Mayor's recent released Small Business First
15 Plan, it says that it will open up alternative
16 hearing options such as phone or insurance [sic]
17 hearings to more violation types. So what violation
18 types are included in this? And then we still have a
19 couple more questions to run through and we're on
20 negative time.

21 FIDEL DEL VALLE: Okay. I'll give you the
22 easy one first, which is what violation types. That
23 is dependent on the enforcement agencies. They're
24 the ones who are going to have to decide which
25 violations types they put into those categories. For

example, right now there are many particular violations. The one I'm most familiar with, the Taxi and Limousine Commission which explicitly state in the rule that the respondent has to make a personal appearance. I expect that there will be many, many more cases that will be resolved by alternative methods for various reasons. The primary reason, it's the easiest most simple way for somebody to do a non-complicated case, which is what most summonses are. They're very straightforward. It is or it isn't. How much does it save financially? If it's one-click method where people submit either online or by mail, snail mail because we still have that, it's still requires a hearing officer to review it. However, if a hearing officer is reviewing one-click cases or snail mail cases, that hearing also can probably knock off approximately 35 cases in a day. If you're doing cases by telephone, live by telephone, it'll take just about as long as to do that case as a live case, because you're dealing with people. You have to introduce information, speak to them, explain to them what's going on and so forth, and that generally right now it takes about a half hour, whether it's intervivos [sic] with the person

2 sitting in front of you or otherwise. Where we're
3 going forward and expanding, we're now talking for
4 example with the Port Authority Police. Port
5 Authority Police writes a lot of the summonses that--
6 well, not a lot, but they write summonses and we
7 adjudicate them, provide a mechanism whereby the Port
8 Authority Police Officer can testify by video
9 conferencing, and it doesn't have to come to our
10 facility. At the same time, we want to provide this
11 same ability to respondents to do that. Ultimately, I
12 don't expect, to be perfectly frank, that it will
13 save a huge amount of money. What it will do is it
14 will make the process better for the businessman and
15 for the public and even for the enforcement agencies.

16 CHAIRPERSON KALLOS: Okay.

17 FIDEL DEL VALLE: The enforcement agencies
18 in particular have told us that they like these
19 programs because they can have their enforcement
20 personnel on the street rather than hanging around at
21 one of hearing centers waiting to be called in for a
22 hearing.

23 CHAIRPERSON KALLOS: Great. With regard
24 to the PMMR, which we both agree could have better
25 performance measures, if either now or in a written

2 response, looking at Fiscal Year 14 or the--I'll
3 stick with that, but there's similar numbers in the
4 Fiscal Year 15 four month actuals. I'm seeing notice
5 of violations received by ECB Tribunal, 566,566. ECB
6 Tribunal hearings conducted 195,284 ECB Tribunal
7 decisions rendered, 142,390. So first thing I'm
8 seeing, 300,000 cases disappear. Then I'm seeing
9 another 50,000 disappear, and there's similar numbers
10 for the Health Tribunal and Taxi and Limousine
11 Tribunal where the violations come in, there are
12 fewer hearings, and there are even fewer decisions.
13 So, in terms of the new measures I'd love to find out
14 what's happening to all of them. How many of them
15 are defaults? How many of them are not? How many of
16 them just the person pays right off the bat and so
17 forth?

18 FIDEL DEL VALLE: Most--I asked the same
19 question when I saw those numbers. Most of them it
20 turns out were people who actually just paid the
21 summons. Didn't even reach the level of the hearing.

22 CHAIRPERSON KALLOS: And for the folks
23 who did go to a hearing but don't get a decision?

24 FIDEL DEL VALLE: Folks, hearing and
25 decision, I can't give you an answer that I'm

2 comfortable with. Some of it I suspect is overlap.
3 A lot of it is you go to a hearing and request an
4 adjournment or you have a hearing to request a
5 reopening of a case, basically vacating a previous
6 finding. Those are things I want to drill down into
7 and get more meat out of.

8 CHAIRPERSON KALLOS: When you get those
9 numbers, we'd like to see those numbers, too. I'm a
10 big believer in trying to bring people on, pay them a
11 living wage, pay them full time. I noticed that in
12 the PMMR you've got a headcount of 460, while in
13 your--in the numbers that our Finance Committee has
14 we've got numbers around 250 or so, and then in your
15 testimony you say you have 250 employees in Fiscal
16 Year 2015 and you're going to get another two, but
17 you also have 320 per diem attorneys. So, I guess
18 the question is whether it is possible to actually
19 bring those attorneys on full time or a portion of
20 those on full time and whether or not there would be
21 a cost savings, and again, the ideas is that as
22 responsible employers we have people who work for us
23 full time and we're not putting them in a position
24 where they end up having to be on social services

2 while working for us, which sadly the city is not one
3 of the best, does not have the best record at.

4 FIDEL DEL VALLE: Well, not too many
5 attorneys are in danger of winding up needing the
6 services of social services, but our business model
7 on hearing side has always been per diems for some
8 very good reasons. The volume of cases fluctuates
9 dramatically. Just going back to my experience with
10 the Taxi Tribunal, a lot of the summonses that you
11 see are seasonal. You have summonses at a certain
12 time of the year that increase violations and we are
13 also at the mercy essentially in scheduling on the
14 enforcement priorities of different enforcement
15 agencies. The point being this, at any one time we
16 know about a month in advance how many cases are
17 going to come in, and we have a roster of
18 approximately 320 attorneys who are on an attorney
19 line, per diem attorney line, and their function is
20 to be a hearing officer. We know on a certain date
21 that x number of cases are going to come in. We will
22 ask those individuals if they are available for those
23 dates and they will come in and do whatever the
24 volume is. But if you drill down a little deeper, if
25 you have, for example, a day where at say that

2 Brooklyn office, you know you're going to have 25
3 cases coming in. You will look at your roster and
4 you will see a particular hearing officer who can
5 knock off 25 cases in a day without any problem.
6 You'll call her and ask her to come in, and she comes
7 in due to the 25 cases. Rather than look at the
8 roster and see a hearing officer who's perhaps less
9 productive, two hearing officers that just do 10
10 cases a day, you'll have to call in three hearing
11 officers. Or, you can have a situation where you
12 know you're going to have 40 cases coming in on a
13 particular day, then you will know that you can
14 either call in four hearing officers that do 10 cases
15 each or one hearing officer you know who does 30 and
16 one who you know does 10. So you call those two guys
17 in. That flexibility allows us to budget consistent
18 with the demand and case load. That's one of the--
19 that's the main reason that the city has used per
20 diem hearing officers historically from the 1980's as
21 far as I know.

22 CHAIRPERSON KALLOS: Okay. Thank you for
23 the transparency around that. How does somebody get
24 on the attorney list and how are--and is--how do you
25 go about? Are people just chosen from list as they

2 cycle through, or do some people get preference, and
3 why so?

4 FIDEL DEL VALLE: Well--

5 CHAIRPERSON KALLOS: [interposing] Sorry,
6 just that I'm big on civil service and margin sure
7 that there's equity.

8 FIDEL DEL VALLE: You get on--you
9 initially get on by applying, and you go through an
10 application process, including an interview with
11 Deputy Commissioner and managing attorney and Deputy
12 Commissioner. You have to be admitted at least--

13 CHAIRPERSON KALLOS: [interposing] And
14 where can people watching online, at home right now
15 or reading the transcript go to apply for a job as a
16 per diem? There are literally thousands of unemployed
17 lawyers who just graduated law school this year.

18 FIDEL DEL VALLE: Well, we have to have
19 the vacancies for them, but in any case, the--
20 actually, I'm doing a lecture at Brooklyn Bar
21 Association next week on exactly that subject. You're
22 interviewed. You go through a DOI background
23 investigation. You have to be admitted at least five
24 years. You then go through our judicial training
25 institute which is about two weeks of training in the

1 evenings or during the day on the processes of OATH.

2 Then you join the roster. It is essentially up to the
3 person to decide how much work they want to do.

4 They're limited to 1,000 hours a year. If they
5 advise the managing attorney that they're available,
6 then the managing attorney juggles the roster to put
7 them in together with other folks. If I were doing

8 the scheduling, I would obviously lean towards the
9 more experienced folks first, but you have to bring

10 in other folks, otherwise they'll never get any
11 experience. That's the roster method right now, and
12 right now it's split between the three hearings

13 divisions. When we get through with our exercise of
14 cross-training, it'll be easier for somebody who
15 typically does Health Department type cases to be
16 able to do sanitation type cases. We'll get--

17 there'll be greater flexibility across the board.

18 One thing that I think you are alluding to is are
19 people discriminated against because of the way they
20 make decisions? I've gotten feedback from former

21 colleagues who are now colleagues again regarding
22 concerns about that, and I've gotten feedback from

23 representatives concerning that. I'm not going to
24 say anything about what folks may have done before or

25

2 didn't do before, because my information is
3 anecdotal, and therefore inappropriate for me to say,
4 but I have said this to staff and I'll reiterate it
5 here that if anybody attempts to influence a hearing
6 officer, never mind an ALJ, and I don't care what
7 their title is, I don't care where they think they're
8 coming from, if they happen to bring from an agency
9 and they happen to be an attorney, I will refer the
10 matter to the Appellate Division Grievance Committee
11 for unethical conduct and if that person is not an
12 attorney, I will do everything in my power to
13 terminate them. I am really, really vicious about
14 judicial ethics.

15 CHAIRPERSON KALLOS: I think where I was
16 going with that, is what I see every day, which is
17 patronage and people using the list to reward their
18 friends and allies or people who volunteer with them
19 on their political club and the things that I get to
20 see everyday day in and day out in government that I
21 would like to see stopped. I'm going to be talking
22 to an agency specifically about that later today.

23 FIDEL DEL VALLE: That I consider to be in
24 appropriate in a judicial context, that type of
25 behavior.

2 CHAIRPERSON KALLOS: That is refreshing to
3 hear. Thank you so much. I have one last question.
4 I'm incredibly impressed about consolidating the four
5 different systems. With regards to that, do you have
6 a specific system in mind? Are you going to be
7 consolidating into the NYSERV [sic] or are you
8 investigating other systems as you're now having a
9 chance, and are you looking at a free libre [sic], an
10 open source software license so that whatever system
11 you end up building you own the code to and you can
12 make changes to if you don't want to and fire a
13 vendor, hire a new one, but you get to keep it, and
14 then ultimately you can share with any and all other
15 judicial systems in this nation or on this planet?
16 And what cost savings do you think will be associated
17 with combining all four systems?

18 FIDEL DEL VALLE: What I envision is at
19 least three of the systems will be combined. Right
20 now are my IT folks are leaning to a particular
21 system which the city has an unlimited license to,
22 which I think is important because I think we've all
23 had experiences where if you--an off the shelf system
24 like we have at the OATH Tribunal, you're pretty much
25 locked into the license of that software vendor. We

2 are in the process of investing a lot of money in
3 rewriting a code. We're doing it essentially in
4 house with our staff people and "consultants." By
5 the way, in the context of the IT world, a consultant
6 is essentially a free-lance programmer that you hire
7 for a project. It's not IBM or Northrop Grumman or
8 one of those deals.

9 CHAIRPERSON KALLOS: That would be your
10 agency and I'm very happy to hear that. Here at the
11 City Council we like to hire people who can't even
12 build a stealth bomber.

13 FIDEL DEL VALLE: As far as the OATH
14 Tribunal goes, we're going to be visiting our friends
15 in the eastern and the southern district. I'm a big
16 fan of Pacer, which is the federal system, which is
17 an open system. It's--I remember when it started.
18 It was a royal pain in the neck. Right now I think
19 it's the best thing since sliced bread. Pacer is the
20 system that the Federal Court System uses for
21 tracking their cases and doing filing and basically
22 being paper-free, and our goal is to eventually be
23 paper free.

24 CHAIRPERSON KALLOS: That's-- you say all
25 the right things.

2 FIDEL DEL VALLE: I hope it works.

3 CHAIRPERSON KALLOS: Yes, no, Pacer
4 works. I actually was on the New York County Lawyers
5 Association Advisory committee advising the court
6 clerks for the federal districts in New York and D.C.
7 where they are all run out of and they are--it is the
8 largest success project and money maker in I think
9 the federal government or at least one of them. In
10 terms of the code that you're developing in house,
11 you're going to own that, you're going to license
12 that free liber [sic] or open source and post that
13 code for other municipalities to use?

14 FIDEL DEL VALLE: Well, we're going to own
15 it. The licensing to others may be a decision that
16 has to be made at a pay grade higher than me.

17 CHAIRPERSON KALLOS: Fair enough. Thank
18 you so very much for the visionary work that you're
19 doing. We look forward to working closely with you
20 and making sure that we get all this ECB debt
21 collected up front and make sure that every single
22 New Yorker has a seamless and positive experience
23 when dealing with the City of New York. So many
24 people don't realize that they're dealing with the
25 City of New York the second they set foot outside

2 their apartment or turn on their water or pick up
3 their phone, but ultimately when they talk about the
4 city, they're usually--because they got a ticket and
5 now they're dealing with OATH. So anything we can do
6 to make that process better or make it easier for
7 people to appeal their decisions or appeal their
8 violations on the phone or online is amazing. Thank
9 you for your leadership on this and to your entire
10 staff.

11 FIDEL DEL VALLE: Thank you very much. And
12 I'll just add that I want people to understand that
13 OATH is not an enforcement agency. It's an
14 adjudicatory agency.

15 CHAIRPERSON KALLOS: You got it. Thank
16 you--

17 FIDEL DEL VALLE: [interposing] Thank you.

18 CHAIRPERSON KALLOS: very much. Do we
19 have representation from the Law Department here?
20 So we will re--hold on one moment. We're going to
21 recess for five minutes, and then we will hear from
22 the Law Department.

23 [gavel]

24 [recess]

25

2 CHAIRPERSON KALLOS: And now we bring the
3 Committee on Governmental Operations out of recess.
4 I'd like to now welcome the Corporation Counsel
5 Zachary Carter who heads the Law Department. The New
6 York City Law Department is responsible for all of
7 the legal affairs of the city. it represents the
8 city, the Mayor, other elected officials and the
9 city's many agencies in all affirmative and defensive
10 civil litigation as well as juvenile delinquency
11 prosecutions brought in Family Court and
12 administrative code enforcement proceedings brought
13 in Criminal Court. The Law Department's proposed
14 budget for Fiscal Year 2016 totals 171.6 million
15 dollars, including 123.6 million to support 1,460
16 budgeted positions. Just of note, as one of the
17 people who is represented by the Law Department as a
18 City Council member and the number of times I get
19 threatened with lawsuits on a regular basis by
20 various special interests, I remain confident that I
21 have the best legal team in the world to protect me,
22 and appreciate some of the protections afforded to
23 elected officials, but there is a lot of confidence
24 amongst many of us and their abilities to protect us,
25 and perhaps one day we will live in a world where

people do not threaten lawsuits as a matter of course, but as an attorney I'm not sure we can do much about that as we graduate more and more law students every year. During today's hearings, we will discuss many aspects of the Department's budget, its operational performance and how the Law Department is handling the various judgments and claims against the city, including in the Fiscal Year 2016 preliminary plan for the Law Department is a proposal to create a new tort division unit to vertically handle certain civil cases brought against the New York Police Department from start to finish rather than moving cases between lawyers at different stages of litigation. The plan also includes actions that would reduce the Department's reliance on outside counsel. We're eager to hear details about these and other initiatives. We're also eager to hear about the Department's performance as measured in the Preliminary Mayor's Management Report and performance expectations moving forward. It is our practice to ask for those who plan to testify to take an affirmation. So, if you're planning to testify or will need to answer a question on behalf of the corporate counsel, please raise your right hand, and

2 if you could affirm to tell the truth before this
3 committee and respond honestly to Council Member
4 questions, and make sure your mics are on.

5 ZACHARY CARTER: I do.

6 FOSTER MILLS: I do.

7 JEFF FRIEDLANDER: I do.

8 CHAIRPERSON KALLOS: Thank you very much,
9 and if you could please provide your testimony.

10 ZACHARY CARTER: Thank you, Chairman
11 Kallos and distinguished members of the Government
12 Operations Committee. It is a pleasure to come
13 before you to discuss the Law Department's Fiscal
14 Year 2016 Preliminary Budget. First, allow me to
15 introduce my colleagues. To my right is Jeff
16 Friedlander, who is the First Assistant Corporation
17 Counsel. To my immediate left is Foster Mills, who
18 is the Managing Attorney for the Law Department and
19 on his left is Georgia Pestana who is the Chief
20 Assistant Corporation Counsel. Over the past year
21 I've been engaged with the Law Department staff on
22 numerous individual matters with enormous liability,
23 policy and operational implications for the city and
24 its constituent agencies. Some of these matters
25 involve public safety, others involve the city's

contractual relationships with various service providers. Still others raise important issues concerning access to services. On every occasion, I've never failed to be impressed by the professionalism, hard work, depth of knowledge and expertise, and dedication of our lawyers and the extraordinary staff that supports them. Ultimately, our mission is to vigorously defend the legal interest of the city with an appreciation for the importance of fair outcomes to public confidence in city government. The Corporation Counsel is the attorney for the city and its agencies and has responsibly for all litigation and other legal matters involving the city. The Department employs some 730 attorneys and 630 support staff. Let me add that of our 730 attorneys, approximately 21 percent are persons of color and 58 percent are women. The Law Department consists of 16 legal and three support divisions. We handle an extraordinary array of cases and nonlitigation matters, from tort to tax, from environmental and administrative issues to economic development and municipal finance. We also represent the city as plaintiffs in a wide variety of affirmative matters. The line of litigations matters

pending against the city presents a substantial challenge. The tort's division alone defends some 20,000 cases currently pending against the city, its agencies and employees. Approximately 7,000 cases are filed against the city each year. Approximately 6,000 cases are resolved each year by trial, motion, practice, and settlement. The Tort Division secured approximately 1,000 dismissals by motion. While claims from monetary damages present the lion share of cases pending against the city, substantial resources are devoted to the defense of cases demanding injunctive relief, most often seeking operational reforms of agency practices. Where we determine that such claims are without merit, we oppose them vigorously. However, where a claim brings to the attention to the city's attention, operational issues in need of correctional reform, we use our resources to assist our agencies clients in making necessary operational changes, thereby reducing future liabilities and serving the public more effectively. In addition to defending claims against the city, the Law Department prosecutes claims to advocate the city's fiscal, commercial and policy interest. Our Affirmative Litigation Division

brought aggressive effective litigation against traffickers of untaxed cigarettes, not only protecting an important revenue stream, but public health. Our Appellate Division submitted amicus briefs on such topics as marriage equality, immigration and environmental protection. Our Family Court Division balances the dual goals of serving the best interest of children brought before the court and ensuring community safety. Last year, the division's juvenile delinquency prosecution unit handled approximately 4,600 juvenile delinquency cases. In anticipation of the state legislatures possible passage of the Raise the Age bill in the next coming weeks, we are already planning the expansion of our delinquency unit to accommodate the added population of 16 and 17 year old juveniles to Family Court case loads. Over the past year, the City Council with our support has produced a host of ground breaking legislative achievements which have improved the lives of millions of New Yorkers. Together, we have tackled some income inequality by developing legislation to extend paid sick leave to half a million more New Yorkers. We assisted the Council's effort to protect the rights of transgender

2 New Yorkers who no longer must prove they had surgery
3 in order to change their sex designation on their
4 birth certificates. We partnered with the Council to
5 protect the rights and wellbeing of immigrant New
6 Yorkers through the development of the new municipal
7 ID program and by placing reasonable limits on the
8 city's cooperation with needless detentions and
9 deportations. We look forward to building upon those
10 successes and continuing to support the City Council
11 and the efforts in the incoming--in the coming year,
12 rather. We look forward to deepening our existing
13 relationships with city agencies. To that end, we've
14 created agency liaison teams within the Law
15 Department to provide more effective, efficient and
16 proactive service to our city agencies. With the
17 additional resources we have requested, we will
18 aggressively litigate patently frivolous cases
19 against law enforcement agencies saving public funds
20 and discouraging litigation. And with that, I will
21 answer any of your questions or deflect them to my
22 colleagues as necessary.

23 CHAIRPERSON KALLOS: As long as I'm not
24 the one on the receiving end that would be amazing.
25 So, as the eight different agencies have come or will

2 be coming before this committee today I've been
3 focused on the Preliminary Mayor's Management Report.
4 If you need a copy we can provide one to you. Do you
5 need one?

6 ZACHARY CARTER: I don't believe so.

7 CHAIRPERSON KALLOS: You've got it. And
8 so when I used to run companies we used to focus a
9 lot on goals, and even as I run my own council
10 office, we focus on goal setting. And so what I
11 noticed is that in terms of your goal represent the
12 city of New York and litigation other legal matters
13 involving city interest, limit the city's liability
14 as a result of claims, you actually have no targets,
15 and throughout the rest of the PMMR there are a
16 number of locations where there are asterisks instead
17 of targets. And so I guess, the quick question there
18 is would you provide targets for achieving these
19 goals so that we can measure your performance as is
20 met by the PMMR?

21 ZACHARY CARTER: I think some of the
22 targets that have asterisks are things that we don't
23 think we have enough control over to set a target for
24 ourselves. For example, goal 1A, cases commenced
25 against the city and state court, yeah, we are

2 certainly trying to bend the arrow there. Putting a
3 target in is a little tough. That being said, we're
4 always looking at our targets with the Mayor's Office
5 of Operations and we will be in discussion with them
6 during the coming months to see if we can, you know,
7 figure out if we can put a meaningful number in there
8 that is--that we can be measured against.

9 CHAIRPERSON KALLOS: I appreciate that,
10 it's just if the measurements are proper, then let's
11 pick measurements that do work, but in no case should
12 we ever be coming before this committee with or the
13 city of New York because this is published for
14 everyone to see with targets that are blank, and
15 saying, you know what, even though it's a critical
16 indicator, the total cases commenced against the city
17 because we can't predict it or control it, we're not
18 going to use it as an indicator, and yet it's still
19 how we're supposed to manage. So we need to manage
20 somehow. Along those same lines, generally the goal
21 is, especially when we're expanding an agency such as
22 yours with additional funding, where I come from in
23 finance, if somebody asks me for money I say, "Okay,
24 well what are we going to get for it? What is our
25 return on investment?" Throughout here it seems that

2 goals such as reducing the city case load in the
3 state courts are actually higher than your current
4 practice. So it is easy to claim victory when the
5 cases pending in state court for the past three years
6 have been less than 19,600 and your target is 19,600
7 at any given time, and when you're a critical
8 indicator for win rate on affirmative motions has
9 been over 70 percent every single year you've had it
10 that you set your target at 65 percent. So could we
11 set more ambitious targets that exceed or meet
12 current performance?

13 ZACHARY CARTER: What we seek to set are
14 realistic targets in an environment that is
15 inherently unpredictable in which there are factors
16 obviously beyond our control, because that is the
17 nature of litigation, and litigation changes the
18 focus of litigation by advocates, the advocate
19 community and others change from year to year. So we
20 will try to, because I agree with you, we need to
21 have performance goals. There's no doubt about that,
22 and we would like to set ambitious goals. We would
23 want them to be realistic and we're not trying to
24 promise small and achieve high. That's not our--the

2 way that we're approaching this. We're just trying
3 to be realistic.

4 CHAIRPERSON KALLOS: So my big request
5 that you fully engage and just make sure that by the
6 time the Mayor's Management Report rolls by, I
7 actually see goals or items no longer there because
8 they are not valid measurements. And for instance,
9 one example is in Fiscal Year 13 you had an 85
10 percent diversion of juveniles that were referred to
11 diversion program with no delinquency within one
12 year. So that was Fiscal Year 13 was 85 percent.
13 Fiscal Year 14 was 85 percent, and your four month
14 actuals in Fiscal Year 15 was 84 percent, but the
15 target is 75 percent, and I'm hoping that our target
16 would actually be like 99 or 100 percent. I'd love
17 to live in a world where juvenile delinquency--I
18 mean, 85 percent is great. I'd love to live in a
19 world where that is something where kids get in
20 trouble once, but then they go on to have productive
21 lives rather than ending up in the criminal justice
22 system. So, along those lines, if you could speak
23 to how many juvenile cases are successfully being
24 referred to the--to a diversion program with no new
25 delinquency and whether is to be support there and

2 what we can do to make sure that fewer kids are being
3 prosecuted and put into the criminal justice system.

4 ZACHARY CARTER: Do we have the numbers
5 for that? I think we're going to have to get back to
6 you with the raw numbers.

7 CHAIRPERSON KALLOS: I spend a lot of
8 time on the women--I'm also on the Women's Issues
9 Committee and I spend a lot of time dealing with
10 Juvenile Justice issues, so it is something near and
11 dear to my heart. It is a city where if you live in
12 some parts of the city you don't end up with a
13 criminal record by the time you're 18, and if you
14 live in other parts of the city, you do, and if you
15 go to University you end up getting community service
16 hours, and if you don't, you end up getting a
17 criminal record, and that is one of the inequities I
18 would love to fix about our world. Going on to the--
19 something that has been a recurring theme for me that
20 I've been bringing up in Finance committees and with
21 your predecessor who is here from OATH, who I have
22 high regard for, with regard to ECB outstanding debt,
23 by the time I came into office we discovered that the
24 outstanding debt had approached and achieved 1.5
25 billion dollars in outstanding debt. Although some

2 of that was interest, ultimately that is a lot of
3 money that went uncollected. Last year, the Law
4 Department reported that uncollected fines for ECB
5 violations referred directly to Law Department were
6 76 million. Can you give us an update on outstanding
7 ECB debt collection efforts and what types of
8 outstanding ECB violations are referred to the Law
9 Department?

10 ZACHARY CARTER: Alright, as you noted,
11 the uncollected docketed ECB penalties are
12 approximately 63 million dollars, and over the past
13 two years we have been collecting against those
14 docketed penalties at the rate of approximately eight
15 million dollars a year.

