

**Testimony of Michael Owh,  
Director of the Mayor's Office of Contract Services, and  
City Chief Procurement Officer  
Before the New York City Council Committee on Contracts  
"Oversight – Reforming the VENDEX System"  
November 7, 2016**

Good afternoon Chair Rosenthal and members of the City Council Committee on Contracts. My name is Michael Owh and I am the Director of the Mayor's Office of Contract Services (MOCS) and the City Chief Procurement Officer (CCPO). Thank you for the opportunity to testify about changes to the Vendor Information Exchange (VENDEX) system.

**I. Discussion of VENDEX System**

The City strives to find the best value for taxpayers while ensuring fairness, integrity, and equity throughout the procurement process. The City is legally required to use VENDEX, among other sources of information, to help agencies make decisions regarding vendor responsibility. A responsible vendor is one which has the capability in all respects to perform the contract requirements and the business integrity to justify the award of public tax dollars. Currently, processing information in the VENDEX system is cumbersome and lengthy for both the City and vendors, and can be a barrier to entry for many organizations including small nonprofits and minority- and women-owned businesses (M/WBEs).

Once vendors are selected for a contract, they have to submit VENDEX questionnaires. Because this is done by pen and paper, the information is difficult to record. MOCS maintains a number of data entry staff to decipher the vendor and principal information and enter it accurately into the VENDEX system, which is only City-facing. Since each questionnaire submission is manual and paper-based, the process of matching it to the vendor record is

unnecessarily complex and labor intensive. Because of the way the current procurement process is structured, agencies can't start important business integrity checks until the VENDEX questionnaires are accurately entered, which further adds to the delays in the process. Additionally, the current threshold at which vendors must submit information to be included in VENDEX is set at \$100,000 – a threshold which has existed since the early-1990s. While vendors with less than \$100,000 in contracts are not required to submit a VENDEX questionnaire, agencies must still make a determination that they are responsible vendors.

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

## **II. Discussion of Legislation**

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

**Intro 1