16 CHAIRPERSON KALLOS: And the Department,
17 the Law Department at one option was doing the
18 collections itself. It's now being referred out to
19 outside collection agencies that have an actual
20 similar recruitment--recoupment rate. Do you think
21 that it would be better for the Law Department to
22 handle these, continue to go back to handling the
23 collections considering that the outside contractors
24 and collection agencies aren't doing a better job
25 than the Law Department was?

2 FOSTER MILLS: Well, actually, the Law
3 Department of the eight million dollars that was
4 referred to, the collection agencies collect about
5 1.6 million. We collect the rest of it. So we're
6 doing more of the collection work than the outside
7 collection firms are.

8 CHAIRPERSON KALLOS: I think based on the
9 numbers I was looking at previously, the collection
10 agencies had--more cases had been referred out to the
11 collection agencies.

12 FOSTER MILLS: They may. They may. I'm
13 just talking about what the collection numbers with
14 the dollars coming in are.

15 CHAIRPERSON KALLOS: But your testimony
16 would be that it would actually be better for the
17 city to have the Law Department doing all the
18 collections versus having collection agencies?

19 FOSTER MILLS: I think it depends on what
20 needs to be done in order to collect the money. I
21 think we were sending out to the collection agencies
22 is collections that don't require a lawyer to be
23 doing a lot of legal work and the stuff that we're
24 doing requires more oversight by an attorney to bring
25 the money in.

2 ZACHARY CARTER: Alright, the lion share
3 of the cases refer to the Law Department for
4 collections are undocketed [sic] penalties, and that
5 require us to actually file claims. These are not
6 claims that only require a kind of mechanical
7 enforcement. These are cases that actually have to
8 be litigated to some extent before a judgement can be
9 entered and collected against.

10 CHAIRPERSON KALLOS: To the extent that
11 these are--that this is litigation that must occur
12 based on city laws, I'd be interested in working with
13 the Law Department to amend the administrative code
14 or charter to allow for it to be a defacto judgement
15 that--sorry, a defacto claim that does not need to go
16 through the court system in order to be attached to
17 somebody's property or persons.

18 ZACHARY CARTER: We'll be happy to explore
19 that with you.

20 CHAIRPERSON KALLOS: Absolutely. And
21 along those same lines in the preliminary plan, the
22 Department's headcount has been increased in an
23 effort to reduce its reliance on outside counsel, but
24 by bringing in additional positions in house. Can
25 you talk about how it was determined that converting

2 consultants into in house positions would improve
3 operations, and will this result in cost savings for
4 the Department?

5 ZACHARY CARTER: The--what you're
6 referring to are 10 heads that we've received in this
7 plan to replace funding for 15 contract attorneys.
8 We hire contract attorneys when we think the work
9 that needs to be done is temporary but is proven that
10 this is going to be a lot of work for the long term,
11 and by hiring people on our payroll rather than
12 paying for contract attorneys, we can save 600,000
13 dollars a year, and so we did so.

14 CHAIRPERSON KALLOS: Thank you. I like
15 bringing people in and making them our employees.
16 Along those same lines, the Law Department's Fiscal
17 Year 2016 contract budget totals 26.2 million and
18 accounts for approximately 15.3 percent of the
19 Department's total operating budget. Can you talk
20 about some of the major contracts that comprise the
21 Department's contract budget, the process by which
22 the Department selects its vendors, and also quite
23 importantly, what percentage of the Department's 405
24 contracts will be issued to minority and women
25 business enterprises, MWBE's?

2 FOSTER MILLS: The contract budget for--
3 well, for us anyway, is split into three general
4 categories, and I'm using the nomenclature of the
5 contract budget to explain this. One large group is
6 called temporary services. That's where our court
7 reporter contracts are. There's also money in there
8 that we give to the Comptroller every year so that he
9 can hire counsel to perform what are called 50H [sic]
10 hearings. That's about four million of it.
11 Professional services, legal is the next group under
12 that rubric in the budget. That is our contract
13 attorneys and paralegals and any outside counsel that
14 we hire. The third large group is called
15 professional services/other, and those are expert
16 witnesses and the other kinds of expenses we go
17 through in individual litigations. We use a PPB rule
18 method of selecting our professional contractors
19 called negotiated acquisition. That can be a rather
20 involved process, as involved as an RFP. It could be
21 somewhat less involved depending upon the
22 circumstance. As for the MWBE, we have so far this
23 year awarded 19 contracts worth 1.6 million dollars
24 to MWBE's. And I don't know what's going to happen

2 between now and June 30th, obviously, but up 'til
3 now, that's what we've done.

4 CHAIRPERSON KALLOS: Just because this is
5 a very public setting, there is a law we were able to
6 pass last year that was actually one of my favorite
7 laws, a law that I worked to try to make happen since
8 2006, which is Open Law, which was something I--a
9 bill that was introduced by Brad Lander and I
10 cosponsored which has asked the Law Department to
11 make the law available and online to people in
12 computer readable format and bulk downloadable and so
13 on and so forth. I'd actually like to thank my
14 Counsel David Sietzer [sp?] for his role in
15 addressing that legislation. What is the status of
16 that implementation and contract?

17 FOSTER MILLS: We have released the RFP.
18 It is out for folks to answer, and we expect
19 responses from the industry, whatever the industry
20 that is, in a couple of weeks.

21 CHAIRPERSON KALLOS: And where can people
22 who are watching this online or over the internet
23 find that RFP so that they can respond to it?

24 FOSTER MILLS: Well, we advertise it as a
25 citywide--

2 CHAIRPERSON KALLOS: [interposing] Please
3 don't tell me it's in the city record.

4 FOSTER MILLS: It absolutely is in the
5 city record.

6 CHAIRPERSON KALLOS: That is the best
7 place to put it until we can get the city record
8 online in a more meaningful way. Do you know which
9 day and what page of the city record it was in?

10 FOSTER MILLS: I did, but I don't recall
11 right at the moment.

12 CHAIRPERSON KALLOS: For those of you
13 watching or in the audience, the city record is the
14 newspaper that is the most essential newspaper. It
15 tells you everything that's happening in the city.
16 It comes out every single day and it gets delivered
17 to elected officials because we're going to read it
18 too, and sometimes they're 40 pages or more, and if
19 you read it every single day for the rest of your
20 life, you will actually find the one article that
21 means something to you over the course of your life.
22 And so we also passed legislation to make sure that
23 it would be online in a way that is computer readable
24 and accessible through an open EPI [sic]. But in
25 addition to the city record, is there anywhere else--

2 FOSTER MILLS: [interposing] I don't
3 recall where else we may have advertised it.

4 CHAIRPERSON KALLOS: And where can they
5 download a copy of the RFP?

6 FOSTER MILLS: I don't think we have one
7 that's downloadable at the moment, but I suppose we
8 can put one up, but I don't recall. I'll have to find
9 out what other--

10 CHAIRPERSON KALLOS: [interposing] Okay.

11 FOSTER MILLS: we use to advertise it.

12 CHAIRPERSON KALLOS: I will add to my
13 list of to do. I have a copy of it, so I will be
14 putting the RFP up on my website. I would ask that
15 the--would the Law Department be kind enough to put a
16 copy of the RFP up on their website?

17 FOSTER MILLS: Let me see if we can do
18 that.

19 CHAIRPERSON KALLOS: That would be
20 amazing. Along the same lines of money we're
21 spending on other things, are you able to provide the
22 committee with a breakdown of cost related to various
23 court appointed monitors and special masters that
24 serve the city, and what roles does the Law
25 Department plan the oversight of the cost of court

2 appointed monitors and special masters? I think
3 every attorney in the room or watching can relate to
4 the special master or monitor who decides that this
5 is how they're going to make the bulk of their income
6 when they don't need to.

7 FOSTER MILLS: We have special monitors in
8 four cases at the moment, and in Fiscal 15 the total
9 cost of them all was roughly 2.7 million dollars.
10 They are in the Vulcan case, which I sure you know
11 something about, it has to do with the firefighter's
12 exam, the Galino [sp?] case which had to do with the
13 teacher certification exam, Floyd, which is Stop and
14 Frisk, and Handbury [sp?] which is a case having to
15 do with education in the jails by the Department of
16 Education.

17 ZACHARY CARTER: In an answer to your
18 question about monitoring the monitors effectively--

19 CHAIRPERSON KALLOS: Cus-cus courteous
20 [sic].

21 ZACHARY CARTER: I mean, basically you
22 have to do two things. I mean, you do want to monitor
23 the activity of the lead monitors in these cases who
24 are enforcing compliance with decrees and the persons
25 that they employ to assist them, but in my

2 experience, the best way to reduce the cost of a
3 monitorship is to manage the compliance of your
4 client agency. If you can do that, you can take a lot
5 of the cost out of the monitorship process.

6 CHAIRPERSON KALLOS: Can you elaborate?
7 That's amazing to hear. Can you elaborate on some of
8 the management that Law Department is involved in in
9 managing agencies so that they do not incur
10 additional costs?

11 ZACHARY CARTER: Well, certainly. To the
12 extent that there are decrees affecting the Police
13 Department for instance and in Floyd, to the extent
14 that the Law Department works cooperatively with the
15 Police Department and with the monitor to make sure
16 that we come to some--a prompt agreement on what
17 operational reforms are necessary, what operational
18 procedures have to be put in place? We do that in a
19 way that does not require more effort on the part of
20 the monitor and the monitor's associates or agents
21 than is necessary.

22 CHAIRPERSON KALLOS: Could you give us an
23 exact breakdown for each monitor or special master--
24 by follow up, thank you. And then just step back to
25 the open law RFP, will the Law Department giving any

2 preference to free liber and open source software
3 codes so that you actually own the code, you can
4 remove the vendor, replace the vendor, take the code
5 in house and not have to continue paying for a method
6 of hosting it?

7 FOSTER MILLS: The RFP does not get into
8 those kinds of details. What it gets into is what it
9 is from the user's point of view we want to see. How
10 you do that is up to you. You can propose any way to
11 do that you like.

12 CHAIRPERSON KALLOS: Would the department
13 be open to doing a life cycle analysis or a cost
14 benefit analysis with what the finalists are to make
15 sure that you're properly accounting for the value of
16 not being locked into a vendor for the rest of as
17 long as you are complying with the law?

18 FOSTER MILLS: One of the things we do
19 when we select contractors is to figure such things
20 out. If there is a contractor or a proposed
21 contractor who wants to point out to us that they
22 have a better mouse trap, we're certainly happy to
23 see that.

24 CHAIRPERSON KALLOS: Thank you. Last year,
25 New York State received 3.25 billion dollars from a

2 settlement with BNP Parabis [sp?], which pled guilty
3 to violating sanctions against Iran. New York City
4 is due to receive 447 million of that settlement.
5 The funding is to be redirected towards reducing
6 crime. What role will the Department play in
7 determining how this funding will be used?

8 ZACHARY CARTER: The Department is not
9 taking the lead in determining that. I believe that
10 would be the--in the ambit of the Mayor's Office on
11 Criminal Justice coordinating with the elected
12 district attorneys responsible for the forfeiture of
13 those proceeds and with the Attorney General.

14 CHAIRPERSON KALLOS: The preliminary plan
15 for the Law Department includes 3.2 million dollars
16 in baseline funding to create a new Tort Division
17 Unit that would vertically handle cases, certain
18 civil cases brought against the Police Department
19 from start to finish. Do you anticipate that this
20 unit will ultimately pay for itself by reducing
21 frivolous litigation and other than increasing the
22 number of lawyers assigned to handle these cases,
23 what other efforts have you taken in order to reduce
24 the number civil rights cases filed against the NYPD?
25 And along those same lines, following Local Law 71 of

2 2013 aimed at strengthening the city's ban on bias
3 based profiling, especially Stop and Frisk, have we
4 seen an uptake in cases being brought under that?

5 ZACHARY CARTER: Okay, let me start with
6 your question in connection with the Tort Division
7 first. You refer to a unit. We like to refer to it
8 as an initiative, and the reason why and the
9 difference is important is that obviously we defend
10 cases filed in five boroughs, and consequently while
11 we--you can think of it as a unit in concept is
12 actually an initiative in which we are concentrating
13 resources, redeploying resources to focus on cases
14 alleging intentional misconduct by law enforcement
15 officers across the boroughs. What we'd like to do
16 is to provide, to increase the amount of vertical
17 handling of these cases at critical stages,
18 identifying those cases that are--that should be
19 handled vertically and trying to devote both attorney
20 and support resources to improving the case, initial
21 case reviews, the investigation of the factual claims
22 of those cases, the research that will support motion
23 practice, because while we talk a lot about the
24 disposition of cases by trial and settlement and
25 extremely important and not talked about enough

method of disposing of cases is by dispositive motion, that is motions to dismiss. I mean, out of the 7,000 cases that were disposed of last year, 1,000 were disposed of by dispositive motion, motions to dismiss. And as you pointed out earlier, I mean, our rate of--our win rate in those cases and motions brought is around 78 percent. We would like to increase substantially the number of motions that are brought in those cases, because we believe that in--we select those cases carefully, and if we have the opportunity to prepare and research those cases better that that win rate should hold across a large number of motions brought. We are also improving our communications with the Police Department so that we get an earlier production of records that are required for us to evaluate the claims that are brought against the New York City Police Department and its individual officers. The sooner we can get the documentary evidence and any other evidence that will help us defend these claims, the sooner we can make a reasoned and well informed assessment about the merits of these claims and make decisions about where we will focus our resources in order to get

2 better results and also discourage the filing of
3 frivolous claims.

4 CHAIRPERSON KALLOS: And the last piece
5 with regard to Local Law 71?

6 ZACHARY CARTER: Local Law 71 is an
7 interesting question and I think that the impact has
8 not been by way of an increase in claims, but by
9 surprisingly few claims. We've only had one. And I
10 think the reason for that is that the Police
11 Department in response to these laws focus a great
12 deal of training around police officer compliance.
13 Of course, this comes at a time when the volume of
14 stops that inspired the profiling law in the first
15 place has been reduced from something over 700,000 to
16 fewer than 50,000 a year. SO the reduction in stops
17 plus the training around the profiling laws, I think,
18 has resulted in a marked decrease in the encounters
19 that result in complaints.

20 CHAIRPERSON KALLOS: I'll be honest, I
21 was-- I'm a big--I was a supporter of the end to Stop
22 and Frisk, and so I was almost afraid to ask the
23 question, but your answer is amazing, that everything
24 people warned about didn't actually happen, and that
25 is refreshing to hear and is amazing work by your

2 department, the NYPD and our Administration and
3 moving the ball forward and fixing what had become an
4 inequity in our society. With regard to that one
5 case, who is providing the defense for the--is the
6 NYPD officer being sued in their individual capacity
7 and who is providing them with a--

8 ZACHARY CARTER:[interposing] I really--I
9 don't have the information in connection with that
10 single case.

11 CHAIRPERSON KALLOS: If we could pass that
12 along, I would just--I, for us, we're attorneys.
13 Lawsuits don't phase us for many folks. You get sued
14 and now you have to hire somebody for an answer.
15 Answers cost 50,000 dollars or more. Who has 50,000
16 dollars unless you're taking out a house? Maybe
17 you're lucky enough that you can take a mortgage out
18 on a house. Maybe you're lucky enough to actually
19 own a house in the city which is rare, and even if
20 you're innocent, the cost of defense in a civil
21 action where you aren't afforded an attorney
22 especially for city employees that don't earn as much
23 as others is a concern for me. With regard to the
24 judgement and claims, in Fiscal Year 2014 the city's
25 payouts increased significantly compared to prior

2 years to a total of 732 million. What were some of
3 the major cases that were settled? Do you expect the
4 city's judgement claims payout will be lower this
5 year now that some of the bigger cases have been
6 settled? And how does the city's settlement rate and
7 average payout compared to other large cities? And
8 what are you doing to reduce our city's liability in
9 those cases?

10 ZACHARY CARTER: Among the larger
11 settlements of note would have been the Republican
12 National Convention case. That was approximately 18
13 million dollars. The FDNY employment discrimination
14 case that was settled for 99 million in the Central
15 Park jogger case that was settled for approximately
16 41 million dollars. With respect to the future,
17 that's difficult to gauge, because as you know, in
18 any one fiscal year, cases may be settled that were
19 brought as far back as the mid 1990's, and so because
20 the pace of litigation varies from cause--from case
21 to case. We will--it's not always within our control
22 and not always easily ascertainable which cases will
23 settle, because the dynamics are different. one of
24 the things that has changed that is new and that
25 makes estimating the number of judgements even more

2 unpredictable is the fact that DA's offices, you
3 know, frankly to their credit, have developed
4 conviction integrity units that are receiving
5 complaints of wrongful conviction and appear to be
6 earnestly reinvestigating cases, and as you know and
7 it's been widely publicized, there has been an
8 upsurge in cases in which DA's offices have
9 acquiesced in motions to vacate convictions because--
10 or actually brought them themselves, on their own
11 motion, where their investigations have determined
12 that some person who has been convicted was actually
13 innocent. Those vacated convictions will certainly
14 result in claims, and those claims are increasing,
15 and what the numbers will be in the near term are
16 very difficult to calculate at this point.

17 CHAIRPERSON KALLOS: So, one follow up
18 question on just judgement and claims. The PMMR for
19 Fiscal Year 14 has 579,899,000 and the question that
20 I asked I cited the 732 million. So FMS and the
21 Comptroller are going with this 700 million. So can
22 you help us explain the discrepancy in the total
23 citywide payout for judgment and claims and why the
24 PMMR might be different than what we are getting?

2 ZACHARY CARTER: Well, the PMMR is our
3 number and the 732 is the Comptroller or OMB number.
4 I don't know when they're different. There may be
5 things in the larger number that we have nothing to
6 do with. For example, comptroller settlements before
7 things become lawsuits. I don't know. The 732
8 number is something you really have to find out from
9 OMB how they get that.

10 CHAIRPERSON KALLOS: Can--

11 ZACHARY CARTER: [interposing] We're one--

12 CHAIRPERSON KALLOS:[interposing] Do you
13 know if that--

14 ZACHARY CARTER: large part of a--that
15 number, but not the entirety of it.

16 CHAIRPERSON KALLOS: SO the 200 million
17 relates to what kind of cases?

18 ZACHARY CARTER: Don't know. I don't
19 know. I mean, the difference between the 732 and the
20 579?

21 CHAIRPERSON KALLOS: Yeah.

22 ZACHARY CARTER: I don't know.

23 CHAIRPERSON KALLOS: So to the extent that
24 there's 200 million dollars that can't really be
25 explained, if you could agree to work with our

2 finance division and the Comptroller to figure out
3 why there's that discrepancy. And then with regard
4 to clarification, the Tort Division initiative, to be
5 clear, how are you determining the proper budget for
6 the initiative, and I think the specific question is
7 will this initiative pay for itself in terms of the
8 cost savings and if it is intended to pay for itself,
9 should it be bigger? And if not, what is its
10 ultimate purpose? In other words, how to decide what
11 would be appropriate for this unit, and how will you
12 measure its success?

13 ZACHARY CARTER: Based on our experience
14 with the Bronx police unit with which you are
15 probably familiar, there was a year over year
16 reduction in cases filed of 200 that we estimate
17 would have given rise to when you just make a
18 calculation based on historical settlements of
19 approximately 7.8 million dollars. That's real
20 money, and that clearly rendered the Bronx police
21 unit kind of self-financing in terms of paying for
22 itself. We expect a similar result with the
23 investment of additional resources in this tort
24 initiative focused on cases brought against members
25 of law enforcement agencies.

2 CHAIRPERSON KALLOS: The number you cited
3 for the Bronx police unit was 7.8 million?

4 ZACHARY CARTER: I believe that's the
5 figure. Oh, 7.5, I'm corrected.

6 CHAIRPERSON KALLOS: So, 7.5 but the new
7 tort--sorry, the Tort Division initiative is only
8 funded at 3.2. Is that because for the other four
9 boroughs they don't see the same volume as the Bronx?
10 Is this really just an ex--it sounds like they--

11 FOSTER MILLS: [interposing] The 3.2 is
12 simply the calculation of the cost of 30 attorneys
13 and 10 support staff.

14 CHAIRPERSON KALLOS: And how many--

15 FOSTER MILLS: [interposing] Without new
16 real estate or anything else.

17 CHAIRPERSON KALLOS: So, how--what is the
18 budget for the Bronx police unit, and if you could
19 actually give us an update regarding the performance?
20 I think you've already shared the performance, but
21 what is--how many positions are funded on the Bronx
22 police unit.

23 ZACHARY CARTER: We can get that to you.

24 CHAIRPERSON KALLOS: And just to the
25 extent that we're extrapolating that to the other

2 four boroughs, that would be interesting to see. I
3 want to at this point just thank you for your
4 exhaustive answers to so many of our questions and
5 for all the great work that you do defending our city
6 and settling cases when our city has done something
7 wrong, and just making sure that as we move forward,
8 we're moving forward in a city that is more just. I
9 particularly am impressed by the fact that you are
10 working with our agencies internally in order to make
11 sure that they are voluntarily or perhaps not
12 voluntarily but at your demand complying with our
13 court orders and reducing court costs with our court
14 monitors and special masters, and thank you for all
15 of your hard work.

16 ZACHARY CARTER: Well, thank you for--

17 CHAIRPERSON KALLOS: [interposing] It's
18 not an easy job and it's good to have the best law
19 force there is and the biggest law firm in the world
20 right here in our city. Thank you very much. We're
21 going to take a 10 minute recess, and then we will
22 hear from the Department of Citywide Administrative
23 Services.

24 [gavel]

25 [recess]

CHAIRPERSON KALLOS: I hereby bring this meeting of the Committee on Governmental Operations out of recess. I would like to welcome all of you here today for the Fiscal Year 2016 Preliminary Budget hearing for the Department of Citywide Administrative Services. I'd like to in particular welcome Commissioner of the--the Commissioner Stacey Cumberbatch. We spent a lot of time together over the past year. We're really grateful to have her on board and her leadership. I think we'll hear from today's testimony that DCAS has been very responsive, whether it's been talking about the civil service and replacing thousands of patronage positions with civil servants and taking a much stronger role. At last year's hearing we brought up issues relating to civil service exam timelines that were exceeding 400 days and now we are in the 200 day range, which is absolutely amazing. This is literally an agency that has been incredibly responsive in part of a new progressive Administration where it is less adversarial and more about us bringing things to each other's attention and working together to make things much better in this city. A lot of people may not know DCAS because it's everywhere. It's one of the

larger city agencies and sometimes my colleagues look at me and say, "DCAS has oversight over what?" But that is the nature of it and that is actually one of the reasons I wanted to take, be Chair of Governmental Operations because of just how extensive DCAS is. It's responsible for many citywide functions and ensures the city agencies have critical resources and support needed to provide best possible services to the public. In the Fiscal Year 2016 Preliminary Budget, funding for DCAS totals 1.17 billion with the majority allocated towards paying the heat, light and power bills for all city agencies, which is budgeted at 800 million. During today's hearings we'll examine many aspects of DCAS's operations and how they impact the city's budgets. Specifically, we would like to discuss the city's energy policy, the efforts to essentially manage and lower costs for city vehicles, Fleet, citywide procurement and contracting and asset management. I want to talk about our efforts to reduce citywide spending by leveraging the city's purchasing power and to implement strategies to streamline various citywide operations. Also, we'd like to hear details of the city's new Built to Last initiative and

effects of Vision Zero on DCAS. The results of the new preliminary Mayor's Management Report and several other new needs found in the preliminary budget. As is the--I'd like to first recognize that we've been joined by the Chair of the Courts Committee, which incidentally, one of the things that DCAS has oversight is our court buildings, and in fact, if any of you watching would like to rent one of our court buildings, you can find it at the Halls of the City A [sic] program run by DCAS where you can actually rent the court. We have a practice of swearing in and requiring affirmations from members of the government, so anyone who is interested in testifying or will be called upon to testify on or behalf of the Commissioner, if you could please turn your mics on and affirm to tell the truth before this committee and to respond honestly to Council Member questions.

[off mic]

CHAIRPERSON KALLOS: Thank you very much. You may proceed with your testimony.

STACEY CUMBERBATCH: Good afternoon, Chair Kallos and the committee, Councilman Lancman. I'm Stacey Cumberbatch, Commissioner of the Department of Citywide Administrative Services known

as DCAS. I'm joined here at the table by my counsel
Susanne Lyn [sp?] and Chief Financial Officer Rich
Pedio [sp?] as well as members of my Senior Staff to
discuss the planned expenditures and revenues for FY
15 and FY 16, as well as highlights of DCAS's capital
plan. Thank you for the opportunity to appear before
you today. It's been a pleasure working with you over
the past year, and we look forward to continuing a
productive and collaborative working relationship.
So just very briefly, an overview of what we do. As
you know, DCAS serves other city agencies by making
sure they have the critical resources and support
needed to provide the best possible services to the
public. One year ago, I was appointed by Mayor de
Blasio to serve as the Commissioner of DCAS. Since
then, I've assembled an experienced, highly skilled,
and diverse senior team. Each of is dedicated to
providing our customers with the tools they need to
support this Administration's goals of equity,
growth, resiliency, and sustainability in carrying
out the business of the city. We are the back office
of the city, and it's our job to make everyone else's
job easier. So, that's the people of the city of--so
the people of the city of New York get the service

they expect and deserve. We have improved our customer service on the front end, better anticipating the needs our sister agencies. We maintain a world class Fleet of cars and trucks--

[off mic comments]

STACEY CUMBERBATCH: attract and train a competitive and diverse workforce, purchase goods and services at the lowest price from local sources when possible, work to solve the city's office crunch while making sure our public buildings truly serve the public. All of this and more falls at the doorstep of DCAS and we're up to the challenge. DCAS is organized into seven lines of services which directly serve our constituents. Energy management, DCAS's energy management line of service is responsible for monitoring and paying the city's heat, light and power bills. We work closely with the Mayor's Office of Sustainability and play a central role in one City Built to Last, the initiative to reduce greenhouse gas emissions by 35 percent in 20-- by 2025 and by 80 percent by 2050. We evaluate and fund projects that are proposed and managed by other city agencies to reduce energy consumption. They include projects such as replacing inefficient

boilers, heating ventilation and air conditioning systems, installing better lighting and other systems in city owned buildings. Energy Management also trains building maintenance staff on energy saving techniques. We're also growing the city's clean energy resources by installing solo photovoltaics on city buildings. Fleet, our citywide Fleet line of service monitors the city's Fleet and overall compliance with purchasing laws and environmental goals. We help manage nearly 20,000 light, medium and heavy duty vehicles. This represents over two billion dollars in assets. We also oversee the largest municipal Fleet of alternative fuel vehicles such as hybrid, electric vehicles and natural gas vehicles. We've also played a critical role in the implementation of the Vision Zero initiative. This includes providing defensive driving training to city government workers. To date, we've trained over 17,000 employees with a goal of 20,000 staffers by the end of this Fiscal Year. Fleet is also overseeing the implementation of the Truck Guard Installation Program. DCAS will install 240 city trucks with side guards in 2015, protecting pedestrians, bicyclists and motorists, motorcyclists.

This is the largest role out of side guards in the nation. Fleet is also overseeing the installation of vehicle tracking units called canceivers on city owned vehicles. This will help improve the driving behavior of city vehicle operators and reduce collisions. Data collected from canceivers include speed, hard braking or accelerating and seatbelt use. So far, over 16,000 units have been installed. Human capital, the human capital line of service provides civil service administration for approximately 223,000 city workers in both mayoral agencies and other governmental entities. Our core belief is that we can provide world class services to our constituents in an atmosphere of equity, inclusion, and increased opportunity for professional growth. We're collaborating with other agencies, labor unions and the City Council as we move forward with an aggressive agenda to strengthen the civil service system. On February 7th and 8th of this year, we administered the Sanitation Worker Exam to 75,000 candidates. It was the largest civil service exam in over 20 years. Human capital also develops and administers approximately 100 civil service exams a year, provides professional development and training

to about 20,000 city employees and processes personnel transactions through NYCAP Central. This line of service also continues to oversee the city's provisional reduction program as mandated by the New York State Civil Service Commission. Under the plan extension, DCAS will address up to 8,600 provisional appointments over the next two years. We'll do so by administering 37 exams in addition to our regular exam schedule and will also evaluate the titles where 20 or fewer incumbents serve for potential classification actions. Asset management: DCAS's Asset Management line of service provides safe, clean, efficient office space for the city's workforce. We manage 55 public buildings with 15 million square feet of city owned space and over 22.4 million square feet of leased space. We also purchase, sell and lease and real property. We locate and secure space for city agencies with a focus on more efficient use of office space as an important cost saving action. Asset Management is also committed to examining existing city owned spaces and developing plans for how these buildings can be better utilized to improve the delivery of city services. Communications: Our Communications

line of services produces the City Record, the official journal of the City of New York. It's published every week day and contains official notices such as public hearings and meetings, procurement solicitations, selected court decisions and bid awards. DCAS is working on making this information digitally searchable on our website within 24 hours of publication. In addition, all City Record data will be available via the open data portal for the city. This initiative is scheduled to go live in August of 2015. Purchasing: The citywide procurement line of service purchases, inspects and distributes supplies and equipment at the lowest net cost. Each year, DCAS purchases 1.2 billion dollars of goods and services for the city through 1,000 citywide requirement contracts and one time purchases. We leverage the city's purchasing power to obtain the most competitive pricing for goods and services by aggregating demand and consolidating contracts. DCAS seeks to maximize MWBE vendor participation through outreach. We also regularly attend vendor fairs. Currently, we're administering a citywide economic and environmental initiative called NYC Print Smart. The goal is to reduce the

number of copy machines rented by the city, replacing them with fewer centrally located multifunctional machines. Citywide Diversity and EEO: The Citywide Diversity and EEO line of service is responsible for ensuring that city agencies comply with the city's EEO policy and the city charter provision and laws concerning equal employment opportunity. Through strategic alliances with agency personnel and EEO officers, we promote collaboration and best practices and focus on establishing a model for effective diversity and inclusion strategies. Each year, Commissioners submit annual diversity and EEO plans establishing their own accountability, which we measure quarterly. DCAS's expenditures: DCAS's expense budget reflects funding of 1.2 billion in the current Fiscal Year and Fiscal Year 2016. Included in this funding is our--

[off mic comments]

STACEY CUMBERBATCH: Included in this funding is our budgeted head count of 2,046 in Fiscal Year 2015 and 2,042 in 2016. The majority of our planned expenditure, 784 million in both FY 15 and FY 16 is allocated for citywide energy expenses. DCAS continues to work with OMB on the FY 16 forecast and

will report any changes in the executive budget. As previously mentioned, DCAS continues to work closely with agencies citywide to enhance the energy performance of their facilities through a range of programs, including retrofitting equipment, improving operations and maintenance along with training and outreach to reduce the city's energy cost. Funding additions to DCAS: I would now like to discuss the major expense budget adjustments for citywide initiatives that are included in the FY 16 preliminary budget. Fleet received 700,000 for the Truck Guard Pilot Program as part of the Vision Zero Program. As mentioned, the goal of this pilot program is to install truck guards on 240 city owned trucks in calendar year 2015. Energy Management received incremental OTPS funding totaling 36 million dollars across FY 15 and FY 16 for the implementation of One City Built to Last Initiative. The additional funding will be used to expand ongoing energy efficiency programs that are not eligible for capital funds. This includes compliance with Local Law 87 of 2009, which mandates energy audit and retro commissioning for buildings exceeding 50,000 square feet. Through FY 2014 we completed 315 energy

efficiency reports for fire houses, public libraries, schools, and other city buildings across more than a dozen city agencies. In FY 2015 we have 217 energy efficient reports in progress with more than 300 planned for FY 16. DCAS received funding for 18 positions at an annualized value of 1.5 million dollars to support the expansion of energy programs under One City Built to Last. The personal service funds will be used to hire energy engineers, project managers and analytical staff as well as legal contract and other support staff to assist city agencies in meeting the goals of One City Built to Last. Human capital received 500,000 dollars for six positions needed for the creation of two new units, the Office of Citywide Recruitment and the Office of Workforce Planning. Both units will play a major role in shaping the city government's workforce, future workforce. The Office of Citywide Recruitment will build upon current relationships with high schools, colleges, universities, trade schools, and nonprofits. Staff will also expand recruiting efforts by providing extensive outreach to underserved and under-represented communities. The office will also participate in job fairs and

community based activities to notify perspective job seekers about employment opportunities and civil service exams. Where feasible, the office will conduct site visits, host targeted recruitment events and create internship opportunities. The Office of Workforce Planning's goals will be to provide in depth analysis of the city's current workforce and develop an array of business intelligent tools and predictive models. This will allow agencies to better understand their workforce and develop best practices on how to deal with the issue such as succession planning. The data will also be used to develop a marketing and recruitment strategy to establish a pipeline of perspective applicants for city agencies. IN addition, human capital received 800,000 dollars that will be used to create 173 additional stations at the two existing computerized testing centers in Manhattan and Brooklyn. Human capital also received one million dollars to assist staff in development of civil service examination such as administrative staff analysts, administrative manager, fire lieutenant, fire captain, and computer software specialists, a key component of our provisional reduction plan. Information technology

received five positions and 500,000 dollars that will allow DCAS to bring in house the maintenance and enhancement of the electronic exam item bank. One of the goals of the enhancement is to increase the type of exams that can be administered at the computerized testing centers rather than at schools during the weekend. Information technology also received funding for four positions and 600,000 dollars to create the computerized maintenance management system, which will help asset management in providing better and timelier maintenance at our buildings. This will include a work order system that will provide timely notification of facility issues and an inventory system that will allow staff at each of the buildings to monitor supply levels. This system will also help in the development of preventative maintenance program to identify building issues and correct them prior to major system failure, avoiding costly repairs. DCAS revenues: The total DCAS revenue budget is 61.6 million dollars in FY 15 and 60.2 million dollars in FY 16. Our largest source of recurring revenue is from the 460 leases for commercial rentals of city owned property, projected to be 42 million dollars in both fiscal years.

Another significant revenue source is the sale of surplus vehicles and other city owned equipment totaling 6.9 million dollars in both fiscal years.

DCAS capital: I will now turn to the DCAS capital plan, which totals 932 million dollars together for FY 15 and FY 16. DCAS is undertaking a number of major construction equipment and energy conservation initiatives. Highlights of our program include Vision Zero Fleet projects. DCAS continues to implement a capital project for 6.75 million dollars to complete a citywide roll out of the EJ Ward Fuel Tracking System. This roll out includes Canceiver units for each vehicle that will download vehicle engine information, including speeding, idling, braking, seat belt operation, and acceleration and location information. IT will greatly enhance our understanding of driver habits and give us the ability to analyze and prevent collisions. Additional funding of 4.2 million has been added to the January plan to upgrade older Canceiver units and fuel terminals already being used in NYPD vehicles. In addition to approving Fleet safety, this system is an important part of our citywide fuel emergency plan helping agencies to share and optimize fuel resources

in the event of an emergency. Energy conservation and clean energy projects: There is a combined 262 million dollars in capital funding in FY 15 and 16 allocated for citywide energy conservation and clean energy projects. They include lighting upgrades, installing occupancy sensors, high efficiency motor installations for mechanical and plumbing systems, building controls, and clean energy installations.

Sandy equipment citywide purchase: DCAS received 22 million dollars in capital funds for additional emergency and storm related equipment for use by city agencies. We ordered 35 fuel trucks, and we're completing contracts for generators and forklifts.

DCAS city owned capital construction: The DCAS capital construction program for city owned buildings in FY 15 and 16 totals 548.5 million dollars. Major projects include the relocation of housing in civil court parts from leased space at 141 Livingston to 210 Geralmin [sic] Street and interior renovation of 345 Adams Street in Brooklyn to relocate agencies from 210 Geralmin Street and upgrade to the sprinkler system at 360 Adams Street in Brooklyn and upgrade to the fire alarm system at 253 Broadway, and new elevators at the Queen Supreme Court House in

Jamaica. Construction to support the Civic Center Program: DCAS has allocated 44 million dollars for ongoing work to renovate office space for tenants relocating from 346 Broadway and 4951 Chambers Street. Projects include the relocation of the summons arraignment part court to the 16th floor of the municipal building at One Center Street, moving some of the Department of Education, Parks and Recreation, Grow NYC, and Trees NY to the third and fourth floors of 100 Gold Street. Lease space construction projects: The DCAS capital program for the construction and outfitting of lease space in FY 15 and FY 16 total 77 million dollars. Projects include the relocation of the Department of Finance from 210 Geralomon [sp?] Street and 345 Adam Street to a space that has yet to be identified, the relocation of the Taxi and Limousine Commission and the Office of Administrative Trials and Hearings from Queens Boulevard to 47th Avenue in Long Island City, a consolidation of offices for the Office of Payroll Administration at 450 West 33rd Street. In conclusion, I want to thank you for the opportunity to testify about DCAS, planned expenditures and revenues for FY 15 and 16 as well as our capital

2 commitment plan. I'd be pleased to take any questions
3 at this time.

4 CHAIRPERSON KALLOS: Thank you very much.
5 As is my committee's practice, when we're joined by
6 members of the council who may have some brief
7 questions, I will often defer to them so that they
8 can ask their questions so that I can then go back to
9 my more exhaustive question list. That tends to take
10 a little bit longer. So, I'd like to recognize the
11 Courts Committee Chair Rory Lancman to ask questions
12 regarding our courts.

13 COUNCIL MEMBER LANCMAN: Thank you very
14 much. Good afternoon, Commissioner. It's good to
15 see you again.

16 STACEY CUMBERBATCH: Good afternoon.
17 Good to see you, too.

18 COUNCIL MEMBER LANCMAN: So I do want to
19 focus my questions on your operation and maintenance
20 of the courts. Let me just see if I can get an
21 update on some of the capital projects. You touched
22 on at least a couple of them.

23 STACEY CUMBERBATCH: Okay.

24

25

2 COUNCIL MEMBER LANCMAN: Are you involved
3 in the moving of Brooklyn Housing Court, and where
4 are we in that process. I know it's--

5 STACEY CUMBERBATCH: Right.

6 COUNCIL MEMBER LANCMAN: the very
7 beginning of the process, but where are we and how
8 are things going?

9 STACEY CUMBERBATCH: That's correct. I
10 want to introduce you to Ricardo Morales who's the
11 Deputy Commissioner for Asset Management who oversees
12 all of the city's real property in respect to offices
13 and courts.

14 CHAIRPERSON KALLOS: I'm just going to
15 administer the oath. DO you affirm to tell the truth
16 before the committee and respond honestly to Council
17 Member questions?

18 RICARDO MORALES: I do.

19 CHAIRPERSON KALLOS: Thank you.

20 RICARDO MORALES: To answer your
21 question, we're still in preliminary stages of that.
22 We still have to do a ULURP process for both the 141
23 lease and for 210, but we're very looking forward to
24 the move from 141 to 210. So we have done some
25 preliminary very back of the envelope plans and do

2 have some money budgeted from OMB for the eventual
3 construction of the new courthouse at 210.

4 COUNCIL MEMBER LANCMAN: Great. So, is
5 the lifespan of the project, when is it anticipated
6 that the new Housing Court will open and then where
7 are we? And again, I understand the answer is going
8 to be close to the beginning, but where are we?

9 RICARDO MORALES: We're looking to see if
10 we have a constructed at least ready for functioning
11 of the courts within the next five to six years.

12 COUNCIL MEMBER LANCMAN: And when do you
13 expect to start the ULURP process?

14 RICARDO MORALES: I'm sorry?

15 COUNCIL MEMBER LANCMAN: When do you
16 expect to start--

17 RICARDO MORALES: [interposing] We've
18 already started the ULURP process, in terms of
19 starting certification pieces, but the per say filing
20 hasn't happened as of yet. The certification goes
21 first, and I think we're ready to submit that. We've
22 been going back and forth on that for the last
23 several months. So we should be ready to have that
24 ready for public viewing soon.

2 COUNCIL MEMBER LANCMAN: Got it. And can
3 you, likewise, give me a status update on, I think,
4 it's 346 Broadway, the--currently where Manhattan and
5 Brooklyn Summons Court is housed.

6 RICARDO MORALES: Where are we in--
7 because that lease is expired, so we're moving?

8 COUNCIL MEMBER LANCMAN: Where are we
9 moving to and how's that going?

10 RICARDO MORALES: So, we just got the okay
11 not too long ago to move to One Center Street, the
12 16th floor here in Manhattan, and we're in a
13 preliminary stages in terms of our construction and
14 debatement [sic]. We're still doing our design
15 piece. We're hoping to have that finished by the end
16 of the--by December of 16.

17 COUNCIL MEMBER LANCMAN: And meaning
18 December 16 would be when the new--

19 RICARDO MORALES: [interposing] We should
20 be able to--the new summons part should be able to
21 open at that time, that is correct.

22 COUNCIL MEMBER LANCMAN: Got it. And so
23 at that time, we're still going to be 346. We're
24 just paying rent to the new--

2 STACEY CUMBERBATCH: [interposing]

3 That's correct.

4 RICARDO MORALES: That is correct. Yes,
5 got it.

6 COUNCIL MEMBER LANCMAN: Is Brooklyn
7 Summons Court also moving?

8 RICARDO MORALES: Yeah, to--

9 COUNCIL MEMBER LANCMAN:[interposing]
10 Both--they're going to stay together is my question.

11 RICARDO MORALES: That is correct, they
12 will be staying together for this period of time is
13 correct.

14 COUNCIL MEMBER LANCMAN: The Staten
15 Island Courthouse, is that you or, I mean, getting--

16 RICARDO MORALES: [interposing] No, that's
17 us.

18 COUNCIL MEMBER LANCMAN: Oh, that's the
19 dormitory [sic] authority.

20 RICARDO MORALES: That's us. Yes.

21 COUNCIL MEMBER LANCMAN: It seems almost
22 cruel to ask you when that will be opening, but--

23 RICARDO MORALES: We're very close. What
24 we don't want to do is actually receive the court
25 without having a number of issues resolved, and

2 they're not punch list issues, they're actually some
3 issues dealing with the elevators and other pieces.
4 As soon as the contractor fulfils their end of their
5 contractual obligations, we'll be willing to accept
6 the building. And that will be soon, because we've
7 been working for the last several months also to make
8 sure that that is done, but we're not accepting it
9 until we feel that the court is 100 percent
10 functioning and the contractor is held to all of his
11 responsibilities.

12 COUNCIL MEMBER LANCMAN: I had read, I
13 think it was last year, late last year, maybe it was
14 more recently, that March 31st was some kind of
15 either target date or schedule for doing some walk
16 through to get the certificate of occupancy issued.
17 Is that--

18 RICARDO MORALES: I'm not sure, but we
19 have been pushing it on our end to make sure that the
20 contractor does give us the building that we paid
21 for.

22 COUNCIL MEMBER LANCMAN: I know in your
23 testimony, Commissioner, you mentioned the elevators
24 at Supreme Court on Seventh [sic] Boulevard, which I
25

2 hear about all the time from my lawyers in Queens. I
3 thought that that was a DDC project. Am I mistaken?

4 STACEY CUMBERBATCH: SO the money, as my
5 Chief Financial Officers have informed me, is in our
6 budget, but the work gets done by DDC.

7 COUNCIL MEMBER LANCMAN: Got it. So that
8 one, they're the ones that we need to talk to about
9 why it isn't done yet. Not you.

10 STACEY CUMBERBATCH: Correct.

11 COUNCIL MEMBER LANCMAN: The 99.8 million
12 dollar renovation of the New York Criminal Court,
13 Manhattan Criminal Court 100 Center Street--

14 STACEY CUMBERBATCH: [interposing] Yep.

15 COUNCIL MEMBER LANCMAN: What is that
16 work going towards? And I will tell you that last
17 year when we sat down with DA Vance [sic], he didn't
18 know what that project was. Am I misunderstanding?

19 STACEY CUMBERBATCH: I don't believe it
20 is totally scoped out yet.

21 COUNCIL MEMBER LANCMAN: Okay.

22 STACEY CUMBERBATCH: The money's been
23 allocated.

24 [off mic]

2 STACEY CUMBERBATCH: So it's part of the
3 OMB Court Master Plan. I guess they haven't put
4 exactly what projects are going to be associated with
5 the dollars, but the dollars have been allocated.

6 COUNCIL MEMBER LANCMAN: So who--

7 STACEY CUMBERBATCH: [interposing] In
8 anticipation obviously that they're going to need
9 them.

10 COUNCIL MEMBER LANCMAN: Right. Who would
11 be the one sitting down with the stakeholders in that
12 building? Obviously OCA, but the DA's Office,
13 depending on the work that's being done, DOCS, and
14 saying, "Alright, here's how we're spending this 100
15 million dollars." Is that DCAS or is that OMB or
16 MOCJ or someone else?

17 STACEY CUMBERBATCH: It's a combination.
18 So it's obviously the Mayor's Office of Criminal
19 Justice Coordinator is the principal liaison between
20 the city and the court system. It would be obviously
21 OCA, OMB. We are now in close collaboration up front
22 in terms of that planning process, and this is
23 because we eventually get to take ownership of that
24 building for maintenance purposes. So it's very
25 important that we're at the table early on so we can

2 also weigh in on some of those design issues, because
3 they become challenges down the road in terms of
4 maintenance of these buildings and the cost
5 associated with that maintenance.

6 COUNCIL MEMBER LANCMAN: Alright. Just be
7 mindful please that sometime last year the DA's
8 office felt like they didn't know what was going to
9 be--what that project was about. Now, that concern
10 may have been addressed at this point, but as that
11 scoping goes forward, just be mindful there are a lot
12 of stakeholders in that building.

13 STACEY CUMBERBATCH: Oh, and we are, and
14 I should let you know I met with the Manhattan DA
15 last year. We have a very close working
16 relationship, as I said, with the Mayor's Office for
17 Criminal Justice Coordinator that really does serve
18 as our principal liaison, but our staffs work very
19 close in tandem, probably more than any other
20 administration, worked very closely in terms of all
21 the planning and thinking around what to do with the
22 Brooklyn Housing Court. So all those stakeholders
23 were at the table up front to, you know, air their
24 concerns and their interest of what they wanted to
25 see going forward.

2 COUNCIL MEMBER LANCMAN: I think at one
3 of the hearings, maybe it was the Mayor's Office of
4 Long Term Planning or Resiliency or whatever they're
5 calling their green folks, I had wanted to make sure
6 that the Built it to Last Program was going to
7 include the courts. Is it, and are you getting--

8 STACEY CUMBERBATCH: [interposing] Right,
9 absolutely. So, once--

10 COUNCIL MEMBER LANCMAN: [interposing] You
11 getting cooperation from who you need to get
12 cooperation from and how's it moving forward?

13 STACEY CUMBERBATCH: Yeah, absolutely. I
14 mean, the courts have always--you know, we pay the
15 energy, power, heat and light bills, so as the agency
16 that pays those power bills etcetera and we run our
17 energy conservation, they've always been invited to
18 participate in doing all kinds of upgrades.

19 COUNCIL MEMBER LANCMAN: Is OCA--I guess
20 what I'm asking, is OCA cooperating, because--

21 STACEY CUMBERBATCH: Absolutely. We have
22 a very, very close working relationship with OCA.

23 COUNCIL MEMBER LANCMAN: On this issue as
24 well?
25

2 STACEY CUMBERBATCH: On this issue and
3 ever issue pertaining to their buildings. We are
4 working with their facility, the head of their
5 facilities management team every day. So, yes.

6 COUNCIL MEMBER LANCMAN: Okay. And my
7 last question relates to disability access in the
8 courts. I think you might remember last year there
9 was a particular incident where a prisoner was in a
10 holding pen at Manhattan Criminal Court. She was
11 wheelchair bound. There wasn't an accessible
12 bathroom for her. She ended up wetting herself and
13 spending the day in that circumstance. The next time
14 she came, they made an effort to take her to a public
15 accessible bathroom.

16 STACEY CUMBERBATCH: Right.

17 COUNCIL MEMBER LANCMAN: You know,
18 properly guarded. Is there any long term solution
19 for that problem in that court in particular, and
20 does that circumstance gives [sic] this elsewhere?

21 STACEY CUMBERBATCH: Right.

22 RICARDO MORALES: So, one of the things
23 you have to understand, those circumstances it was
24 very unfortunate that it happened to that person, but
25 we're working very close with the Department of

2 Corrections, and as you may well know about the court
3 system, some of them are very old, and the way they
4 built some of the holding pens and some of the
5 holding areas which are not DCAS jurisdiction is, the
6 jurisdiction of corrections, are somewhat antiquated.
7 We're working right now very closely with the
8 Department of Corrections to see if we can start
9 doing some facility planning to allow us to expand
10 those areas and make that bathroom or other bathrooms
11 accessible. As far as the non-correctional pieces,
12 we have accessible bathrooms. That's where she
13 actually go to go the second time.

14 COUNCIL MEMBER LANCMAN: Right, that's
15 where they took her the second time, right.

16 RICARDO MORALES: Right, and so just as a
17 matter of jurisdiction we're working very closely
18 with Department of Corrections to be able to do that,
19 because they're different jurisdictions within the
20 criminal court system just because of the nature.
21 You have the police. You have corrections--

22 COUNCIL MEMBER LANCMAN:[interposing]
23 Does it work--

24 RICARDO MORALES: You have us.
25

2 COUNCIL MEMBER LANCMAN: Right, and you
3 have a--do you have--how does it work? They have a
4 lease with you or is there some memorandum of
5 understanding, or it's just you deal with this space
6 and we'll deal with the rest of the space?

7 RICARDO MORALES: They deal with because
8 of the security nature of those spaces, it's fully in
9 a jurisdiction of either one, the Police Department,
10 the Department of Corrections, then the Court
11 Offices, then us. Having said that, we're all
12 working together. This is an issue that was pretty
13 acute, and quite frankly should have been addressed
14 earlier. We took care of it. We're working on it
15 very closely with our agencies. No memorandum of
16 understanding, no leases. It's part of the public
17 building. It's a part of the courts, but it's the
18 jurisdiction. You have to separate them by law.

19 COUNCIL MEMBER LANCMAN: Well, I've
20 enjoyed working with you. I appreciate the
21 cooperation that you've given me and my committee and
22 I do look forward to continuing to work with you on
23 these issues.

24 STACEY CUMBERBATCH: Great, thank you.
25

2 COUNCIL MEMBER LANCMAN: Thank you very
3 much.

4 CHAIRPERSON KALLOS: Now onto all things
5 non-court related. With regard to the PMMR, with my
6 background running companies I've always focused on
7 goals, meeting those goals and measuring those goals.
8 I even run my office the same way. You can read
9 about it in Fast Company. In reviewing your report I
10 found a lot of places where there were no goals,
11 where there are a lot of asterisks, specifically in
12 your first goal, "The help city agencies fulfil their
13 workforce needs, increase the public's access to
14 information about employment opportunities in city
15 government as well as ensure a competitive and
16 diverse candidate pool for city employment
17 opportunities." So, in both cases, your agency has
18 set no goals for the coming year, which is troubling
19 considering how important those are to our
20 Administration and I also know to you as the
21 Commissioner. And just I guess the question is for
22 the final management, Mayor's Management Report, will
23 you be providing goals?

24 STACEY CUMBERBATCH: Goals meaning in
25 terms of?

2 CHAIRPERSON KALLOS: Your target goals for
3 Fiscal Year 16. So, do you have a goal for the
4 number of applicants received for open competitive
5 civil service exams? In Fiscal Year 12 was 112,
6 Fiscal Year 13, 75,000, FY 14, 74,000, in Fiscal Year
7 15 in your first four months you actually had
8 124,000, but there are no targets for Fiscal Year 15
9 or the coming Fiscal Year 16, and then similarly we
10 have a very diverse workforce, but we have no goals
11 with regards to the diversity we'd like to see.

12 STACEY CUMBERBATCH: Okay. So part of--and
13 we've had this discussion before is that our role at
14 DCAS is to obviously administer the civil service
15 system, which is really grounded in giving
16 competitive exams, and when we--for this Fiscal Year
17 our Human Capital Division has laid out what exams it
18 anticipates giving over the next Fiscal Year and
19 that's based on feedback from agencies, their needs,
20 as well as looking at workforce data to figure out
21 where there might be greater numbers of attrition,
22 and therefore we'll need candidates to presumably
23 fill those positions. So, it's kind of difficult to
24 put out a goal of how many applicants we might see in
25 any given year given the nature of how we do our

2 work. So, for example, for FY--this Fiscal Year we
3 have a number of exams. So for example, let's just
4 take Sanitation.

5 COUNCIL MEMBER LANCMAN: [interposing]

6 This is more of a general question, because--

7 STACEY CUMBERBATCH: [interposing] Right.

8 COUNCIL MEMBER LANCMAN: similarly we have
9 a workforce that was 38.9 percent black in Fiscal
10 Year 12, 38.5 Fiscal Year 13, Fiscal Year 14 was
11 38.8, four month actual for Fiscal Year 15 was 41.2,
12 and yet we don't have a target for Fiscal Year 15 or
13 Fiscal Year 16.

14 STACEY CUMBERBATCH: Correct.

15 COUNCIL MEMBER LANCMAN: So, it' just a
16 question of--these are all indicated as critical
17 indicators. This is something that is supposed to
18 be--

19 STACEY CUMBERBATCH: [interposing] Well, I
20 think they're indicated to be transparent about the
21 racial demographic composition of the city's
22 workforce, and the--

23 COUNCIL MEMBER LANCMAN: [interposing] But
24 we don't have goals.

2 STACEY CUMBERBATCH: In the philosophy of
3 the way we do our work is to do outreach to all
4 communities to provide opportunity to be part of the
5 city career, city workforce, and we are totally
6 cognizant of where there might be historical
7 underrepresentation of certain gender or racial
8 groups in certain job categories, and part of what we
9 were talking about earlier in our testimony around
10 starting an Office of Recruitment for the first time
11 is to really look at all the workforce data coupled
12 with where there's been historical
13 underrepresentation to do some targeted outreach to
14 different communities, whether it's racial or in
15 particular neighborhoods, etcetera. We've not put
16 racial goals to--

17 COUNCIL MEMBER LANCMAN: [interposing] Or
18 gender goals.

19 STACEY CUMBERBATCH: any particular--or--
20 right, oh, right. That does help. So why don't you
21 come up and--

22 DAWN PINNOCK: Good afternoon.

23 CHAIRPERSON KALLOS: Hi, state your name
24 for the record and I'll swear you in.
25

DAWN PINNOCK: Dawn Pinnock, Deputy
Commissioner at Human Capital.

CHAIRPERSON KALLOS: How are you doing?
You always have great answers for me. Do you affirm
to tell the truth before the committee and respond
honestly to Council Member questions?

DAWN PINNOCK: I do.

CHAIRPERSON KALLOS: Thank you.

DAWN PINNOCK: Okay, so with respect to
setting goals for these two performance indicators,
just to underscore some of what Commissioner
Cumberbatch has mentioned, it's very challenging for
a few reasons. Since we operate a test based system,
really somewhat [sic] selection into a job has to do
more so with their rank on a particular list or their
score on an actual exam as opposed to an ethnic group
or a gender group to which they belong. So to
establish goals surrounding that makes it extremely
challenging because we are looking at rank or a
score. However with our work through the Citywide
Office of Recruitment, we have a commitment to really
casting a wider net, getting to those communities
that have been underrepresented across job

2 categories, and we use our workforce data to really
3 inform our recruitment and outreach efforts.

4 CHAIRPERSON KALLOS: So you're--like so
5 many times you are doing exactly what I'd love for
6 our city to be doing in terms of workforce planning.
7 Maybe we should train people for the jobs that are
8 actually needed, and that being said, my question is--
9 -I know that this is something that Bloomberg was
10 particularly interested in--is this duplicative of
11 existing programs like Workforce One or other
12 programs that Bloomberg may have done, and what other
13 programs are currently in this sphere, or is this
14 something that got phased out but is getting phased
15 in? What's going on within this space?

16 DAWN PINNOCK: I think what's different
17 about our work is that really for the--

18 CHAIRPERSON KALLOS: [interposing] And if
19 you can share what else is currently in the same.
20 This is what I asked start-ups when they want to
21 pitch me on companies to. Like, who are your
22 competitors and how are you different?

23 DAWN PINNOCK: That's interesting. With
24 respect to our work in the Office of Citywide
25 Recruitment, I would say we don't have any

2 competitors for one primary reason. This is really
3 the first item that we have dedicated resources to
4 market New York City, meaning to get the ivy
5 leaguers, to get folks who generally go to not for
6 profit, to get folks who work in nontraditional roles
7 to be interested about career pathways within the
8 city of New York. A lot of the other groups, I think
9 they primarily focus on really establishing more
10 private partnerships with New York City to then have
11 New Yorkers become gainfully employed in private
12 institutions.

13 CHAIRPERSON KALLOS: And in terms of the
14 new office, will you be analyzing workforce trends
15 with the jobs that we will need in the future? Will
16 you be partnering with organized labor and municipal
17 unions and whatnot to anticipate needs and begin to
18 really plan things out so we're not behind the curve
19 as it were on trying to make sure we have people
20 ready for the next generation of jobs?

21 STACEY CUMBERBATCH: Right, that's exactly
22 what we're doing now. That's why we created the
23 office. You know, there was a workforce data report
24 released December 2013 for the first time for the
25 city of New York which analyzed every single title,

1 you know, attrition rates, the demographics,
2 etcetera, and I think I indicated this in testimony
3 last year that, you know, in the next three to five
4 years what that report showed is that up to a third
5 of the city's workforce will be eligible to retire.
6 There could be 100,000 people, and we have that
7 broken down by title. So one of the things that
8 we're doing at DCAS is better planning and
9 forecasting of where we're going to need people and
10 creating that pipeline. So for example, two of the
11 title where they'll--which we anticipate will see a
12 large attrition would be the trades, all the
13 different trades, carpenters, electricians, etcetera,
14 as well as managerial titles. So, in anticipation of
15 that, for example, last month, February, we opened up
16 filing for manager--a series of managerial
17 competitive exams that will start creating that
18 pipeline, that list for people to take a test. So
19 we'll have lists and a pool of people in place in
20 anticipation of--and that was part of our provisional
21 reduction as well, but it was also looking at
22 workforce data for the purposes of planning better,
23 for having a pool of candidates. We are--sorry.

2 CHAIRPERSON KALLOS: Well, within--well,
3 just as a follow up, sorry for interrupting. Within
4 our uniform services somebody knows they go in that
5 one level and every couple of years they'll be able
6 to take their promotional exam and escalate up
7 through the ranks, and so you start at one place and
8 take four promotional exams and 16 years later you
9 know that if you're smart and can study for the test
10 and pass the test you're good, and usually those
11 tests are related to doing better, and we're seeing
12 that in uniform services. Do you believe at least
13 for the next two years, eight months, and--sorry,
14 eight months and 12 days while we are at least
15 guaranteed to be here that we'll be able to provide a
16 reasonable expectation for city employees that they
17 will actually have promotional exams on a timely
18 basis and be able to depend on that moving forward?

19 STACEY CUMBERBATCH: I mean, yes. But
20 you know, again, and I know you had this
21 conversation. I make a distinction between the open,
22 you know, the entry level civil service exam and the
23 promotional, because part of the promotional has to
24 do with agency staffing needs and determination of
25 how many candidates they might need, you know, how

many candidates they anticipate retiring in those more senior level positions and whether or not they need a test to be given for promotional. So some of that is not--so that's what drives some of that opportunity let's say in the next two years, but let's say they have a demographic of supervisor that might have more recently assumed those positions. Then, they may not need a promotional exam for certain titles within the next two years. While they might--but I mean, those are the things that go into that determination, but the bottom line is we want to make sure that the system we're administering in terms of all these exams is fair, that it's transparent, that people understand what goes into deciding to give a particular exam or not in conjunction with an agency, because we do this in conjunction with agencies. We don't do it in isolation, because we're trying to meet their staffing need to make that a more transparent process, to make sure our exams are constructed in a way that are job related, that have been tested for disparate impact, etcetera. So, those are the key principles on which we give these exams, and we want to make sure that current city employees as well as

2 those seeking to work for the city know that this is
3 a fair process and they can see that it's a fair
4 process, so.

5 CHAIRPERSON KALLOS: Now, I think I
6 alluded to this in my opening, but I did want to
7 thank you. In our first meeting, I may have harped
8 on the 441 day median time from exam administration
9 to list establishment in days. The Fiscal Year 15
10 goal was 360 days. So you took it down as a goal for
11 a year. According to your four month actual for
12 Fiscal Year 15, you actually hit 244 days.

13 STACEY CUMBERBATCH: Great.

14 CHAIRPERSON KALLOS: And so the question
15 is are you on track for--where are you currently, and
16 with regard to Fiscal Year 16 given your amazing
17 performance, can we--would you be willing to set more
18 ambitious goals that reflect surpassing your current
19 level of performance?

20 STACEY CUMBERBATCH: Well, I want to
21 first congratulate Deputy Commissioner Pinnock and
22 her staff, because--

23 CHAIRPERSON KALLOS: [interposing] I
24 agree.
25

2 STACEY CUMBERBATCH: Because they came in
3 and they looked at that issue, and as we said, part
4 of that issue had to do with how we plan when we give
5 exams, right? So we have a better system in place of
6 aligning what exams we're given with what actually
7 agencies think their needs are going to be, but more
8 importantly what is the data actually showing us in
9 terms of attrition and titles so that you kind of
10 align those two, whereas before, it wasn't aligned at
11 all. It was just an agency said I want to give these
12 five exams, and DCAS gave those five exams, even if
13 the agency might not need people for five years,
14 right? SO the exam was given and then a list was
15 never published because there was no need to replace
16 people off the list, and that's what drove those days
17 between the time an exam was administered and the
18 time a list was published. So that was a structural
19 issue in the way business was being done, which we
20 feel that we've corrected and is reflected in, you
21 know, the days being reduced now to 244. So why
22 don't you give the new ambitious goal?

23 DAWN PINNOCK: Well, I may need to follow
24 up with you just in terms of an ambitious goal,
25 because definitely it's something that we've thought

2 really critically about. So, in addition to some of
3 what Commissioner Cumberbatch mentioned, my team and
4 I have undergone a series of Lee [sic] and Sig Sigma
5 [sic] exercises to really look at areas of redundancy
6 and waste in our examination's process. So that tied
7 with stopping the practice of just providing exams or
8 administering exams solely at the agencies request,
9 I think has definitely contributed to the reduction
10 we're seeing. But that being said, there are certain
11 legal requirements that are involved with
12 examinations process that do take time, like the
13 appeals process, the protest review sessions,
14 grading. I'm not going to go through the timeline I
15 went through before.

16 CHAIRPERSON KALLOS: You've given it to
17 us. You've actually submitted it. I really
18 appreciate it. Love the flow chart. So I guess what
19 is--what do you think the right target is? Is it
20 360? Is it 244?

21 DAWN PINNOCK: For right now I would say
22 that 360 is accurate, because initially we talked
23 about a 25 percent reduction once we implement
24 certain recommendations, but we are looking to
25

2 establish more aggressive goals as we become more
3 efficient.

4 STACEY CUMBERBATCH: And as we look at
5 how it's been working and take that feedback
6 immediately and adjust where we have to. So, you
7 know, this is the first piece of it, right, and so we
8 need some time to analyze, you know, where we--why we
9 had the success we had. We think we know, but we
10 want to test that and validate that, and from there
11 you know, we'll figure out if that goal needs to be
12 adjusted going forward.

13 CHAIRPERSON KALLOS: I just want to thank
14 you. You've appeared before this committee twice
15 just on this one topic alone and I appreciate it. I,
16 on behalf of myself and the Labor Chair Daneek
17 Miller, so thank you. I think I'm getting better at
18 this than I was my first time, because I bounce back
19 and forth and all of you had to change your seats.
20 So, I think I'm done with that. When we first sat
21 down, last year I asked about increasing the number
22 of bids per contract in order to reduce price, and so
23 in Fiscal Year 14 it was 3.3, and your current goal
24 is 3.4, and according to the four month actual in the
25 PMMR you're now a 3.6. So I wanted to say thank you

2 for that. And what happened there and how can we do
3 better, and have we actually seen cost savings by
4 having 0.1 more bids?

5 STACEY CUMBERBATCH: So I'll have Deputy
6 Commissioner Geneith Turnbull who is Citywide Chief
7 Procurement Officer for Citywide Procurement. So,
8 introduce yourself. You have to be sworn in.

9 CHAIRPERSON KALLOS: I'm just going to
10 swear you in. Do you affirm to tell the truth before
11 this committee and respond honestly to Council Member
12 questions?

13 GENEITH TURNBULL: Yes, I do.

14 CHAIRPERSON KALLOS: Thank you.

15 GENEITH TURNBULL: Good afternoon. We're
16 very proud that we have been able to raise our number
17 up to 3.6. One of the initiatives that we took is we
18 also announced of meeting our bids on Bidnet [sic].
19 So we're getting a lot more outreach on our
20 solicitation state wide. We use Bidnet as well as
21 CROL.

22 CHAIRPERSON KALLOS: Can you repeat?

23 GENEITH TURNBULL: Bidnet.

24 CHAIRPERSON KALLOS: Bidnet.

25

2 GENEITH TURNBULL: Yes, it's a
3 organization where we can solicit--where we can put our
4 bids out for the statewide folks to bid on.

5 CHAIRPERSON KALLOS: And what was the
6 other one?

7 GENEITH TURNBULL: CROL, the city record,
8 CROL. City Record Online.

9 CHAIRPERSON KALLOS: Oh, CROL.

10 STACEY CUMBERBATCH: City Record Online.

11 GENEITH TURNBULL: City Record Online.

12 CHAIRPERSON KALLOS: Yes, yes, okay.

13 GENEITH TURNBULL: Right. So in addition
14 to CROL we're now using Bidnet.

15 CHAIRPERSON KALLOS: And it--that's
16 great. Please continue.

17 GENEITH TURNBULL: So, that I believe has
18 contributed to our increase in terms of having more
19 people respond to our bids.

20 CHAIRPERSON KALLOS: So, before you got
21 here, I had the Law Department here. We've actually,
22 we changed our schedule from most least controversial
23 to most controversial agencies or the ones where we
24 tend to have people asking the most questions. So,
25 Law Department came. One of my favorite laws that we

2 passed last year as the Open Law. It was introduced
3 by Council Member Lander. I was his co-prime
4 sponsor. It's something I've been working on since
5 2006. So, the Law Department now has to put the law
6 online so anyone can see it. They recently put it
7 out to RFP, and the only place they advertised it was
8 the City Record. So, I actually had to ask--I will
9 admit, I do not read the City Record every day, and I
10 do not read it cover to cover when I do, and that's
11 why I'm so enthusiastic about the changes that we've
12 been able to make in the City Record Online, which
13 was already online, but now will be online with open
14 data and open API's, which I think will be helpful.
15 What else can we do to let the world of MWBE's and
16 civic tech start-ups and the business community know,
17 "Hey, we have this money and we think that you might
18 be interested in bidding on this, and we will save
19 money because of the competition."

20 STACEY CUMBERBATCH: Well, I think, you
21 know, one thing, Bidnet was one, like a vehicle, and
22 because it's online. It's a place apparently where a
23 lot of businesses go to bid on all kinds of
24 government contracts here in New York State, and I
25 think things similar to that in those particular

2 industries. So as we at least at DCAS create, you
3 know, RFP's or bids we can look for if a bid is
4 really pertaining to a particular industry besides
5 putting it in the City Record and on Bidnet, we can
6 focus on the professional, the business organizations
7 that oversee that industry, for example, and make
8 sure we do a targeted solicitation to them and
9 outreach so that they can reach their members as
10 well. That's--that would be the most obvious thing.
11 The other thing that we do do in terms of WMBE's
12 specifically is we participate in a number of fairs.
13 We've participated in fairs with SBS, Small Business
14 Services, because they are the prime coordinator
15 along with MOCS of the city's WMBE program. So we
16 makes sure that we're actively participant in any of
17 the fairs that they give. DCAS is there, you know,
18 to talk about our business, what things are out there
19 in terms of solicitations and RFP's and how you can
20 go to the City Record or some of these other online
21 vehicles to find out about what we have on the
22 street.

23 GENEITH TURNBULL: We've also partnered
24 up with CUNY and we also participate in CUNY's fairs.

2 CHAIRPERSON KALLOS: I guess I'm just
3 trying to figure out how do we get the RFP. So for
4 instance--so there's--I'm just thinking specifically
5 about the Open Law RFP. How do we get that from the
6 City Record out into the public and make sure every
7 single thing that we're putting in the City Record is
8 not only getting out to Bidnet, but just to the
9 largest swath of people, and like when it comes to
10 software we have like the New York Tech Meet-up. I
11 would love to make sure that the 20 something
12 thousand entrepreneurs and tech companies there knew
13 about a way to subscribe to the different RFP's that
14 they can get--

15 STACEY CUMBERBATCH: [interposing] We'd
16 love to work with you on this.

17 CHAIRPERSON KALLOS: Perfect.

18 STACEY CUMBERBATCH: And if you have some
19 great ideas for how we can push out the City Record
20 to those communities, we'd love to work with you to
21 make that happen.

22 CHAIRPERSON KALLOS: So, we are now fully,
23 I think, on City Record. So, I want to first thank
24 you for your support for the legislation and for
25 helping make that happen, and for the fact that it

2 was already being published online and searchable,
3 but of course, we're now in a world where search
4 bulletin where we want to be, we want to be open
5 data, and then beyond open data, having an open API.
6 So, with regard to City Record, I was pleased to hear
7 that it's going to be live in August 2015. Can you
8 tell me a little bit about--well, tell the public. I
9 think you've been kind enough to have me briefed a
10 little bit about the progression there. So, are you
11 doing it with your own team, or are you contracting
12 it out? What kind of code base are you using? And
13 what can people expect in August of 2015?

14 STACEY CUMBERBATCH: It's being done--why
15 don't I get our technologist up here.

16 CHAIRPERSON KALLOS: And again, thank you
17 so much for doing this.

18 STACEY CUMBERBATCH: Sure. So, Deputy
19 Commissioner Nitin Patel, who's on DCAS's CIO.

20 NITIN PATEL: Hello.

21 CHAIRPERSON KALLOS: Do you affirm to tell
22 the truth before this committee and respond honestly
23 to Council Member questions?

24 NITIN PATEL: Yes, I do.

25 CHAIRPERSON KALLOS: Thank you.

2 NITIN PATEL: So, the development of City
3 Record, the enhancement we're doing with our employee
4 it's not outsourced to anybody. We're working with
5 DOIT. DOIT has already NYC Open Data. We're using
6 that technology. So, City Record online always
7 there. What we changing is its more searchable. So
8 the fields, when last time we met, we were talking
9 about. A couple that wanted to find out how many
10 hearings in this area for this week. So if you're
11 trying to put instead of a PDF search table, now
12 more, the free level [sic] search table, like the
13 location, dates and all those things. So all the
14 fields are taken from that.

15 CHAIRPERSON KALLOS: So I guess the one
16 thing just as a follow up question, would DCAS agree
17 to meet with this committee as well as with the--in
18 partnership with these same civic community, civic
19 technologist community that you're already working
20 with archiving, on archival issues to have them
21 scraped and put into Open Data to also make sure that
22 we as we're getting closer launch, allow for civic
23 technologists to assist with code? So that would be
24 part one. Could we--

2 STACEY CUMBERBATCH: [interposing] Oh,
3 sure, we'll definitely meet.

4 CHAIRPERSON KALLOS: And I think, have you
5 made any progress on normalizing data, which is for
6 those of you watching or non-computer folks it means
7 making sure that the data that you're taking in is
8 taken in a way that allows us to do the most with it.
9 So instead of taking in an address as just plain
10 text, taking it in a street number, street name, zip
11 code, etcetera, so that we can throw it up on a GPS
12 type--sorry, on a mapping system.

13 NITIN PATEL: We are standardizing those.
14 So what we're doing is with the City Record Online,
15 we are trying to put those fields in also any table,
16 so everybody will use the same kind of data, where,
17 zip code, locations, street address will be
18 populated. And it will be normalized.

19 CHAIRPERSON KALLOS: And with regard to
20 the additional feature of just making sure that we
21 tag not only the hearing location but the hearing
22 topic. So for instance, we at the City Council here
23 at the City Hall in zip code 10037 will hear
24 something about a sidewalk application in zip code
25

2 10028 and making sure that both pieces of geographic
3 information are maintained.

4 STACEY CUMBERBATCH: Right.

5 CHAIRPERSON KALLOS: So, I think--and then
6 for August 2015, software is very similar to the City
7 of New York. It will be amazing when they are done
8 building it. Is this the final end all be all, or do
9 you have a commitment to continue maintaining and
10 improving upon it?

11 NITIN PATEL: Yep.

12 STACEY CUMBERBATCH: For any--just to be
13 clear, for anything that we do on the technology side
14 we'll always be reviewing and looking at it,
15 upgrading it, changing it, tweaking it where
16 necessary.

17 CHAIRPERSON KALLOS: Great. I'd like to
18 move on to talk a little bit about the Fleet and
19 Vision Zero.

20 STACEY CUMBERBATCH: Okay, thanks guys.

21 CHAIRPERSON KALLOS: Thank you.

22 STACEY CUMBERBATCH: Thank you.

23 CHAIRPERSON KALLOS: So, with regard to
24 Fleet, I'm really pleased to hear that the 240
25 vehicles of over 10,000 pounds will be receiving the

2 protection so that pedestrians and bikers and
3 motorcycles, and even in some cases, cars don't get
4 trapped under them. Is that all the trucks we've got
5 in our fleet or just trucks of over 10,000 pounds?

6 STACEY CUMBERBATCH: That's a pilot,
7 actually.

8 CHAIRPERSON KALLOS: Okay, so--

9 STACEY CUMBERBATCH: [interposing] 240's a
10 pilot.

11 CHAIRPERSON KALLOS: So, how many to roll
12 it out to every single one of our trucks?

13 KEITH KERMAN: Keith Kerman, the Chief
14 Fleet Officer.

15 CHAIRPERSON KALLOS: Do you affirm to
16 tell the truth before this committee and respond
17 honestly to Council Member questions?

18 KEITH KERMAN: Yes.

19 CHAIRPERSON KALLOS: Thank you.

20 KEITH KERMAN: So, the city has 9,000
21 total trucks. There are 4,500 that we determined in
22 our study with Volpay [sic], which is the United
23 States Department of Transportation, would be
24 eligible for side guards. So the phase one or the
25 pilot is 240 units. It's five percent of that fleet,

2 and that'll be done this year, and then we'll assess
3 how that goes and then look forward.

4 CHAIRPERSON KALLOS: The side guards have
5 become industry standard throughout the country and
6 in fact we really need them on our MTA vehicles. Is
7 there a reason why we did a pilot instead of just
8 going straightforward?

9 KEITH KERMAN: Well, side guards are
10 standard and have been for decades in Europe, in the
11 UK, and in some other parts of the country. At this
12 point, they're actually fairly uncommon in North
13 America, and our pilot will be the largest roll out,
14 may already be, of side guards in the state. So,
15 we're trying to lead in this and really make this
16 standard in the United States, but there's some work
17 to do to get there.

18 CHAIRPERSON KALLOS: Is there additional
19 funding for Fiscal Year 16 to roll it out beyond the
20 450 vehicle pilot?

21 KEITH KERMAN: Not yet. First, we're
22 doing the pilot program, which will be done in this
23 calendar year, and then again, then we'll look to
24 move forward including as--right now we're
25 retrofitting, but the ideal and better way would be

2 to start designing these into vehicles as we buy
3 them.

4 CHAIRPERSON KALLOS: As a Council Member
5 who sponsored the Right of Way Law and which provides
6 a protection for our city employees and has now
7 sponsored Introduction 663 to provide further
8 protection for our MTA employees, I'm committed to
9 making sure we do everything we can to make our
10 vehicles as un--make them less deadly if possible,
11 and these side guards are something that people are
12 clamoring for, any life that we can avoid. And so my
13 understanding is, and correct me if I'm wrong, a side
14 guard, if a person gets struck by a vehicle or
15 collides with a vehicle, it prevents them from then
16 getting caught in the undercarriage or then under
17 behind the rear wheel. So this could be the
18 difference between an injury or a fatality.

19 STACEY CUMBERBATCH: You know, we too are
20 committed. This is a priority of Mayor de Blasio to
21 make sure that we can do everything we can do in
22 terms of the public fleet to make it safer. So,
23 we're very--we anticipate that the pilot will be
24 successful and that we'll see how we can roll it out

2 going forward, but it's a priority of the
3 Administration as well.

4 CHAIRPERSON KALLOS: Great. With regard
5 to canceivers, what is-- I think during our last
6 hearing we talked a little bit about GPS on all the
7 vehicles. Is this that GPS or is this something
8 different?

9 STACEY CUMBERBATCH: This is a G--it's an
10 effect. GO ahead Keith.

11 KEITH KERMAN: Yes, so the conceiver
12 really does two things. It's a GPS and AVL,
13 automatic vehicle location unit. It's also a download
14 of the engine computer.

15 CHAIRPERSON KALLOS: Okay. And in terms
16 of the data being used, are you also using it to deal
17 with, I think one of my favorite terms of art from
18 the legal field, frolic and detour. Are you familiar
19 with that? It's a--there is a limitation of liability
20 for frolic and detour, when somebody takes a vehicle
21 owned by somebody else and was supposed to go to
22 point A, but stops at points B, C, and D along the
23 way, unless the person has prior knowledge that this
24 person might do this because of a previous frolic and
25 detour, there is a limitation of the city's lia--I'm

2 sorry. It's a legal and academic question, but it's
3 also something that leads to reduced wear and tear on
4 the vehicle and energy use and cost savings.

5 KEITH KERMAN: We are certainly sharing
6 this information with the agencies. You know, DCAS is
7 not assigned vehicles. The agencies assign vehicles
8 and instruct them as to where to go. So agencies
9 will have this information and be able to follow up
10 and make sure the vehicles are going where they've
11 been assigned and supposed to go.

12 STACEY CUMBERBATCH: But they'll have
13 that information for the first time know where they
14 actually went.

15 KEITH KERMAN: Correct.

16 CHAIRPERSON KALLOS: on the topic of
17 Fleet, you, in Fiscal Year 14 you had 57 percent
18 hybrid or alternative fuel. Fiscal Year, for Fiscal
19 Year 15 you had a goal of 55 percent, which is
20 somehow two percent lower than the actual, and as of
21 your four month actual we're still at 57 percent.
22 Can we change the target to 57 percent? Can we get
23 better so that we're saving cost on fuel and having a
24 lower carbon imprint based on using hybrid vehicles?

2 KEITH KERMAN: Sure. We want to get up
3 to 60 and higher. In the last three years, you know,
4 we went from 28 percent up to the 57 percent.

5 CHAIRPERSON KALLOS: Yes.

6 KEITH KERMAN: So a lot of tremendous
7 progress.

8 CHAIRPERSON KALLOS: Very good job on
9 getting from 28 percent to 57 percent. Forgive me
10 for omitting that.

11 KEITH KERMAN: And as we get further into
12 the fleet, you know, a couple of issues. One, really
13 finding viable alternatives for pick-ups and vans,
14 and we are working on that now. We just rolled out a
15 50 van natural gas program with the Parks Department
16 and the Health Department which could become a model
17 for how to do that. And also honestly getting an
18 alternative to the Ford Escape Hybrid, which was our
19 off road hybrid SUV, but Ford dropped the hybrid. So
20 that does impact.

21 CHAIRPERSON KALLOS: We need off-road
22 vehicles in New York City?

23 KEITH KERMAN: Parks Department,
24 Sanitation Department, life guards, absolutely.

CHAIRPERSON KALLOS: Okay. Sorry, there's a joke amongst many that with all the potholes you need an off-road vehicle to get down our city streets. Something that I just want to--while we're on Vision Zero, I do want to talk about something that did surprise me in the PMMR, which is collisions involving city vehicles. So in Fiscal Year 12 it was 538. In Fiscal Year 13 it was 579. In Fiscal Year 14, which is again, we once--half that time we were in new Administration, we were at 672. Comparing the Fiscal Year 14 four month actual, we were at 181. Fiscal Year 15 we were at 167. You're doing great work on so many places. What can we do to make sure that city vehicles are not involved preventable collisions, and how do we get that number as close to that vision of zero as possible?

KEITH KERMAN: So, as you mentioned, we did make progress in the first full year of the administration. So we have made some progress right now in Fiscal Year 15. We expect that to continue. A few things we're doing, one, we have expanded the defensive driving program, which is a day long program, dramatically. We are now training 1,000 staff a month, up to 17,000 staff in this

2 Administration in really just 15 months, and it's our
3 goal to have every authorized driver trained through
4 DCAS and its partners, and we estimate that's about
5 33,000 not including police and fire who are taking
6 care of that for themselves, so, the non-uniformed
7 emergency staff. We are also looking at in addition
8 to the side guards, other things that we can do with
9 the technology side. We're about to pilot driver
10 alert systems, which would be interactive systems who
11 would help the driver real time if they're veering
12 from a lane, if they're about to collide with a car
13 in front of them, and we did finish very recently the
14 city's first citywide collision tracking system. So
15 this data actually comes now not from a collection of
16 50 different agency reports, from a single system
17 called Crash, which DCAS manages with 50 agencies. So
18 we do have a single collision management system now
19 fully in place. It's a Vision Zero project and we
20 can better study, analyze trends, report out on
21 collisions. And this MMR is the first MMR where the
22 data came from our crash system.

23 CHAIRPERSON KALLOS: If you could pick a
24 better name that would be amazing. This is all in
25 the right direction. You've had to see this question

2 coming, will this be available through Open Data,
3 some of the information?

4 KEITH KERMAN: We will absolutely provide
5 whatever data needs to be, you know, offered through
6 the law, and the Law Department is a major partner
7 and has been for really the last two years in all the
8 risk management projects in Vision Zero projects that
9 we're doing.

10 CHAIRPERSON KALLOS: There is the plow
11 tracker. MTA has Bus Time. How far away are we from
12 being able to track our garbage trucks while they're
13 going on their routes and collecting trash in the
14 morning?

15 KEITH KERMAN: Well, the Department of
16 Sanitation manages the Plow NYC program.

17 CHAIRPERSON KALLOS: Right.

18 KEITH KERMAN: That is not DCAS.

19 CHAIRPERSON KALLOS: But they're using
20 your GPS canceivers.

21 KEITH KERMAN: Yeah, in fact the
22 canceiver roll out for Sanitation begins in April,
23 and it's one of the agencies that we need to
24 complete, and it begins in April, and so then you'll
25 see the canceivers. It could take us three to four

2 months to complete Sanitation and then that'll--
3 they'll be fully operable.

4 CHAIRPERSON KALLOS: And what about the
5 street sweepers?

6 KEITH KERMAN: That's part of the
7 Sanitation.

8 CHAIRPERSON KALLOS: And so Sanitation
9 already has canceivers on the garbage trucks that are
10 used for snow, or how is--where is the data that--

11 KEITH KERMAN: Sanitation currently uses
12 the Plow NYC program--

13 CHAIRPERSON KALLOS: Yeah.

14 KEITH KERMAN: for its sanitation
15 vehicles that plow. In the canceiver roll out, we've
16 completed 16,000 canceivers citywide, but the
17 Sanitation trucks actually begin in April. The roll
18 out begins next month.

19 CHAIRPERSON KALLOS: So why are we
20 putting in canceivers if the sanitation trucks
21 already have the technology that allows us to track
22 where they are?

23 KEITH KERMAN: The canceiver technology
24 actually has additional functionality that Plow NYC
25 does not. It's part of our fuel management system.

2 It's an engine download that allows you to look at
3 things like braking and accelerating. So, there's
4 actually other data that comes from that.

5 CHAIRPERSON KALLOS: Do we also get data
6 on when the tires are low or when other--when the
7 vehicle's about to break down? That is something I'm
8 hearing about in the private sector that you can--

9 KEITH KERMAN: [interposing] Maintenance
10 codes, yes.

11 CHAIRPERSON KALLOS: Okay.

12 KEITH KERMAN: Tire pressure is not an
13 engine indicator, so, no.

14 CHAIRPERSON KALLOS: Okay. so we will be
15 able to use this data to pull vehicles off the road
16 and say okay, let's fix it rather than having to tow
17 it, and that is--so, will we be able to have access
18 to this data? A lot of people in my district complain
19 that we don't get street sweepers, and we get locked
20 in a lot of problem where the district says we didn't
21 get swept. DSNY says yes, you did. It'd be really
22 great to be able to just pull the data and say, "Hey,
23 look, we have this data and it shows the street
24 sweeper going 30 miles an hour, which means it was
25 passing cars in the lane versus going whatever speed.

2 And oh, look this street sweeper never even made it
3 here." Similarly for garbage pick-ups, which we've
4 had trouble with given the snow storms.

5 KEITH KERMAN: Sure, so yeah. As we
6 complete the roll out, which again, you know, it's
7 5,000 plus vehicles so it will take us some time. It
8 starts next month. Then we'll work with Sanitation
9 and the Law Department and our IT on how to make that
10 information available.

11 CHAIRPERSON KALLOS: And in terms of the
12 collisions, you've shared the location of every
13 single one of those collisions and are working with
14 the agencies to say, "Hey, maybe if this is a garbage
15 route or something like that, this is probably a bad
16 place to continue to have them make that left turn or
17 right turn."

18 KEITH KERMAN: Yeah, agencies are part
19 of--the crash information goes regularly to agencies
20 with a lot of detail.

21 CHAIRPERSON KALLOS: I would love to see
22 the open data. I would love to see Crash provided
23 with a public version so people can look at it, and I
24 would love to see it personally. Let me move on to
25

2 energy unless there's a question I missed on Vision
3 Zero.

4 STACEY CUMBERBATCH: Thank you.

5 CHAIRPERSON KALLOS: Thank you. Thank you
6 for all the work you're doing. As you can see, we're
7 data hungry. With regard to energy, this is another
8 place where I was concerned about not seeing goals.
9 So goal five of the PMMR, "Manage energy use by city
10 agencies, assure that energy purchases are cost
11 effective and reduce the city's energy related carbon
12 footprint." Neither of these has goals despite the
13 fact that we've recently passed legislation on point.
14 One key question I had was first just how can I and
15 the rest of the general public read it in that for
16 Fiscal Year there is a critical indicator, estimated
17 reduction in greenhouse gas emissions from energy
18 retrofit conservation project in metric tons. So
19 Fiscal Year 12 is 7,021. Fiscal Year 13 is 4,115,
20 and Fiscal Year 14 is 6,621. Is that from a baseline
21 or is that cumulative from the previous year?

22 STACEY CUMBERBATCH: Introduce yourself.

23 EMILY DEAN: Good afternoon. I'm Emily
24 Dean, Deputy Assistant Commissioner with DCAS Energy
25 Management.

2 CHAIRPERSON KALLOS: Hi, Emily. Do you
3 affirm to tell the truth before this committee and
4 respond honestly to Council Member questions?

5 EMILY DEAN: I do.

6 CHAIRPERSON KALLOS: Thank you.

7 EMILY DEAN: So answer to your question
8 on the estimated reduction in greenhouse gas emission
9 shown in the PMMR, we actually identified a data
10 quality issue with the FY 12 number. So, we took the
11 initiative to correct it for FY 13 and going forward.
12 To speak to the targets stated for FY 15 and 16, we
13 don't typically participate in the PMMR. So, these
14 numbers are just place holders. However, we do expect
15 a significant upward trend in greenhouse gas
16 reductions due to the One City Built to Last
17 initiative, and we are also working closely with the
18 Mayor's Office of Operations to incorporate One City
19 Built to Last metrics in the upcoming MMR.

20 CHAIRPERSON KALLOS: And I guess the quick
21 question, so is there any--will you be able to fix
22 the data quality for Fiscal Year 12 in terms of
23 providing the right number there?

24 EMILY DEAN: Yes.
25

2 CHAIRPERSON KALLOS: Okay. And then with
3 regard to the numbers, are they from--do they
4 represent reductions from a baseline or are they
5 cumulative?

6 EMILY DEAN: I'll have to get back to you
7 on that.

8 CHAIRPERSON KALLOS: Okay. So just to be
9 clear, is it that we're saying that the baseline is
10 100,000 metric tons and then this year we hit 94, and
11 that year we hit 95 or is it first year we had 95 and
12 then the next year we hit 90 and we continued to? So
13 that would be the question, and then along the same
14 lines, goals. Energy retrofit projects completed,
15 energy efficient reports completed, we'd like to have
16 that. I think you also have nonapplicable for the
17 four month actuals which leaves me unable to really
18 analyze that. Also, with regard to total energy
19 purchased and trillions of British thermal units,
20 there is no data regarding the four month actuals or
21 your targets. So, I guess, that left me very--left
22 it very difficult for me or a member of the general
23 public to get an understanding of whether or not
24 we're getting return on investments for all the
25 energy retrofits that we are doing. Are these--so

2 can you quantify for us for each of the projects that
3 we're spending money through One City Built to Last
4 or at least specifically PlaNYC, which is data we
5 have? What kinds of cost savings have we seen? So we
6 spent x million dollars on PlaNYC's initiatives and
7 that has resulted in y million dollars in savings.
8 If you can share that.

9 EMILY DEAN: I can speak to the energy
10 reductions that we're anticipating. So, according to
11 the latest greenhouse gas inventory published by the
12 Mayor's Office of Sustainability, in the fall of
13 2014, city government had a greenhouse gas reduction
14 in its footprint of 16 percent. So we are seeing a
15 reduction in energy consumption. It doesn't
16 necessarily link up to budget because there are a
17 number of other factors considered in the heat, light
18 and power budget.

19 CHAIRPERSON KALLOS: As you're examining-
20 -sorry.

21 STACEY CUMBERBATCH: I'm sorry, go ahead.

22 CHAIRPERSON KALLOS: I want--if you had
23 something to had, I would love to--

24 STACEY CUMBERBATCH: [interposing] No, I
25 was trying to understand your earlier question you

2 were asking about the savings with respect to each
3 single project.

4 CHAIRPERSON KALLOS: Right. So again,
5 from the Finance world, somebody comes to me and
6 says--I ran a venture vehicle. We had multiple
7 subsidiary companies, and somebody would say, "Well,
8 we'd like a million dollars." And we'd say, "Okay,
9 what are you going to do with that million dollars?"
10 And they'd say, "Well, we're going to retrofit, and
11 we're going to put solar cells on the roof, and we're
12 going to be able to save 100,000 dollars over the
13 next 10 years, which is the life span of the solar
14 cells. So it's a net zero indicator, but people will
15 love coming here because of it." Or it might have a
16 piece where we actually have energy savings, but
17 there's that. And I'm also curious, are you doing
18 cost benefit analysis on these energy retrofits?

19 EMILY DEAN: So, to your point, we do
20 look at--we look at every single project for its cost
21 effectiveness at reducing greenhouse gas emissions.
22 So that's the dollar invested per metric ton reduced.
23 In terms of, you know, we look at other metrics such
24 as simple pay back and we are also looking forward
25 going to do more life cycle cost analysis. In terms

2 of for verifying the reductions, we have done some in
3 house bill analysis. Of course this, when we're
4 taking about retrofit projects, we're talking about a
5 single energy conservation measure such as a lighting
6 upgrade, and that's hard to compare against, you
7 know, a whole building's energy consumption.
8 However, in a sample of buildings that we looked at
9 we found an eight percent reduction below the
10 citywide average just on, you know, energy
11 conservation projects that had historical data
12 against which we could measure. So we are seeing
13 those reductions. We've also undertaken some
14 measurement verification studies to dive deeper into
15 the estimates so we can improve our estimates going
16 forward and really ensure that what is being shown
17 for in terms of energy and greenhouse gas reductions
18 estimated in projects will be delivered.

19 CHAIRPERSON KALLOS: Okay. I guess one of
20 my concerns is just looking at the PMMR which is a
21 very limited resources at that, I understand costs
22 change. So there may not be a savings, because maybe
23 one year we used a lower number of kilowatts but the
24 cost of energy continues to rise. But what I'm
25 seeing is that for the heating measurement, British

thermal units in trillions, we're actually increasing. So in Fiscal Year 12 despite PlaNYC and everything else we went from 26.2 in 12 to 27.5 in 13 to 28.6 in 14, and then the electricity purchased kilowatt hours remains fairly constant over 12, 13 and 14 in terms of billions at 4.2. So I'm just curious. I'm all about reducing the carbon imprint, but I would like to see a measurable results and trying to better understand that because it seems fairly--I think with the data of quality issue, that also put me through a loop because it seemed to have an irregular curve. So I think that as you're looking at the MMR, being able to provide us with indicators that allow us to measure the success would be very much appreciative. With regard to the citywide heat and light power expenditures of 800 million dollars for the current Fiscal Year, does the city anticipate an increase in heat, light and power expenditures for this Fiscal Year because of the winter? Does DCAS--and then the other piece, which is actually the more important piece of the question is, does DCAS incentivize agencies to minimize unnecessary energy usage?

STACEY CUMBERBATCH: So as to this current Fiscal Year we still have yet to reconcile what the actual expenditure will be, what the actual expenditure be. We haven't even received our February bill as I understand and that's when we think we took obviously the biggest hit because February was such a bad month. So, in the next couple of months, it's a process with DCAS and OMB and the energy unit within DCAS to once we get those bills to reconcile what the actual expenditures were.

CHAIRPERSON KALLOS: I want to thank you for this considerably long hearing and for answering so many of the questions and for your willingness to really take a look at the MMR and the PMMR to really investigate what's going on there and fixing a lot. Thank you for all that you do in so many different areas. There are very few people who come in here and talk about energy savings, retrofits, courts, making our vehicles and fleet safer, Vision Zero, and civil service. It's quite a broad purview. I just want to thank you. We will send you additional questions as a follow-up, but I would like to thank you and so many other people from DCAS for joining us

2 and looking forward to working with you on the Open
3 City Record. Thank you.

4 STACEY CUMBERBATCH: Thank you very much.

5 CHAIRPERSON KALLOS: My pleasure. I
6 would now like to call up the panel on Community
7 Board. And so we are joined by--we're joined by
8 George Fernandez, the CB12 Manhattan Chair, Mel
9 Wymore, CB7, Jesse Bodine, Manhattan CB4. We have
10 another person here who I believe is here for the
11 public session, Michael Hentz [sp?]. So unless you
12 are here for specifically to represent a Community
13 Board we will ask you to wait for the public session.
14 Because--are any of the three people who are here for
15 Community Boards testifying as a city employee or as
16 a District Manager? So seeing that that is not the
17 case, we will not be--okay. Then I will swear you
18 in, but I will not be swearing the other members of
19 the general public in. So, give me one moment to
20 just--we'll now hear from representatives of various
21 Community Boards who will let us know if their
22 budgetary needs are being met and what ideas they may
23 have to improve the way our city's Community Boards
24 function. We're eager to work with you and look
25 forward to your testimony. As you may be aware, I'm

2 an ex-officio member of Community Boards Six, Eight
3 and 11. I take it quite seriously and have an
4 attendance record at all three that rivals most of
5 the most active members. I actually got my start on
6 Community Board Eight when I was appointed by then
7 Borough President Scott Stringer. I believe in the
8 work that you do on a day in and day out basis. That
9 is the least paying job in government at zero
10 compensation, and you're expected to put in hours and
11 hours of work every single work at meetings that--at
12 least at Community Board Eight often started at six
13 or seven and continued until 11 or 12 or sometimes
14 the next day. So, you are the voice of the public,
15 and as a Council Member I now appreciate the strong
16 role that the Community Board has, and when either
17 tries to act alone, there's limitation to what we can
18 get done, but when we work together, we are able to
19 move mountains and sometimes block mountains from
20 being built in the sky. So, with that, I will ask
21 the District Manager to state your name.

22 JESSE BODINE: Jesse Bodine.

23 CHAIRPERSON KALLOS: Perfect. And if you
24 could affirm to tell the truth before this committee
25 and respond honestly to Council Member questions?

JESSE BODINE: Yes, I will.

CHAIRPERSON KALLOS: And do any of the three of you have prepared testimony.

UNIDENTIFIED: I do.

CHAIRPERSON KALLOS: Okay, so if you--we have that. That is perfect, and if you would please provide your testimony.

JESSE BODINE: Good afternoon Chair Kallos and the fellow members of the Committee on Government--

CHAIRPERSON KALLOS: [interposing] If you could please use the microphone and make sure it's on.

JESSE BODINE: There we go. Good afternoon Chair Kallos and the fellow members of Committee on Governmental Operations. My name is Jesse Bodine, and I have just recently become part of the elite group known as District Managers of a Community Board. Thank you, Mel. I have the privilege to serve as District Manager for Manhattan Community Board Four. First, let me state that the representatives of Manhattan District Managers are very relieved that we are not opposing proposed cuts to our budget as was the case in years in the past.

As you know, Community Board's overall budget for-- will be 229,895 dollars for salaries for FY 2016, and that's up from last year of 216,985. This increase includes obviously DC37 employees and most recently managerial personnel orders. District Managers have not received a raise in pay since 2008, and I want to express our gratitude to the Council for their support and your acknowledgement of our hard work. I don't think I have to go too much into what we do on a daily basis. As you just said, I think you did it, you have a pretty good knowledge of it, so I'll cut most of that out of the testimony. But I think I will just want to focus on that, you know, the Community Boards by law are required to review and make recommendations related to everything from land use, licensing, transportation, planning, and waterfront uses. They also by law must participate in the budget process in the capital program. Community Boards are responsible for maintaining communication with the people of the district and can consistently conducting board business in a transparent process. In addition, Community Boards many times are the city's resident's initial resource to resolve housing problems, mitigate quality of life

1 issues and managing interagency coordination. The
2 Community Board is also the main resource for city
3 agencies and elected officials to obtain a consensus
4 on issues that have serious repercussions to the
5 neighborhood. As you know, this is all done by each
6 of the 59 Community Boards with a staff of two to
7 three people and 50 volunteers, most of which have
8 day jobs. We are extremely utilized agency with the
9 smallest budget and probably the best value for the
10 city. I will highlight to requests that have serious
11 impacts on how Community Boards operate. OTPS
12 increase: Community Boards have not received an
13 inflator to the OTPS budget since I believe 1990.
14 Community Boards continue to become more technical in
15 nature, which result in increased network system
16 maintenance costs, IT consulting services and other
17 needed technological infrastructure updates. In
18 addition, due to software such as GIS and Adobe and
19 Sketch Up [sic], Community Boards have been able to
20 take even more of a lead in planning their own
21 community. The software, its licensing and keeping
22 people trained in it is not inexpensive. These
23 operational funds are fundamental for the Community
24 Boards to actively participate in planning of their
25

2 own neighborhoods and not be beholden to architects,
 3 planners, attorneys hired by private developers, or
 4 other competing sources. The second request is to
 5 secure funding for the Mayor's Office of Management
 6 and Budget Staff. Most recently a number of staff
 7 members whose responsibilities include assisting
 8 Community Boards during the budget process and
 9 throughout the year have left. This law has
 10 significantly impacted the Community Boards ability
 11 to conduct day to day operations, pay bills, budget
 12 for the remainder of the year, and even comment on
 13 something like the Mayor's preliminary budget. I do
 14 want to thank both Lester Segall [sp?] and Elie
 15 Galerno [sp?] who are currently at OMB and for their
 16 continued support and assistance. In closing, I want
 17 to thank you for your attention and look forward to
 18 working with you in the future.

19 CHAIRPERSON KALLOS: Thank you. Mel?

20 MEL WYMORE: Thank you, Chair Kallos. My
 21 name's Mel Wymore. I'm representing Community Board
 22 Seven on the Upper West Side of Manhattan. And I
 23 want to reiterate basically what Jesse said. I come
 24 every couple of years to this committee meeting just
 25 to cheer lead for the Community Boards. In the past,

1 it's always been a big fight just to maintain our
2 budgets, our basic budgets, and finally we got a
3 baseline for the main budget, but I will reiterate
4 that the Community Boards are a huge bang for their
5 buck. The benefits of the Community Board are
6 exponential relative to the amount of money that's
7 invested to have such an effective organization in
8 terms of civic engagement, coordination of city
9 agencies, community responsiveness, and just making
10 the city work. So, I want to thank you first of all
11 for maintaining the budget of the Community Boards,
12 but also reiterate that the OTPS increase is really
13 essential. We are constantly behind the power curve
14 in terms of software, even some of the hardware and
15 the small little things that make a big difference in
16 terms of being able to be productive on the Community
17 Board. Time and time again we'll come up with land
18 use proposals that are so complex and so complicated,
19 and actually out of the blue. We're not able to
20 predict them because we really don't have the kind of
21 software we need and the data management systems that
22 we need in order to do a good job responding to very
23 complex proposals. So the more we can shore up like
24 some OTPS for software in particular, also for added
25

2 staffing to both shore up our expertise in land use
3 as well as budgeting as Jesse said. And finally, I
4 always like to say I think Community Boards are such
5 a high value that--and so important to operation of
6 the city that we should try to define an independent
7 source of funding for Community Boards so that even
8 though this isn't one of those years where we're
9 fighting for our lives, that we have a--what do you
10 call--a secure future for the Community Boards and
11 their effective operations. Thanks again.

12 CHAIRPERSON KALLOS: Thank you.

13 GEORGE FERNANDEZ: Good afternoon,
14 Chairman Kallos. My name is George Fernandez. I'm
15 the Chairman of the--

16 CHAIRPERSON KALLOS: [interposing] Good
17 to see you.

18 GEORGE FERNANDEZ: Nice to see you, sir.
19 I'm the Chairman of Community Board 12, and apologies
20 for not having a written statement for you. I'm
21 rushing over from work just to weigh in on this most
22 important meeting or hearing. As the Chairman of the
23 board it's been my experience that we basically don't
24 have the appropriate staff that we need to man all
25 the issues in the district. And just this morning

1 we're at the Borough Board discussing budget items,
2 and I raised the concern or I put out there to the
3 elected officials that were present and I asked them
4 what would you do if you were, you know, with your
5 office, if your budget was only 100, a little over
6 191,000 dollars, how would you service your district?
7 You know? We have one district manager, a community
8 coordinator and a community associate. We have a
9 district that covers close to 200,000 individuals,
10 and today in time there's more civic engagement, a
11 greater demand on Community Boards to be involved and
12 we can't be involved in full throttle the way we need
13 to be if we're short staffed. As you know, you
14 covered the boards, you know that we're made up of a
15 body of volunteers who have to work, provide for our
16 families and then on the side we're servicing,
17 serving the community. It becomes difficult when we
18 don't have, again, appropriate staff, this software.
19 The means to deal with the quality of life issues
20 within our district. So, that OTPS is important to
21 increase the money there so we can have more staff.
22 I think it's vital for the city of New York to open
23 up lines that are specific to our minimum amount of
24 staff at least, you know, for Community Board
25

offices, that there should be a receptionist to deal with the incoming calls. There should be an assistant district manager aside from the community coordinator associated in the district manager so you can at least have a minimum of five able bodies to run the district office. At times it becomes very difficult. You know, social media and technology, every day advances. Just recently we upgraded our software and a lot of the information we get, which is quite interesting, from our counter parts, that their software is up to date is not compatible with ours. So it makes it difficult to send out that product or that line of communication because the software is not compatible, you know. And I really think we need to look at if we're going to continue to put a greater demand on Community Boards, we need to recognize that Community Boards need appropriate staffing. So, you know, in closing, again, I put on and I thank our Council Member Kallos for this and all Council Members who stand up for Community Boards, but I leave you with reflecting on how would you run your office with 191,000 dollar budget to deal with the quality of life issues in your district. Thank you.

2 CHAIRPERSON KALLOS: Thank you for
3 coming. I am glad to have you. I don't think we had
4 anyone last year just because of the base lining, but
5 I was actually curious, does every board have DC37
6 members, or just?

7 JESSE BODINE: I would--I believe so. I
8 believe everyone, all of the non-managerial staff are
9 DC37.

10 CHAIRPERSON KALLOS: Okay, that is--

11 JESSE BODINE: [interposing] Unless
12 they're part time. They can be part time. I think
13 they can possibly be--

14 CHAIRPERSON KALLOS: Well, I think the
15 goal is to have as many people who are--can be paid a
16 living wage for a full time job as possible. So, if-
17 -and they have not received their raise or arcola
18 [sic] since 2008.

19 JESSE BODINE: No, no, managerial,
20 managerial, district managers I was referring to when
21 I-- sorry. When I was referring to the--I was
22 referring to district managers not receiving a raise
23 since 2008. I can't speak to the DC37.

24 GEORGE FERNANDEZ: Our staff recently
25 received retroactive pay raises.

2 JESSE BODINE: Right. Well, yeah, no,
3 that's what I was speaking of. The rate, the increase
4 in PS budgeting of this year includes the DC37
5 retroactive and the managerial order that the Council
6 approved.

7 CHAIRPERSON KALLOS: What do you think the
8 correct number is? So, a freshman Assembly Member
9 this year is going to have a staff budget to cover
10 something like 80,000 people of around 80,000
11 dollars, and that's not including their office or
12 anything else. It's just to cover staff. And so
13 their benefits are off budget, and what are the--does
14 anyone remember what the current Council Member
15 budgets are? Fair enough. It's in different places.
16 What is the--I think some Council Members are around
17 the 300,000 mark give or take. What is the right
18 number for a Community Board? Currently it's around
19 207. And notice that Community Boards are not
20 related to the population they serve. So certain
21 boards have a larger population. Other boards have
22 very few people because they represent like Community
23 Board five until we had the super scrapers and those
24 people don't even live there anyway. So like, they
25 have places that represent commercial businesses,

2 other places that actually represent people, I guess
3 boards that represent cooperation's.

4 GEORGE FERNANDEZ: Are you--I'm sorry, do
5 you want--

6 CHAIRPERSON KALLOS: [interposing] What is
7 the right number?

8 GEORGE FERNANDEZ: I wouldn't--well, off
9 the top of my head--

10 CHAIRPERSON KALLOS: [interposing] or
11 should we tie it to population represented?

12 GEORGE FERNANDEZ: If we're talking about
13 a living wage, right, if we're talking about that
14 long ago you could live off 40 hours with 35,000 a
15 year, that's not the case no more. I would say that
16 due to the fact that the cost of living is more, I
17 would say there should all be fulltime staff, and
18 right now we're at closing when other managers get
19 their raises. It'd be like 229,000. I really think
20 if you put--it should be at least 350,000 dollars at
21 least. I mean, so you can have fulltime staff there
22 at a living wage, should I say.

23 CHAIRPERSON KALLOS: So you are looking at
24 increasing it from 11 million to about--that's how
25 much they current--so Community Boards currently cost

2 the city about 16 million dollars a year, so you're
3 looking at bringing it to around 25 million dollars.
4 And what about modifiers based on population? Should
5 they--or should every--should there be equality
6 between the 59 boards irrespective of if they
7 represent anybody?

8 MEL WYMORE: [off mic] is that big of a
9 deal, because really it's the constituency, the 50
10 members.

11 JESSE BODINE: Yeah, I think, I mean, I
12 think for staff wise and I'm speaking for myself
13 here, I'm a newbie here. Like I said, I just
14 recently became the District Manager, but I will say
15 this. I mean, the staff is really based on what the
16 work is. You know, the need for staff is based on I
17 think two things. One is just what the work is on an
18 everyday level of managing those committees, making
19 sure that, you know--and I think there's also this
20 assumption that everything happens at the Community
21 Board office, and it doesn't. And so from our
22 example, my Community Board, we don't have the space
23 to hold meetings like committee meetings there all
24 the time, because some of our committees are quite
25 large and have a huge turnout. So we have to

2 constantly find space and work on that. That alone
3 takes, you know, a good amount of time and effort and
4 that's your daily kind of thing if you're trying make
5 sure that works out. But then of course, it's added
6 to how much, you know, whatever the bigger projects
7 that are coming through your office, you know, and so
8 I think those two are the major factors, if that
9 helps.

10 CHAIRPERSON KALLOS: And in terms of for
11 350,000 how many staff lines are you anticipating and
12 what are the job roles and duties?

13 JESSE BODINE: I'm sorry, can you repeat
14 the question?

15 MEL WYMORE: Well, that would only add
16 like one--one to two--one full time person probably
17 plus maybe a half time person, right?

18 CHAIRPERSON KALLOS: One full time person
19 at 100,000 a year?

20 MEL WYMORE: Yeah, it'd be something like
21 that. Well, you'd have to increase. I mean, this
22 is--you have to sit down and think about it, but from
23 my perspective, someone that's very good at land use
24 and on staff would be awesome for especially the
25

boards where there's a lot of development happening and someone that's really good at technology.

CHAIRPERSON KALLOS: Do you think it's important for every board to have urban planners and land use people?

JESSE BODINE: I think--

MEL WYMORE: [interposing] Or budgets to hire people.

JESSE BODINE: Yeah. Yeah, I mean, I think, you know, it's a difficult thing. I think we would--it's something that would, I think, all of us would be interested to talk about, because you know while sometimes--

SERGEANT AT ARMS: Please speak into the mic.

JESSE BODINE: Sorry. Sometimes there are--it's lean with land use and sometimes it's fat with land use in the Community Boards. And so it's difficult to--for example, for my board, we have a huge amount of special districts and contextual zoning that need protection and that need, you know, people need folks to keep an eye on it. And so we look for planners as associates. We look for people right out of planning school as to be hired as

2 Community Board associates, but of course, they--
3 that's--it's not a planning, full planning job, and
4 so it's hard to keep those people in there. So they
5 will obviously move onto full planning jobs in a few
6 years. So, but I can't say that for every board, but
7 I think each board would appreciate it to have access
8 to a plan or when and if they need it, and I think
9 the problem is that, you know, every other agency and
10 every other elected officials office might have some
11 of those resources, but you sort of have to cobble
12 them together whenever that large project comes
13 along.

14 CHAIRPERSON KALLOS: Fair enough. And
15 then--yes.

16 MEL WYMORE: If I could add--

17 CHAIRPERSON KALLOS: Wait [sic].

18 MEL WYMORE: Just to add to that a little
19 bit, another idea might--

20 CHAIRPERSON KALLOS: [interposing] George
21 hasn't had a chance to really--

22 GEORGE FERNANDEZ: Yeah, I just want to
23 add. You're asking positions, and as I mentioned
24 before, I think there should be at least five staff
25 members. You should have your District Manager, your

2 Assistant District Manager, the Community
3 Coordinator, Community Associate, and your front desk
4 personnel that troubleshoots all the incoming calls.
5 Now, we have access to fellows and urban planners
6 through the Borough President's office at our beck
7 and call to assist us with training, the ULURP
8 process, and everything else to do as far as rezoning
9 and contextual designs. Those resources are there.
10 So, in my opinion, I wouldn't want to hire someone to
11 be solely dedicated to that, because the rezoning
12 conversation comes around every so often, and to have
13 someone on payroll consistently for a conversation,
14 that only comes up so often just in my opinion.

15 MEL WYMORE: No, no, that's makes sense.

16 GEORGE FERNANDEZ: Really don't want to
17 put them on payroll, but I would say that at the end
18 of it, we're looking at 229,000 plus, if you add
19 another--what are we looking at, another 270,000.
20 You can get at least two full time people in there
21 and a part time person, depending how you work the
22 numbers, depending what's their entry level, and then
23 the percentages to increase in time because you know
24 they work out those contracts where people get their
25 increases, but in all of it, there should be front

2 line coverage. IT shouldn't be based on population.
3 When you look at the city of New York, the quality of
4 life issues, we were at the Borough Board today and
5 for the first time in my three years as Chairman of
6 the Board, we were all on the same page affordable
7 housing, the zoning. We need this. We need that, but
8 you know what, we can't do the things we need to do
9 if we don't have the staff to assist those that are
10 not there in that office.

11 CHAIRPERSON KALLOS: So the staffing
12 levels you're asking for is actually more than
13 Council Members get. So, I guess--

14 GEORGE FERNANDEZ: [interposing] Is that
15 so?

16 CHAIRPERSON KALLOS: Yes, so I guess the
17 question is do you--would you support Council Members
18 getting a larger staff budget as well so that we can
19 serve the 168,000 people? And will the Manhattan
20 Borough Board be putting out a resolution with regard
21 to your increase in funding?

22 JESSE BODINE: I can start working on
23 that.

24 CHAIRPERSON KALLOS: Okay. I just want to
25 share with regard to the software problem. I will be

2 investing my member item funding in buying free libre
3 [sic] and open source software for ostensibly the
4 planet that will provide a free client relationship
5 management tool for every single board, and it will
6 not only benefit every single legislator, especially
7 the New York State Senate which uses the CVCRM [sic]
8 code base, but I'm committed to working with the
9 Manhattan Borough President who has been focused on
10 this as well as the Mayor's Office and Commissioner
11 Carion [sp?] at the Community Assistance Unit to make
12 sure that we provide free and open source software
13 for every single board. And in this case, believe it
14 or not, software--in this case, because the code is
15 free libre and open source, you can download it, you
16 can modify it, you can change it, it's just you have
17 to pay for that. So, the funding from my office will
18 be going towards making some of the necessary
19 improvements so that it can be enterprise level and
20 ready for the challenges that face Community Boards.
21 So I'm working with the Borough President on that
22 last piece of it. Thank you so very much for your
23 testimony. Yes?

24 GEORGE FERNANDEZ: Can I just add one
25 more?

2 CHAIRPERSON KALLOS: Absolutely.

3 GEORGE FERNANDEZ: Alright. So we
4 recently ran into a situation where DCAS only allows
5 you send out x amount of emails in bulk, according to
6 the software, the way their servers are connected.

7 CHAIRPERSON KALLOS: DCAS or DOIT?

8 GEORGE FERNANDEZ: DOIT, my apologies. I
9 was just listening to their testimony. DOIT.

10 CHAIRPERSON KALLOS: It was alright. If it
11 was DCAS, I would have fixed that immediately.

12 GEORGE FERNANDEZ: So with DOIT we're
13 limited, right, at that time. So we have to outsource
14 email provider, but even with that there's
15 limitations. So--

16 CHAIRPERSON KALLOS: [interposing] I
17 recommend Send Grid [sic]. I built the Community
18 Board Eight website, and it has their own SMTP and
19 email system that at the time that I built it in I
20 think 06 was pretty state of the art. It's called
21 Send Grid. It allows you to send as many. It's a
22 hosted SMTP environment that allows you to send as
23 many emails as you want, and CB8 has it set up. The
24 fund for the city of New York can assist you with it,
25 and Mel, who is another software and computer person

2 can also assist, but we're happy to help work with
3 you, but ultimately you're right, DOIT should not
4 have a limit and we should be able to do what we need
5 to. So, we're happy to work with you with DOIT and
6 I'm happy to make a call there. Thank you.

7 MEL WYMORE: One last question on the
8 staffing thing.

9 CHAIRPERSON KALLOS: Yes.

10 MEL WYMORE: I agree we shouldn't have
11 land use staff, but I think it might be good rather
12 than having it in regular budget to have some kind of
13 a fund available for Community Boards to avail
14 themselves of some kind of land use consulting when
15 it comes around, and technical consulting. I think
16 that'd be helpful.

17 CHAIRPERSON KALLOS: Your elected
18 officials can actually provide funding.

19 MEL WYMORE: Awesome.

20 CHAIRPERSON KALLOS: But let's fight for
21 the budget. Let's make sure we do this, and please
22 reach out to your peers at other--in other boroughs
23 so that we can get some resolutions out of the five
24 borough boards and really get our Borough Presidents
25 activated on this issue. Thank you so very much.

2 MEL WYMORE: What do you want the
3 resolution to say?

4 CHAIRPERSON KALLOS: It's whatever you
5 want. We work for you. So thank you for coming out.

6 MEL WYMORE: Alright, thank you.

7 JESSE BODINE: Thank you, sir.

8 CHAIRPERSON KALLOS: With apologies to
9 the Board of Elections which was slated to go on at
10 three o'clock, I'm not sure how we got to 4:10. If
11 we can take a five minute recess for just one moment,
12 we will conclude with the Board of Elections and
13 testimony from the public. So we will reconvene at
14 4:15.

15 [gavel]

16 [recess]

17 CHAIRPERSON KALLOS: We now have our
18 final hearing before the general public with the
19 Board of Elections. We will now hear from Michael J.
20 Ryan, Executive Director of the Board of Elections
21 and Dawn Sandow, Deputy Executive Director of the
22 Board of Elections. The Board is responsible for
23 conducting all elections in the City of New York.
24 Its Fiscal Year 2015 budget totals 113.9 million
25 including 56 million in personnel services funding to

support 346 full time positions and over 36,000 co-workers. The Board's Fiscal 2016 proposed budget of 84.4 million is likely modified to meet the Board's changing needs. Because of the nature of elections, the BOE's budget varies significantly from year to year based on several variables, including the type of election, local, statewide, congressional, or presidential, implementation of new voter laws, special elections, and other changes in election scheduling, many of which occur mid-year. Today's hearing will examine the Board's budgetary needs for the upcoming Fiscal Year and discuss reforms that could prove the Board's operations and potentially lead us to cost savings. We will find out how the Board is preparing for upcoming elections and what it is doing to improve Election Day operations. We look forward to hearing your testimony. As is the practice if you or--for the Executive Director as well as Deputy Executive Director and anyone else you anticipate will need to assist in answering questions I will ask to please affirm the truth before this--affirm that you will tell the truth before this committee and respond honestly to Council Member questions.

MICHAEL RYAN: I do.

DAWN SANDOW: I do.

CHAIRPERSON KALLOS: Thank you. If you could please begin with your testimony.

MICHAEL RYAN: Chair Kallos and members of the New York City Council on Governmental Operations Committee, thank you for the opportunity to appear before you on behalf of the Board of--[off mic]. I am Michael Ryan, and joining me here at the table is the Board's Deputy Executive Director, Dawn Sandow. There is additional staff present as well, and they are stated in our written testimony. Before we commence discussing the Mayor's Preliminary Budget for Fiscal Year 2016, I would like to again thank the City Council and the Mayor for providing the necessary funding to the Board in Fiscal Year 2015 to meet its constitutional and statutory mandates as well as the needs of the voters in the City of New York. I would like to take a few moments to highlight some of the accomplishments of the board in Fiscal Year 2015 that this funding made possible. The Board has taken positive steps to improve the voter's experience at poll sites. These steps include expediting the processing of voters. One of the ways

that that was accomplished was through the elimination of voter cards. By eliminating the voter cards, we sped up the process by which voters could approach the book and move onto the scanner. In addition, we have improved the pole books themselves by including alpha tabs on the pages. And one item that I know is near and dear to the Chair's heart of this committee is the including of the voter's age in addition to the date of birth in the poll book.

CHAIRPERSON KALLOS: Getting to know each other too well.

MICHAEL RYAN: Another major accomplishment from the Board this year was a close attention to the improvement of the ballot design. Now there are still other things that we'd like to do moving forward as well as working with the state legislature, but within the current framework, we are limiting the ballots to a maximum of three languages, and that allows us to have more real estate available by not having a five language ballot in the 79 election districts in Queens, we can have a uniform font size throughout the city. We cannot guarantee a particular font size for every election because the complexity of the ballot controls that, but in any

event, this was a significant step forward to allow a more readable ballot. In addition, we have responded to requests not only from this body but other governmental bodies as well with respect to enhancing voter privacy. One of the things that we did to improve that is we purchased larger privacy screens that are placed on either side of the scanner machines, and that--they are three inches wider and--three inches higher and five inches wider, so that gives the voter a more private experience when they're approaching the scanner machines. We've also improved the privacy sleeves for the ballots. Before, we essentially had an off the shelf staples folder that often the ballot was extending beyond that and was--could be readable by somebody waiting in line. We now have a privacy sleeve that is long enough to encompass any length of ballot that we would typically use, and also has the voter instructions on it which will speed the process because folks can read the instructions while they're online waiting to approach the scanner. We also have allocated additional training time for poll workers to emphasize the importance of maintaining voter privacy. An added effect that we've determined

1 through the elimination of voter cards is that by
2 eliminating the voter cards, the poll workers don't
3 have a need to be as close to the voter. So, that
4 has had an added benefit of making the process more
5 private for the voters. Some additional highlights
6 are the board has reviewed our document retention
7 standards for all categories of documents that are
8 required to be kept and maintained. This
9 comprehensive review has resulted in the Board's
10 ability to dispose of documents that were previously
11 kept beyond the statutory retention requirement time
12 frames. And I might add that the voter documents are
13 required to be maintained electronically. So we have
14 to keep the originally signed documents for a period
15 of two years, and then after that we only have to
16 maintain the electronic version. To date, the board
17 has recycled 136 tons of paper by eliminating the
18 voter registration documents in accordance with the
19 New York State document retention schedule. This
20 disposition of documents has allowed the Board to
21 recapture over 10,000 square feet of usable space in
22 our facilities throughout the five boroughs, and
23 we've been able to repurpose that space for other
24 vital functions. In November 2014 general election,

the Board successfully conducted a pilot to transmit unofficial election night results directly from over 200 poll sites using hand held electronic tablets. This effort represents a significant first step in speeding the process for the posting of the unofficial election results to the Board's website for public viewing and providing results to the New York State Board of Elections and the media. And the graph that you're seeing up there, the black line on that graph, which will show you commencing at 9:00 p.m., and then you see 9:30, 9:20, 9:30, that black line is the pilot program. So that is a graphic representation of how much we were able to speed the posting of the results in the 216 poll sites that we utilized the tablets. That is a harbinger in a positive way of things to come. When we're able to do this throughout the five boroughs of the city of New York, we can expect similar results. The reason that we can say that with confidence is due to the ingenious design of the software that was developed in house, the software doesn't have to wait. So, if you happen to lose connectivity on a particular device, you can still upload the results, and then once the connectivity is re-established, then the

1 results will upload sequentially based on the order
2 in which they were entered into the system. We're
3 excited about this, and we're working very, very
4 closely with the Administration to secure all of the
5 funding necessary to be able to expand this to a
6 citywide endeavor. So that's something that we're
7 very happy about, and I think the public will be too.
8 To me, the poll worker staffing needs [sic] the Board
9 proactively utilize an automated calling service to
10 recruit potential poll workers by contacting
11 registered voters in areas where we anticipated
12 vacancies. The Board successfully recruited over
13 1,500 poll workers utilizing this process in a
14 limited way, and we're looking to expand that moving
15 forward. And it's also a relatively low cost way to
16 reach out to people who were previously untapped
17 resources. In May 2014, the Commissioners voted to
18 modernize the timekeeping system by ordering the
19 implementation of CityTime agency wide. The Board
20 worked closely with the Office of Payroll
21 Administration, the Financial Information Services
22 Agency and DOIT to establish an implementation
23 schedule and develop training. The first offices
24 went live in August of 2014 and successfully the
25

location were added pursuant to the previously agreed upon schedule ultimately by the first week of February 2015. All agency offices were online and utilizing CityTime. To improve leadership and efficiency all Board managerial and supervisory staff attended and intensive three day program given by the Department of Citywide Administrative Services. This training was tailored for the specific needs of the agency to improve employee evaluations, productivity, promote effective communication and the delegation of responsibilities. The Board plans to continue working closely with DCAS to develop an ongoing process and curriculum to further our goal of ever improving managerial ability. To assist the board in maintaining the accuracy of the voter registration list, the Board subscribed to the Social Security Death Mather File Index in 2014. The Board worked closely with the New York State Board of Elections and the New York City Department of Health and Mental Hygiene to ensure timely transmission of city death records directly to the statewide voter registration list. For the 2014 general election the Board utilized a feature of its electronic voting system, which identifies those ballot images that contain

potential write-in votes. This reduced the number of ballots required to be manually reviewed by staff by 98 percent. The Board initiated a sealed competitive bid process for the procurement of ballots used on Election Day. As a result of this process, the Board anticipates realizing a substantial reduction in ballot printing costs as well as providing built-in vendor emergency backup. So we'll have some redundancy in the system so that if in the event that an individual vendor has a point of failure, there'll be a built-in back up to that system, and we're excited about that as well. In our continued efforts to utilize the latest technological developments in the election industry, the Board has purchased high speed printers to enable the printing of absentee, special, military, presidential, and federal ballots in each borough as they are needed. These ballot on demand printers will increase the ballot management efficiency and result in further ballot savings. And in addition to that, we also have high speed scanners that are compatible with these ballots that we can use for other purposes that aid in the overall processing of paper ballots, which would include emergencies and affidavit ballots in the post-

election counting process. So that is a significant improvement moving forward, and it's the first time that the city will have a unified voting process for both absentee ballots and Election Day ballots.

Prior to that we had machines from two different vendors. In FY 2016, the Board foresees conducting as many as four citywide election events including a state and local primary in 2015, a general election in 2015, presidential primary and/or primaries in 2016, and the federal offices primary in 2016.

Offices included in these election events are district attorney, civil and Supreme Court justices, presidential candidates, delegates to the national conventions as well as members of congress, and numerous party positions. As always, as we are about to experience in the next six weeks, the potential for special elections always remain a possibility.

The Board contracted with the nationally recognized election center to analyze the current poll worker training system and recommend improvements based on the best practices and successful techniques from across the country. The Board intends to implement recommendations made prior to the 2016 presidential election. The Board has worked closely with Election

Center to compress the original contract timeframe from three years to two years in order to accomplish these goals and meet the deadline, the self-imposed deadline that we have to be ready for the presidential elections in 2016. In accordance with orders entered in the US District Court for the Southern District of New York, the Board anticipates significant additional expenditures in Fiscal Year 2016 related to improving poll site accessibility. This includes contracting with the court appointed third party surveyor to conduct surveys for all, which encompass over 1,200 poll sites citywide. These surveys conducted in accordance with the Americans with Disabilities Act will identify barriers to the free and independent exercise of the franchise, both inside the poll sites and on the exterior approaching the poll sites. And basically, our mandate is to assess these sites from a curb cut access point all the way up to the front door of the poll sites and as well as on the interior up until the point where the polling room exists. And we will also then have to go along with the recommended remediation for any of these barriers to the independent franchise. For our Fiscal Year 2016

1 budget projections, the Board has analyzed recent
2 budgets and identified two Fiscal Year budgets with
3 similar challenges facing the Board in FY 16. And
4 what you see here is our effort to present a fair and
5 accurate statement of needs. Since every one of our
6 years, unlike some other agencies that have
7 repetitive budgets throughout the--that are
8 consistent from year to year, the Board of Elections
9 ebbs and flows, depending on the number of events we
10 have. So what we did here was we took Fiscal Year
11 2012, which we thought was similar, and Fiscal Year
12 2014 and created a modified average of the two, and
13 that's how we're trying to make our projections for
14 2016. In addition, our projections are predicated
15 on the restoration process in the executive budget
16 consistent with the average of those two Fiscal Year
17 budgets. Therefore, the Board has limited its
18 request to those new needs which will be required to
19 conduct elections throughout Fiscal Year 2016. The
20 Board projects a budget of 144.8 million dollars,
21 which represents a 12.3 million dollar increase over
22 the current modified average of Fiscal Year 2012 and
23 Fiscal Year 2014 which amounted to 132.5 million.
24 The breakdown of that is as follows, for personal
25

services in the form of poll workers. As the court mandated site survey process moves forward, the Board anticipates that additional poll workers will be required to ensure all poll sites are barrier free on Election Day. One of the ways that that's--one of the requirements that we have is that we will need accessibility clerks in certain locations if the effort required to open a door exceeds a certain amount and somebody that was utilizing a wheelchair, say for instance, was unable to use the door by themselves, we would need to post somebody at the door in order to have them access the poll site. The Board anticipates providing additional specific accessibility poll training to all poll workers as well. Based on the anticipated four citywide election events, the Board requires an additional 4.8 million over the 31.8 million currently--of the current modified average for additional poll worker's cost to meet these federal court mandates. In addition, we have our other than personal services, OTPS requirements. The Board's analysis shows that an additional 7.5 million dollars is required to supplement the OTPS allocation over the 66.8 million dollar current modified average. With this

1 additional funding, the Board's OTPS budget will
2 provide for extended warranties on the electronic
3 voting systems. As the initial statutory warranties
4 that were in place since 2010 have expired or are
5 about to expire. Costs associated with the contracts
6 for the court mandated third party surveyor and the
7 professional installation of any accessibility
8 equipment for the election events. Now, I would like
9 to clarify that to some extent if I can. We might
10 need less poll workers if some of these physical
11 remediations to the sites are made. So, some of this
12 is fluid. What we are intending to do here is to
13 create--to provide the council with a worst case
14 scenario so that we don't get caught in a
15 circumstance where we don't have the funds available
16 if they're necessary. The other thing that I must
17 tell this body is that we are working closely with
18 the Administration, most notably the Mayor's Office
19 of Operations. We've had some preliminary
20 conversations and we're going to put together a
21 working group that will consist of at a minimum the
22 Department of Education, NYCHA, the Parks Department,
23 and other stakeholders so that we will all be on the
24 same page and share information with respect ADA
25

1 compliance remediation that may be happening at the
2 various facilities, which may also then negate the
3 necessity of the Board of Elections having to do
4 those remediations. In order to enhance the Board's
5 ability to recruit, and in conclusion, in order the
6 enhance the Board's ability to recruit and retain
7 qualified poll workers, the Board is renewing its
8 request for the Council and the Mayor's Office to
9 consider raising the poll worker's compensation by
10 100 dollars per election event. That would result in
11 an overall increase of three million dollars
12 approximately for every citywide election event. We
13 did not include that in our projections because we
14 recognize the financial circumstances, and we also
15 know that that's something that has been considered
16 in the past, but certainly if that could happen, it
17 would represent a good thing and a positive step
18 forward in terms of our ability to recruit poll
19 workers. The Board remains sensitive to the fiscal
20 challenges faced by the city and is mindful of its
21 obligations to serve the voters of the city of New
22 York. The Board remains considered--remains
23 committed to the partnership that has been forged
24 with this Administration and this Council. And I
25

2 would like to personally thank Chair Kallos as well
3 as the Administration for what I believe has been
4 consistently fair dealing with respects to the
5 financial needs of the Board of Elections, and I know
6 that you all have a Herculean task to try to balance
7 the needs of everybody, and so I'm mindful of that
8 when we sit across from you asking for money. The
9 Board is confident that the additional funding
10 request will enhance its ability to serve the voters
11 of the city of New York. The Board reaffirms its
12 commitment to this Council that any allocated
13 resources will be wisely utilized and the public
14 trust will continue to be the guidepost. As always,
15 myself and Ms. Sandow are available for any questions
16 should the Council have any.

17 CHAIRPERSON KALLOS: Thank you for your
18 testimony and for your Power Point. I want to just
19 start off with a thank you. What a difference a year
20 makes. Just going through our old punch list.
21 You've ended the use of--we asked, and you ended the
22 use of voter cards. The DOI made hay over people who
23 are voting with the wrong ages, and we now have the
24 voter ages in the poll book instead of requiring
25 people to try to do math on the spot. The font size

1 is being changed for readability. You're actually
2 focusing on voter privacy, which has been something
3 that we've focused on for quite a while. You recycled
4 136 tons of paper, and cleared out 10,000 square feet
5 which is incredible, and we'll be able to have cost
6 savings as a result. We asked you to implement
7 CityTime and you've done it. You are also going
8 above and beyond by having training and taking
9 advantage of DCAS training services. We ask you to
10 use the social security death master file index;
11 doing that. We asked you to use the write-in system,
12 the write-in detection system to save on counts.
13 You've done it. I think one of the personal
14 favorites here has been about trying to reduce cost
15 for ballot printing and you brought it in house and
16 you're printing it on high speed printers, and you've
17 done it. So, I think people--I think a lot of people
18 prefer to see the--it's more fun to beat up on the
19 more dysfunctional Board of Elections, but under your
20 leadership and through this Administration we've been
21 able to really get more done than I think your agency
22 gets credit for and that you get credit for and that
23 you and your team get credit for. So, I just want to
24 start off with just a hearty thank you, because I
25

1 don't think anyone us expected us to start with that
2 punch list last year and see any change. I think many
3 people expected us to just go through that punch list
4 for the next four years and sadly, there's no more
5 punch list because so much of it has gotten done.
6 With regard to the PMMR, for those who have been
7 watching all day I've been pretty focused on it. As
8 a manager and somebody whose run companies, I find
9 that you get what you measure and you set goals so
10 that you can attain them or not, but that's how you
11 measure success and failure. To that end, it seems
12 that there are very limit--which you have two items
13 that you measure. You have the voter registrations,
14 voter complaints, interpreters, and then you also
15 have the agency resources, but you don't really have
16 indicators. Would you be friendly to adding to the
17 Mayor's Management Report key indicators that you
18 might select on your own to evaluate your own
19 performance the performance of your staff,
20 particularly things like wait times and where that
21 wait time is? Is it the wait time at the initial
22 check-in to be sent to your poll site, or at--sorry,
23 to your ED, or is it at the ED table, or is it at the
24 ballot casting, and just wait times at various

2 locations? Another piece would probably be something
3 like ballots printed, ballots cast and ballots
4 recycled because they weren't used, and other key
5 items. I would love to see a proposal from you of
6 the types of pieces you're using internally to manage
7 your own staff and manage productivity. Similarly as
8 we focus over and over again on voter registration,
9 how many voter registration cards are we getting, how
10 many are we processing, and how many are being
11 rejected and why? Items like that, just getting down
12 to the nuts and bolts of the work that you do and how
13 best ways to manage it. So, can we count on your
14 agency to come up with better performance metrics and
15 set tough goals and achieve them?

16 MICHAEL RYAN: Certainly, those are good
17 suggestions. We do have our annual report that comes
18 out. We--it's chocked full of information, but
19 certainly we're--I think the point that I was trying
20 to drive home with respect to the staff evaluations
21 and working with DCAS is to let this committee know
22 that we are looking at all of those things and every
23 critical process. And so we took some of the bigger
24 picture items and now, I think as we drill down,
25 these are some good suggestions that we can work

2 towards. And perhaps we're developing a new punch
3 list.

4 CHAIRPERSON KALLOS: No, not really. With
5 re--this is the same question I've asked seven other
6 agencies, six other agencies today. Similarly, in
7 terms of targets, I think goals are important. So,
8 for instance you don't actually have any goals for
9 Fiscal Year 15 or 16, you just have asterisks. And
10 so, voter registration forms processed according to
11 the PMMR are 642,460 in Fiscal Year 13 and then
12 miraculously 642,460 in Fiscal Year 14 with no
13 targets for Fiscal Year 15 or 16, and you have not
14 reported the actuals for Fiscal Year 14 or 15. So
15 I'm just curious about providing measures there.

16 MICHAEL RYAN: With respect to voter
17 registration forms, I can tell you that the way we
18 deal with them is we process what comes in. So, we
19 could come up with an annual average if we look back
20 over, you know, four year election cycles. Again,
21 they do have a tendency to ebb and flow. We find
22 that voter registrations typically increase during
23 presidential election years and they drop off in
24 other years. That is certainly something that we can
25 look at, but the bottom line is we are required to

process what comes in, and we do that, and there are times, for example, it was before I was here in 2012, but there was some issues associated with getting the crush of forms that came in processed, and an outside vendor had to be brought in in order to make sure that we met the deadline to get people registered on the voter rolls and in the book for election day.

CHAIRPERSON KALLOS: Another key piece while we have the budget up, we have a capital budget and expense budget. With regard to the capital budget, when we say we're going to approve 10 billion dollars in bonding, we don't actually afloat the bond until we're actually ready to spend that 10 billion. So to the extent that we may over budget there, there are less consequences, because we don't end up spending the 10 billion dollars, it didn't come from anywhere other than a bond that didn't get floated. With regard to the expense budget, that is more finite. We have 7.7 billion. Last year we had 73 billion when I got elected, but when we over budget as an agency, when you over budget as an agency, that means money that another agency doesn't have for things like education or social services. What you have there are what was--you've been budgeted for,

2 but according to our numbers in Fiscal Years 10, 11,
3 12, 13, 14 you've been consistently under budget. In
4 10 it was 95 million. In 2011 it was 102 million,
5 2012, 109 million, 2013, 107 million, and in 2014,
6 116 million. So, if you can share why you're
7 consistently so under budget and why you're always
8 putting in a request for so much more, and what you
9 expect your budget surplus to be in 2015.

10 MICHAEL RYAN: It depends on where we end
11 up at the end of the year, but one of the big
12 problems that we have in terms of making projections,
13 we know how many poll workers we need to run poll
14 sites, and a big chunk of our expense budget where we
15 end up not spending is because we train poll workers
16 and then they don't show up. So, we have vacancies
17 in our poll workers, and that ends up showing up as
18 payroll. Now, in years past, the poll workers used
19 to get processed more or less as independent
20 contractors and they got a 1099, and then there was
21 an IRS regulation that said, no, we have to process
22 them as employees and do withholding. So now that's
23 all showing up in our PS budget, and that's where
24 our--its soft and it's difficult to make a hard
25 representation as to what the actual number's going

2 to be. When it comes to the things that we can
3 control, and if you guys take a look at what we're
4 talking about here, we're not asking for any new
5 money this year. We're not. The monies that we're
6 asking for as new needs, I would rather say is new
7 requirements, because new needs kind of presupposes
8 that you're asking for something. What we're asking
9 for here are things related to the federal court
10 case, which both is poll worker cost. We're not
11 asking for one head in new staff, full time staff
12 that's working. This is poll worker cost. And also
13 potential capital remediations or maybe not capital
14 remediations, temporary ramps and such, expense
15 remediations that have to be done at poll sites as
16 well as approximately 2.2 million of OTPS money to
17 accommodate upgrading or having a new warranty for
18 the electronic voting system. So, every bit of money
19 that we're asking for here right now is items that
20 are beyond the control of the Board of Elections.

21 CHAIRPERSON KALLOS: So do you anticipate
22 a budget surplus for Fiscal Year 2015?

23 MICHAEL RYAN: I anticipate that there
24 will be a budget surplus for 2015 to some extent. I
25 also anticipate that we will ferrite [sic] that

2 surplus out in the intervening weeks when we sit down
3 and have further discussions with the Office of
4 Management and Budget and we compare notes, and
5 they'll tell us what their thoughts are on those
6 subjects as well, and we will act in a fiscally
7 responsible manner, and I think the fact that we have
8 returned money to the aquafers [sic] of the City of
9 New York is not demonstration of a failure to plan,
10 but it's demonstration of fiscal responsibility and
11 that we weren't spending to the budget just for the
12 sake of spending to the budget, that we give money
13 back when we think we can.

14 CHAIRPERSON KALLOS: Thank you for not
15 spending your full allotment and I do appreciate
16 that. I would just prefer to make sure we do--I
17 think it's a balance of fiscal prudence and fiscally
18 responsible planning. You touched on poll workers,
19 and if you could just go over, the poll worker
20 salaries have been going up over the years, and if
21 you can share that schedule of what they were however
22 many years ago. I know we've been doing incentives
23 for completing training and different items, and then
24 we also noticed that in 2013 you had 96 percent of
25 the folks show up and 2014 we had 88 percent. So if

2 you can share what you believe accounted for that and
3 other than raising the salaries, what you think you
4 can do to improve the people actually showing up for
5 the job?

6 MICHAEL RYAN: What I would say is the
7 City of New York is already ahead of the state law.
8 State law mandates that poll workers get paid.
9 Regular poll workers get paid 130 dollars. New York
10 City pays poll workers 200 dollars for the shift.
11 And the poll site coordinators get paid by state law
12 200 dollars, and New York City pays 300. So we're
13 already ahead of what the state law requires, and
14 we're not you know, belittling that in any way shape
15 or form. However, the raise--

16 CHAIRPERSON KALLOS: [interposing] And you
17 give a bonus if they do the trainings and complete--

18 MICHAEL RYAN: [interposing] And there's
19 bonus, you know, if they do the training as well.
20 We're talking about the actual pay that they get on
21 Election Day that's set by statute.

22 CHAIRPERSON KALLOS: But it comes out to
23 about 800 dollars for the general election.

24 MICHAEL RYAN: But they have to work all
25 three elections, because if they work two, they don't

2 get the bonus. So, you know, it's a little bit of a
3 math issue that we do, but we're trying to encourage
4 folks to stay with us. Once they come and work and
5 they get some experience, we want them back. So we
6 are ahead in New York City of where the state statute
7 says we have to be, but there hasn't been a raise in
8 the City of New York since 2001. So, it stands to
9 reason that if something was deemed sufficient
10 compensation in 2001, if that compensation remains
11 the same in 2015, that it may no longer be deemed to
12 be sufficient compensation. It's difficult to tell
13 what the raise would be.

14 CHAIRPERSON KALLOS: DO you remember what
15 year the bonus was added, or is that since 2001?

16 MICHAEL RYAN: So, it went up. It was a
17 100 dollar bonus, and that was in 2000--between 2001
18 and 2010, but we've reduced it to 75 dollars because
19 we don't have the funds to pay the 100 dollar bonus
20 anymore.

21 CHAIRPERSON KALLOS: Do you happen to
22 remember when the bonus started? I seem to also
23 recall that the per shift used to be 150, or it was
24 closer to the statement before. I know that since
25 I've been doing this stuff it's changed.

MICHAEL RYAN: Well, hold on. [off mic]

So, this has been a fluid and ongoing process from 2001 to 2010. Ms. Sandow, I'm going to take it as a reminder, because it happened when I was a Commissioner in 2010 when we rolled out the new machines. I can tell you I don't independently recall that, but I'll take her at her word. She hasn't steered me wrong yet, but suffice to say, the Board of Commissioners in whatever composition is over the course of years does what it can within the allocation that we have to keep as many previously utilized poll workers as we can. So it's a bit of a challenge, and we are seeing a drop off. And as a matter of fact, there's some information that we've included in the materials that we submitted to you that we didn't put up on the screen but we could to show you--there it is. 2013 comparison of county and non-county poll works. So, if you see the darker shade, those graphs represent how many of our poll workers come from a county party source versus another source. So, you're seeing those numbers, you know. We got the federal primary in 2014 being an aberration, but we're seeing it drop down to like a one-third, two-third split in that range, which means

2 that we then have to be more creative about where we
3 go find our poll workers, because they're not coming
4 from the traditional sources, and that's one of the
5 reasons why you saw we went ahead and did the robo
6 call to try to, you know, invite some more people
7 into the process. But you can see. It's a changing
8 dynamic.

9 CHAIRPERSON KALLOS: And were the poll
10 worker positions publicly posted?

11 MICHAEL RYAN: Pardon?

12 CHAIRPERSON KALLOS: Were the pub--as has
13 been requested multiple times, were the poll worker
14 positions publicly posted?

15 MICHAEL RYAN: Yes, matter of fact we
16 have a website, electiondayworker.com, and anybody
17 can go onto electiondayworker.com and apply to be a
18 poll worker. As a matter of fact, when we did the
19 robo calls we gave folks the option of, you know, if
20 they wanted to hear about registering online or if
21 they wanted to call or receive a call from us, and we
22 had some folks that went right to
23 electiondayworker.com, which is why the 1,500 number
24 of additional poll workers is not a hard number,
25 because we are not able to factor in those folks that

2 went into electiondayworker.com. There wasn't a
3 special cue from them to apply through. So we're
4 presuming that that 1,500 number is actually higher,
5 but there's no way for us to estimate it.

6 CHAIRPERSON KALLOS: We suggest asking on
7 your application a where did you hear about us.

8 MICHAEL RYAN: Yes, we could do that, but
9 Councilman, you have to appreciate how quickly we did
10 it. I mean, it was a Commissioner, I'll give him
11 credit, Commissioner Shamone [sp?] suggested that we
12 do the robo calls, and in the span of less than a
13 week we were up and doing the robo calls. So
14 certainly that's a worthy suggestion to try to
15 include in our next go around, but we kind of had our
16 backs up against the wall a little bit, and we tried
17 to do something outside the box.

18 CHAIRPERSON KALLOS: With regard to an
19 increase in poll worker salary, I think it is
20 pertinent if you can please provide us with a
21 complete history of the different changes in
22 incentives that have happened between 2001 and 2015
23 including training, bonuses for multiple elections.
24 The average amount actually paid out two people and
25 compared to others. I think the last time you came

2 here it was indicated that the poll workers here
3 actually made more than in other places. So, if you
4 can please provide that. And what other ways are you
5 looking to bring in additional poll workers?

6 MICHAEL RYAN: We have partnered both with
7 the previous Administration and the current
8 Administration as well, and both Administrations have
9 been very gracious in allowing us to put our
10 information out on NYC.gov. So, we're getting those
11 banners in and around, typically in and around
12 election time. I don't know if they're up all year,
13 but certainly in and around election time when we
14 need Election Day workers. They do that. And that's
15 another avenue. Now, I will say this that we had a
16 big push when there was Help America Vote Act funds
17 available when we implemented the machines in 2010
18 for outreach, and that included all forms of
19 outreach, and under the current circumstances it
20 seems like outreach is the first to go, an aspect of
21 the process that seems be deemed less core services
22 than some other things that we have to do, but
23 certainly we're looking for as many outlets and
24 venues that we can, including online opportunities
25 and anyone that has a suggestion about how we can

2 reach more folks. The information is there anyway.
3 The question is how do we drive people to our website
4 to get them to avail themselves of the information
5 that's there, including the electiondayworker.com
6 opportunities.

7 CHAIRPERSON KALLOS: I will share that. I
8 had an opening in my office. We don't do patient
9 [sic] attires [sic] in my office, so we advertise on
10 Craigslist, Idealist [sic], City Limits, and also on
11 City and State, and got over 300 applications for one
12 position, and do we actually spent five hours doing
13 interviews yesterday. It was great. So, along those
14 lines are you posting all jobs at the Board of
15 Elections currently online?

16 MICHAEL RYAN: All of our vacancies are
17 posted online with respect to the actual job
18 postings. Presently the job postings, the specific
19 job postings are limited to technical positions. We
20 did advertise recently. We hired someone and
21 postings were done in the New York Times as well as
22 on Monster.com, and we have--I have copies of that
23 posting if the committee's interested.

24 CHAIRPERSON KALLOS: I would love it for
25 the record so that anyone can see it as part of this

2 hearing's record. Thank you for that. So, what
3 positions aren't? I understand you recently made a
4 new hire on the executive side. Was that position
5 posted?

6 MICHAEL RYAN: No, that position was not,
7 however, the individual is here with us today, Ms.
8 Consamatus [sp?] is here, and she's been a valuable
9 addition to the team. I can tell you that she was, I
10 think, she was just about unanimously chosen by the
11 Commission. I think there might have been an
12 abstention. I don't remember, but certainly Ms.
13 Consamatus came to us from New York State Senate
14 Operations, and she's been a valuable member of the
15 team since her addition.

16 CHAIRPERSON KALLOS: And was she a
17 patronage hire, or how was she selected?

18 MICHAEL RYAN: I don't know, since I
19 don't do the hiring, but certainly I can tell you
20 that she was the choice of the collective body of the
21 Commissioners by a vote of six or more.

22 DAWN SANDOW: This was a position that
23 we've been requesting since 2011. It's been our past
24 testimony that we needed a manager of operations.

2 CHAIRPERSON KALLOS: And is there a
3 reason why that was not publicly posted?

4 MICHAEL RYAN: Again, those deci--

5 CHAIRPERSON KALLOS: [interposing] Or not
6 advertised or why that wasn't a "vacancy"?

7 MICHAEL RYAN: Well, I can tell you from
8 the minute that I walked in the door and when I was a
9 Commissioner I felt that the balance of the
10 managerial structure at the Board of Elections was
11 imbalanced and that there was need. In order to meet
12 the constitutional and statutory mandates of
13 bipartisanship that that leadership structure was out
14 of balance, and so it was necessary under those
15 circumstances to add a Republican because there were
16 two democratic managers, myself being one of them.
17 And the Commissioners ultimately have reserved unto
18 themselves, and I believe within the legal and
19 statutory framework, the right to hire within their
20 discretion. And so beyond the fact that it is
21 Commissioner discretion, there really is not much
22 more that I can say with respect to that. The
23 technical positions, however, are such that you must
24 have people with that level of expertise. So the
25 Commissioners have carved those positions out of this

2 bipartisan requirement, because you either have the
3 technical expertise or you don't under those
4 circumstances. So those folks are posted
5 Monster.com, New York Times, and we hire accordingly.

6 CHAIRPERSON KALLOS: And the technical
7 positions, are those civil servants or are those
8 also--

9 MICHAEL RYAN: [interposing] We do not
10 have civil servants in the sense of, you know, a city
11 agency civil service process, but we do have union
12 members, and our--the vast majority of our staff are
13 members of CWA Local 1183. So when they come in they
14 do have union protection, but not civil service
15 protection. It's similar but not the same.

16 CHAIRPERSON KALLOS: And are these full
17 time employees? If you were here all day, and a
18 couple people have been here all day, I sound like a
19 broken record. We pay our people a living wage. We
20 offer them full time positions. We do not people in a
21 position where they work for us as a city and then
22 they still get social services from us.

23 MICHAEL RYAN: The technical--

24 CHAIRPERSON KALLOS: [interposing] We
25 should not. The city does that but we shouldn't.

2 MICHAEL RYAN: Right. The technical
3 positions that we have in our agency, and I don't
4 have them all committed to memory, but they are among
5 the highest paid members of our staff, and the
6 gentleman that was recently hired was hired, I
7 believe, at an annual salary of 84,000 dollars, which
8 I think is well above anybody's definition of a
9 poverty standard.

10 CHAIRPERSON KALLOS: So how many full time
11 employees do we have and how many part time employees
12 do we have not counting poll workers?

13 MICHAEL RYAN: Despite what designations
14 may be in the payroll system, we have I believe one,
15 if my memory serves me correctly, one truly part time
16 employee. Everyone else in the Board is a full time
17 employee, including those folks that we bring in
18 seasonally. So we have extra workers that we bring in
19 typically from July through the end of December to
20 help us through the election events. We usually bring
21 them in, and then let them go at the end of the year,
22 but even when they're working for us, they're full
23 time employees. So, everybody is a full time
24 employee. Some get paid better than others, but
25 they're all full time.

2 CHAIRPERSON KALLOS: And so at this time
3 you're not looking to make more people full time year
4 around versus just some where you have two classes
5 of--

6 MICHAEL RYAN: Well, what we are looking
7 to do, and we explored this during the collective
8 bargaining process, and there was a particular
9 formula that was suggested by OMB, and because of the
10 formula it didn't happen during the collective
11 bargaining process, but what we are looking to do is
12 take our employees that we call temps, those temps
13 really function more like provisional employees in a
14 traditional city agency. We would like to avail some
15 of those temporary workers and perhaps over the
16 course of time that would be a Commissioner level
17 decision perhaps, all of those temporary workers and
18 give them a permanent classification, but that we
19 thought that was going to perhaps be addressed during
20 the collective bargaining process, and ultimately it
21 was not.

22 CHAIRPERSON KALLOS: I have lost counts
23 of the number of hearings we have had about
24 eliminating provisionals in favor of people who are
25 full-fledged employees. What do we need to do in

2 order to bring in these temps so that they can have
3 the same rights as every other employee?

4 MICHAEL RYAN: If I could give, put a
5 little context around it. During the collective
6 bargaining process, that discussion came up and the
7 formula that I think it was OLR. I don't want to say
8 for certain, but I believe it was OLR, said, "Okay,
9 if we're going to take some of your temporary
10 employees and we're going to make them permanent
11 employees, there's going to be some cost associated
12 with that." One of the significant costs associated
13 with that is the reimbursement for a full pinalopy
14 [sic] of medical benefits. So for example, if you
15 are a temporary worker at the Board of Elections
16 presently, the Board of Elections reimburses the
17 union 77 dollars and 94 cents for every 28 day
18 qualifying cycle per employee. That roughly
19 constitutes 26,000 dollars a month. If you are a
20 permanent employee, that now--temporary employees,
21 excuse me, get from the union vision and dental, but
22 not full medical in the sense of they don't get the
23 prescription benefits. So, they pay a reduced dues
24 out of their check based on a pro-rated [sic] share
25 of their salary, but if somebody's a permanent

worker, that jumps to, I believe, since we don't--
since the city of New York does that reimbursement
and we don't, I don't have the number at the tip of
my tongue, but it's about 136, 137 dollars for every
28 day cycle per employee. So, what the city--I
believe it was OLR was suggesting is we say, "Okay,
how many people do you want to make permanent out of
the temp pool?" and calculate A, the increase in the
hourly wage, plus the increase in the reimbursement
to the union for the full panalogy [sic] of medical,
dental and vision, and then come up with a number,
and then do a multiplier. And I believe it was 0.13
was the multiplier that they suggested, and then
agree to extend the contract into the out years to
offset the additional cost, and the union viewed that
as a nonstarter, and signed the memorandum of
agreement without further conversation. That wasn't
something that the executive management wanted to
walk away from, and we were prepared to go back to
the Commissioners and make certain recommendations
based on those conversations, however, the union at
that moment was not necessarily interested in that.
Now, I'm not saying that that can't be revived and
that we can't have those conversations again, and a

2 matter of fact, OLR has indicated that they will
3 entertain one or more or as many side letter
4 agreements as we want to engage in over the course of
5 time provided that we have management and union
6 agreement on those issues and they will not be an
7 impediment if we do have agreement.

8 CHAIRPERSON KALLOS: That would be great.
9 Just as we start to clean up on that punch list where
10 there's just a couple of items that do remain, I
11 would just love to have a list of the items that are
12 being posted such as the technical, the poll workers,
13 and the ones that aren't quite being posted in terms
14 for vacancies. And then the other two items would be
15 the Department of Investigations has suggested that
16 the Board of Elections adopt a DCAS conflicts of
17 interest policy. The Board of Elections did respond,
18 the Commissioners reaffirmed their existing conflicts
19 of interest policy, and I was just curious why the
20 Commissioners did so versus adopting the one from
21 Department of Citywide Administrative Services.

22 MICHAEL RYAN: Again, that was a
23 Commissioner level decision. The DCAS close relative
24 policy was circulated, and my understanding is that
25 there was a full discussion amongst the Commissioners

and since there were several new members of the Board, the outcome of that discussion was to have a vote to reaffirm the COIB policy as the ongoing and consistent position of the Board. I would argue that the two policies are substantially similar, although not exactly the same, but the spirit is certainly adhered to, and I also think that, you know, my reading of the DCAS close relative policy is that it doesn't foreclose the possibility of relatives working in the same agency, nor does the City Board of Elections policy, but we make sure that there are no folks within the chain of command that would create the appearance of impropriety, and there were--you know, go--I hate to go. You bring me back to that December 2013 that I'm trying to move forward from, but all kidding aside, there were four instances, four instances that were cited in that report, and I would like to say that if the--if it was as rampant and widespread as, you know, popular opinion has kind of taken it, they would have uncovered more than four instances, and all four of those instances have been rectified in one way or another. One resulted in a transfer. One resulted in somebody leaving, and the other two were

2 Commissioner level issues which I prefer not to
3 comment on, but certainly I can tell you that we're
4 not doing it.

5 CHAIRPERSON KALLOS: Violations and fines
6 for the record. So, with regards to that, if you
7 believe that the Board of Elections is substantially
8 similar to DCAS, I would request that analysis be
9 provided, not to make more work for your legal
10 counsel, but to the extent that you can compare and
11 contrast and show your legal standing for why they
12 are substantially similar. I would be interested in
13 seeing that. And I think the last item on the DOA
14 checklist was the background checks, and what has
15 happened with that?

16 MICHAEL RYAN: yes, and again, this is
17 another area where as the love fest continues, I
18 would thank you Chairman for your leadership in this
19 regard in bringing the Board of Elections and DOI
20 together, which you orchestrated a meeting, organized
21 a meeting where we all sat down. And subsequent to
22 that meeting, there was an exchange of writing back
23 and forth between our office and DOI, and one of the
24 issues that we had in terms of implementing
25 background checks is what does it exactly mean for

2 the Board of Elections, considering that we're not
3 your run of the mill typical agency, and by that I
4 mean, the standard of okay, over 80,000 dollars,
5 that's a pretty one, pretty easy one to figure out,
6 but then when you drill down a little bit and you get
7 to the point of anybody that's dealing with sensitive
8 computer systems or sensitive information, that
9 basically encompasses almost all of our employees,
10 including those employees that have access to voter
11 registration information but are only going to be
12 working with us from July to December. So we wanted
13 to try to work on that to get some further
14 clarification, and on October 23rd, 2014 I received a
15 communication back from Commissioner Peters at DOI,
16 and he indicated to me that because we had not done
17 the job postings, and because the Commissioner's
18 reserved onto their discretion the right to do that,
19 and because of the fact that--so we didn't do the job
20 postings. And what else did he want us to do? And
21 because we didn't adopt the DCAS close relative
22 policy, which he refers to as an anti-nepotism policy
23 basically he said that when we do those two things,
24 DOI will work with us to do the background checks and
25 that DOI's not going to work with us to develop a

2 background check policy until we do the two things,
3 those two things.

4 CHAIRPERSON KALLOS: But would you enter
5 that letter into the record?

6 MICHAEL RYAN: I certainly will.

7 CHAIRPERSON KALLOS: Thank you. Getting
8 back to more budget oriented conversations, and after
9 all, this is a preliminary budget hearing despite the
10 fact that we've rarely discussed too much of the
11 budget in these hearings. With regard to the ballot
12 printing contract, when will that be signed?

13 MICHAEL RYAN: Soon, and by soon I mean
14 really soon. We're expecting DCAS to make an award
15 in the coming days, and being sensitive to the
16 procurement process, I don't feel that I should make
17 any more public commentary on that until the award is
18 in fact made, but it's coming and it'll be in place
19 for upcoming elections. So, it's happening, and I
20 will say this, that's another area where we explored
21 the City Council's suggestion that the DCAS, the
22 Department of Citywide Administrative Services
23 actually do the printing. DCAS respectfully demurred
24 on doing printing for us. However, we are following
25 the DCAS process in terms of this procurement, and

2 DCAS has been intricately involved every step of the
3 way, and matter of fact, they're managing the
4 procurement process for us, and we're going to
5 ultimately have a contract that fully meets the
6 standards set forth by DCAS, which I think will make
7 many people very happy.

8 CHAIRPERSON KALLOS: Thank you for
9 following through and responding to yet another one
10 of the things that we've been talking to you about
11 for more than a year. Do you anticipate cost savings
12 based on this?

13 MICHAEL RYAN: There will certainly be a
14 cost savings associated with that, and the cost
15 savings will be more easily calculated once the final
16 award is made public and the actual math can be done.
17 We have in house estimates, but until the final award
18 is done and the specific vendors are publicly chosen,
19 I do not think it would be appropriate to share those
20 in house estimates, but this Council can rest assured
21 that we did the math.

22 CHAIRPERSON KALLOS: I'd like to recognize
23 that we've been joined by Council Member Ritchie
24 Torres of the Bronx, and we've actually had perfect
25 attendance by our members at this preliminary budget

2 hearing over the past eight hours. I will ask the
 3 final concluding question unless somebody else wants
 4 to ask a quick question, but online technology ask.
 5 Online voter registration, can you update the
 6 committee on when you plan to have fillable PDF's for
 7 voter registration on your website where when the PDF
 8 is filled you actually capture that information so
 9 that instead of having to invest so much money into
 10 having workers who enter the cards, it's just a
 11 matter of the card coming in, matching it up,
 12 scanning the signature and moving on, and then
 13 additionally, whether or not you'll be using
 14 technology that's been around for almost a decade
 15 through Rock the Vote where when somebody fills out
 16 the form online, if you don't get the voter
 17 registration form in, you're able to follow up with
 18 them to remind them that you're waiting for their
 19 signature.

20 MICHAEL RYAN: The first piece of your
 21 question is much more easily answered. We are in the
 22 process of doing the final testing to roll out Avid
 23 Five [sic], which is our voter registration system.
 24 The program's been written. It's being tested, and
 25 one of the elements of the Avid Five system will

2 involve the utilization of a fillable PDF that will
3 be available on our website. So that's happening and
4 I would say 30 days out is not an unrealistic time
5 frame for that. We're closing the window on it. Now,
6 I've just hot off the presses got a note passed to me
7 from a staff member and said it is in fact completed
8 and we are in the process of adding the new parties
9 that have been recently added by the State Board of
10 Elections. So we're just making some final tweaks,
11 and we're right there. With respect to the second
12 part of your question, if you could refresh my
13 recollection what that question was?

14 CHAIRPERSON KALLOS: Before we get there,
15 if it looks like we're actually there, we would love
16 to codify it so we have an online voter registration
17 bill that we would love to have the Board's support
18 on in codifying what you've already been able to
19 accomplish.

20 MICHAEL RYAN: And by the way, that would
21 be wonderful. We're working closely with the
22 Administration as well to make sure that all of this
23 occurs in conjunction with the agreement that was
24 reached between the Council and the Mayor's Office
25 with respect to all the local--I'll call them Local

2 Law 29 agencies. You guys may have a different label
3 for them, but that's how we refer to them in house.
4 So that's all happening, you know, dynamically as we
5 speak.

6 CHAIRPERSON KALLOS: So the second piece
7 of the question relates to existing technology from
8 Rock the Vote or Turbo Vote or any number of many
9 different vendors where when you fill out a form
10 online the system is set. It's a line of code.
11 Staff is very capable and can also add it that just
12 takes their email address and hits them up and says,
13 "Hey, it's been a week. We haven't gotten your form.
14 Did you mail it? If you did mail it, maybe you need
15 to mail, print it out and mail it again. Here's a
16 link to redownload your form. We're waiting." And
17 can hit them with another email saying, "Hey, we got
18 it. Welcome to the system."

19 MICHAEL RYAN: I can tell you that we met
20 recently with Susan Lerner [sp?] as well as Seth
21 Flaxman from Turbo Vote, and we are actively
22 exploring ways to partner with Common Cause and Turbo
23 Vote to see what we can do realistically to improve
24 the voting process and the voting experience for
25 voters in the City of New York. Any type of

2 partnership ultimately if one were to result would be
3 required to be approved by a vote of the full Board
4 of Commissioners. There was nothing that occurred in
5 those conversations that indicated to me that there
6 would be anything particularly controversial in
7 trying to help voters, you know, track their absentee
8 ballots as has been suggested by some, and other
9 things along those lines. And so, you know, as I do
10 report back to a Board and require their approval, I
11 can feel comfortable saying that we've had some
12 preliminary conversations, and that there is some
13 time frame on the conversation that we had with a
14 deadline of about a month away in order for us to
15 take some action, and if that action is taken within
16 that deadline and that time frame, then certainly we
17 may very well have something exciting to report back
18 to that elected City Council but to the voters of the
19 City of New York as well.

20 CHAIRPERSON KALLOS: The only thing that I
21 would say to you as an agency as I've said to
22 countless others is please insist on making sure any
23 software code that you're working with is licensed
24 free and libre [sic] and open source software so that
25 you can see the code, you can change the code and

2 you're not locked into any particular vendor, and
3 then Seth Flaxman did testify before this committee
4 with regard to the absentee ballot tracking. That
5 being said, I would make sure that you open the
6 process to as many vendors as possible. Turbo Vote
7 is not the only vendor that can do it or does it, and
8 I would just want to make sure that we are leaving
9 things as open as possible and that no one individual
10 or group of people is getting a preference over
11 others and that you just get the best produce that is
12 the least expensive for the 8.4 million people who
13 live here.

14 MICHAEL RYAN: Well, I will say this.
15 First of all, I had a little more time and certainly
16 no disrespect to the Chairman's ability to explain
17 open source, but Seth explained it to me in more
18 detail and I think I get it now, but not that I was
19 resistant to it, but I was having a little time, you
20 know, absorbing. But one of the things that we
21 discussed, and again, I'm a little reticent to say in
22 detail, is the possibility of grant money and perhaps
23 some significant grant money that would be available
24 to advance some of this process. So, if we can make
25 this partnership happen and the Commissioners end up

2 approving it, this is a situation where it would be
3 the preverbal, although I hate the phrase, win/win.
4 We'd be able to accomplish something at no cost to
5 the tax payers.

6 CHAIRPERSON KALLOS: There are now at
7 least two projects that I'm working on that are being
8 funded by the Knight [sic] Foundation to the tune of
9 over a million dollars I think at this point. So,
10 far be it for me to stop them from funding the things
11 I work on. So, that being said, I'm happy to provide
12 a letter in support of any grants that you apply for
13 and in fact the Department of Records and Information
14 Services where we were talking to them about the
15 grants to the extent you can receive federal, state
16 or private foundation grants for the work you do,
17 that is amazing. I want to thank you for joining us
18 for the conclusion of our Committee on Governmental
19 Operations. If you are a member of the public who
20 wishes to testify, we currently only have one member
21 of the public from District 33 who wishes to testify,
22 so if you want to fill out the card we'll bring you
23 up first. I want to thank the Board of Elections for
24 meeting with me on a regular basis, ongoing
25 conversations, and all the amazing work that we do

2 together, and for those of you watching at home, we
3 made significant progress, and for those of you
4 watching from downstairs in City Hall, I hope that
5 the media will actually cover positive news regarding
6 what the Board of Elections has been up to and all
7 the great work we've been able to do as a Board of
8 Elections, as a Council, as an Administration
9 together. Thank you.

10 MICHAEL RYAN: And if I could just add, I
11 know that my name is the name that's associated with
12 a lot of these things, but we really do have an
13 amazing team. I have an amazing partner in Dawn
14 Sandow, and the Commissioners truly are committed to
15 making this process better. So I want to publicly
16 thank my staff for consistently making me look good
17 and allowing me to sit here and get accolades from
18 the City Council for great work that in truth is
19 being done on their back, not necessarily mine, but
20 thank you.

21 CHAIRPERSON KALLOS: Thank you very much.
22 I'd like to now call Peggy from Citizen's Union up as
23 a panel, and then the last panel for the day unless
24 somebody else signs up will be Michael Hentz [sp?].
25 Thank you to Citizens Union for your perfect

2 attendance at Governmental Operations Committees and
3 for joining us for the past eight hours. Sorry,
4 seven hours, 32 minutes.

5 PEGGY FARBER: Thank you so much for
6 sticking out this day. It's a long day.

7 CHAIRPERSON KALLOS: We have oversight
8 over more agencies, it's just we need more hours in a
9 day.

10 PEGGY FARBER: So, yeah. I send my real
11 heartfelt thanks to you for first sticking it out and
12 making this available, this time available to us. As
13 you know, my name is Peggy Farber. I'm Legislative
14 Counsel at the Citizens Union, a nonpartisan good
15 government group dedicated to making democracy work
16 for all New Yorkers. We serve as a civic watchdog
17 combatting corruption and fighting for political
18 reform. The budgeting process presents an important
19 opportunity in a vibrant democracy such as New York
20 City to take a good look at executive agencies being
21 funded by the government, both the level of funding
22 and the substance of what they do. Citizens Union
23 has just short comments related to the funding of
24 three agencies under review today, the Department of
25 Records and Information Services, the city's

Community Boards and the City Board of Elections.

With respect to the Department of Records and Information Services, it's a comparatively small agency with a budget under six million dollars. The Mayor's Preliminary Fiscal Year 2016 budget appropriates 5.72 million and seeks funding to add two staff members, a project manager, and an IT developer to plan and develop and open foil platform. As you know, Chairman Kallos, the idea of open foil is to create a centralized automated online process for submitting, tracking and responding to Freedom of Information Law requests, and as importantly, for making the content of the requests and responses public while fully protecting personal privacy. Open foil is a money saver. Based on the experience of the federal government which has established a model automated open foil portal, New York City agencies would save an estimated 14 million dollars a year with a fully functioning open foil platform. The savings come from the elimination of processing costs and duplications. But savings are not the only or even the most important reason an open foil portal is so vital. It's also a way to fulfil the strong mandate captured by the New York State Legislature's

1 declaration introducing the foil statute, which I
2 want to read into the record that we have because I
3 find it incredibly inspiring about foil. "The
4 legislature hereby finds that a free society is
5 maintained when government is opened and responsive
6 to the public and when the public is aware of
7 governmental actions. The more open a government is
8 with its citizenry, the greater the understanding and
9 participation of public in government. The people's
10 right know, the process of governmental decision
11 making and to review the documents and statistics
12 leading to determinations is basic to our society."
13 An open foil platform advances this goal by making it
14 much easier for the public to track requests and
15 responses and to see what has been made public
16 accordingly. Citizens Union strongly backs the
17 effort to put the requirement of an open foil portal
18 into law, specifically Intro Number 328, the open
19 foil bill introduced by yourself and others on behalf
20 of Manhattan Borough President Gale Brewer. While we
21 welcome the efforts of the Mayor's Office to create
22 an open foil portal without legislation, as an
23 administrative matter, we think codification in the
24 law is necessary to protect the project against the
25

every present risk that mayors in the future will not maintain the city's commitment to the project. This is a minimum requirement in today's world. With respect to Community Boards, the Community Boards are building blocks of democratic planning in New York City and a vital place for local participation by New Yorkers. The boards are the first rung of decision making in the city's planning process on the issues that make for a livable city, land use, business permits, street closings, and city budgeting for local projects of all kinds, the role and the life of the city as mandated in the city charter. Citizens Union believes that Community Board budgets should be independent of the city's political brantiss [sic] and should not be decided at the discretion of the Mayor or the City Council, which can reduce community input by cutting community board budgets. Rather, their budgets should be linked by a formula to the Borough President's budgets which in turn should be linked by formula to the City Council's budget. Citizens Union recommends setting the budget of Community Boards at 65 percent of the Borough President's budgets with each board receiving an equal amount in addition to revenues for offices, electricity and heat. It

should be noted the Citizens Union also supports independent budgeting for the Borough Presidents. I'm going to move onto the Board of Elections. For Fiscal Year 2015 the city adopted a budget anticipating a 111 million dollar appropriation for the New York City Board of Elections. City tax payers would provide roughly 109 million, over 98 percent, and state tax payers about two million. After midyear modifications, the actual appropriation for this Fiscal Year was 114 million. Yet, the Mayor's Preliminary Budget for Fiscal Year 2016 proposes a substantially smaller budget, 84 million, a decrease of 29 and a half million. Eighty-four would be the--84 million would be the lowest budget adopted for the Board of Elections in nine years. Board of Election budgets adopted at the start of the Fiscal Year have been in the 90 to 100 million dollar range since 2008, and the modified budgets have been 96 million and above since Fiscal Year 2010, reaching nearly 130 and over 140 million in Fiscal Years 2012 and 2014 respectively. Although the city will not have elections this coming November, although I realize now listening to Executive Director Ryan, that of course there are elections in November, just

not ones that have a lot of splash, but the political offices and DA's will be going forward. So, there are elections this year, and the second half of Fiscal Year 2016 will be part of the presidential election year with two primaries occurring before the end of the Fiscal Year. So Citizens Union believes the board should be fully funded for to do the incredibly important work that it does and ask the City Council to be certain that there is sufficient funding in the budget for the coming year. Citizens Union is concerned about accountably as well as sufficient funding levels, and in particular, has been a strong advocate of much greater transparency at the Board of Elections. We're pleased that he Board's annual report reflects many of our recommendations. The most recent report for 2013 contains a whole lot of detail that's very, very valuable. At the same time, the Board is not reporting much data to the fiscal--in the Preliminary Mayor's Management Report, something that you noted, Chairman Kallos, and it is of concern to us. There's some ambiguity, I guess, about the Board's obligation to report to the city in the MMR because the Board is regulated by State Law, but it's funded almost

exclusively by the city. The MMR is a valuable tool for holding agencies accountable as it gives the public a means to measure an agency's performance against key goals and measurements which are set forth in the report as targets. The MMR sets forth no targets at all for the Board of Elections, which we think is a waste of opportunity. Compare this to other agencies and you'll see the value that exists in setting goals and seeing whether they're met. The public can see the Department has or has not hit the target it set for itself. Because the MMR is an important accountability tool, citizens Union supports efforts to amend the city charter to require the Board to report its performance to the city on key goals and measurements, including setting targets as embodied in Intro Number 302. That is kind of basically all I have to say, and I'm happy to answer questions.

CHAIRPERSON KALLOS: During the Board of Elections hearing, we did go over the PMMR from the Board of Elections if they participate regardless of a lack of a charter mandate to do so. Under Introduction Number 302 from Brad Lander, which I am a co-sponsor, there are no specifics added. It's

2 just saying that they have to provide a report as
3 part of the PMMR and MMR. Do you think it's just
4 important to codify it, or would you like to see--

5 PEGGY FARBER: [interposing] As I
6 understand, the difference is that as I read the
7 bill, it would re--the City Council and the Board of
8 Elections and the Mayor's Office would create the,
9 you know, the targets that are not in the report now.
10 I realize the Board of Elections puts in a few stats.
11 Compared to what's in its annual report, it's really
12 scaled back.

13 CHAIRPERSON KALLOS: Yes.

14 PEGGY FARBER: But it doesn't have any
15 targets. That's the difference. So, as I
16 understand, the Lander bill, it would result in the
17 Board putting targets in the--

18 CHAIRPERSON KALLOS: [interposing] With
19 regard to your recommendation for the Community
20 Board, I think we had three members of three
21 different Community Boards from Manhattan come in and
22 request budgets.

23 PEGGY FARBER: And the one in the middle
24 said we want independent budgeting.

2 CHAIRPERSON KALLOS: Yes, and they also
3 asked for more funding than City Council offices
4 have. What do you--if you were to follow the formula
5 we recommend which is send the budgets at 65 percent
6 of Borough President budgets, each receiving equal
7 amount, different boards have--different Borough
8 Presidents have different numbers of boards.
9 Different Borough Presidents represent different
10 populations, Brooklyn and Manhattan being amongst the
11 most populous. What is your--what does that end up
12 looking like per board?

13 PEGGY FARBER: Well, they--I thought at
14 least one of them also asked for a uniform allotment
15 for all of the Community Boards. I assume that they
16 right now reflect different populations or size of
17 populations. I think the main thing, our main point,
18 it's not that they be uniform, although there's merit
19 to that, but the main point is that they should be
20 budgeted independently so that they're not subject to
21 the whim of the political benches.

22 CHAIRPERSON KALLOS: And thank you for
23 testifying in favor of open foil. I share your
24 commitment as the introducer of the legislation, and
25 I'm excited to do it.

2 PEGGY FARBER: We feel very strongly about
3 that.

4 CHAIRPERSON KALLOS: And I'm very excited
5 to see it included in this year's budget. Thank you
6 so very much for your testimony, for joining us
7 today. I'd now like to call on Michael A. Hentz who
8 has been with us for several hours today who is
9 joining us for District 33. I believe that's
10 Brooklyn. Is that correct?

11 MICHAEL HENTZ: Yes, I'm Councilman
12 Levin's district.

13 CHAIRPERSON KALLOS: Perfect. Just make
14 sure the red light is on, and please--do you have
15 written testimony?

16 MICHAEL HENTZ: No, I apologize. I don't
17 have anything prepared.

18 CHAIRPERSON KALLOS: No worries. With the
19 time you've been here you could have drafted
20 something.

21 MICHAEL HENTZ: I could have drafted
22 something.

23 CHAIRPERSON KALLOS: Do not worry about
24 it, and if you could please give us your remarks.
25 You will have the last word today.

2 MICHAEL HENTZ: Well, that's scary.

3 Well, I am primarily here to offer an alternative
4 perspective to a lot of the testimony that you heard
5 today, in particularly that of the Office of the
6 Administrative Trials and Hearings. I think that
7 they are the controlling agency that has the
8 authority for the administrative law judges in the
9 fair hearings.

10 CHAIRPERSON KALLOS: That's correct.

11 MICHAEL HENTZ: For the OTDA public
12 assistance fair hearings and as such if I'm not
13 mistaken.

14 CHAIRPERSON KALLOS: I'm not sure about
15 that. I think they mainly deal with violations.

16 MICHAEL HENTZ: Violations.

17 CHAIRPERSON KALLOS: Or if you're a city
18 employee, you can elect to have an ALJ from OATH here
19 that--I'm not sure that they're involved with the
20 benefits.

21 MICHAEL HENTZ: I tried to get a read on
22 that during the middle of the day, but it seemed
23 quite--I didn't know who to call. 311 was no
24 assistance or anything. And I just came before the
25 Council just to--a few things that I've heard the

2 Commissioner say, which seemed to be, you know, that
3 he has an optimistic appraisal of the Office of
4 Administrative Law Judges, but I from firsthand
5 experience, I see something completely different.
6 But if it's not directly involved with those
7 administrative law judges who determine or make
8 decisions on fair hearings, then I don't think it'll
9 be relevant to--

10 CHAIRPERSON KALLOS: The fact pattern
11 [sic] you're speaking to is--It's OTDA, the
12 disabilities. So that's a New York State agency,
13 however, if you've had any issues with the city or
14 state, we're happy to connect you with your either
15 your state senator, your state assembly person or
16 with your local Council Member to help you through
17 the process.

18 MICHAEL HENTZ: Well, I thought--yes, I
19 thought it might have some relevance to the
20 budgetary, you know, considerations because of the
21 close relationship with the OTDA and the Human
22 Resources Administration and the process which, you
23 know, people from the bottom up have to go through in
24 order to satisfy the fair hearings, their fair
25 hearing requests. I didn't think that it was that far

2 distant, you know, the administrative law judges. I
3 thought it was the same. It was my mistake.

4 CHAIRPERSON KALLOS: No, don't worry about
5 it. Thank you for stopping by. We will make sure to
6 provide you with contact information for your senator
7 or assembly person and your council person, and we'll
8 work with you to make sure that we provide you with
9 assistance for a fair hearing and whatever other
10 services you may need.

11 MICHAEL HENTZ: Yes, actually, I--
12 yesterday I was involved with a fair hearing, and the
13 process was--I find it to be, you know, as normal.
14 This wasn't the only one. I've been going to fair
15 hearings since I had to avail myself of the public
16 assistance grants from the city, and I always find
17 myself on an adversarial footing with the people. I
18 plan to make a constitutional challenge to the
19 current direction that it's taking in the southern
20 district courts.

21 CHAIRPERSON KALLOS: The great news is
22 one, we're happy to help. Two, my office has a
23 social worker and graduate students in social work
24 who can assist with benefits. Three, the best thing
25 to hear, Council Member Levin is actually chair of

2 the General Welfare Committee, so this is actually
3 what his committee is solely responsible for dealing
4 with the HRA and oversight for HRA. We're sorry that
5 you've had a poor experience with government ever.

6 MICHAEL HENTZ: Oh, no, no.

7 CHAIRPERSON KALLOS: And we want to fix
8 it.

9 MICHAEL HENTZ: On the contrary, it's
10 been quite educational. I was very non-political
11 until recently where I've had to see that, you know,
12 certain things need involvement. Now it's been a
13 mistake of mine. It took being directly involved to
14 become political. So no apologies necessary. And
15 Councilman Levin is great. The City Council seems
16 like it's a group of young progressives who are
17 making waves and trying to actually make the city a
18 better place to live which is encouraging.

19 CHAIRPERSON KALLOS: I am Vice Chair of
20 the Progressive Caucus and I appreciate that. So,
21 what we'll do is we'll make sure we connect you with
22 your locals. If that doesn't work I'll give you my
23 card and we'll provide you a supplemental support,
24 and if you're having trouble with certain government
25 services, we can see if there's other social services

2 or even private foundation services we can arrange
3 for you.

4 MICHAEL HENTZ: Thank you very much, sir.

5 CHAIRPERSON KALLOS: Thank you so very
6 much--

7 MICHAEL HENTZ: [interposing] And thank
8 you for your time.

9 CHAIRPERSON KALLOS: for joining we
10 through this hearing, and for anyone watching and
11 anyone who lives in my district, the first Friday of
12 every month from 8:00 a.m. to 10:00 a.m. people are
13 welcome to sit down with me in person and have
14 conversations if you have an idea for a law or
15 legislation or policy changes. Again, this is
16 usually for folks in the district. You can come
17 Tuesday, policy night, that's 6:00 p.m. And then we
18 have a free legal clinic Mondays and Thursdays and
19 then we have mobile district hours. We bring our
20 office out into the community and then almost every
21 single night I'm at multiple community meetings. So
22 try to make sure that we provide it as accessible as
23 possible, and it's a stark contrast to a previous
24 Mayor who believed people should have to pay for
25 access. I think that you pay my paycheck and that's

2 enough. So I'm here to work for people. Thank you
3 so very much for joining us. I'd like to thank our
4 Finance Division Unit Head John Russell for joining
5 us as well as our Counsel David Sietzer [sp?] and
6 Analyst Laurie Wen [sp?] for joining us for this
7 seven hour and 49 minute journey today, and for all
8 of my committee members who joined us today. Thank
9 you very much, and I hereby adjourn this meeting of
10 the Committee on Governmental Operations, and see you
11 at the final budget hearings, which will be much
12 longer.

13 [gavel]

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C E R T I F I C A T E

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



Date April 2, 2015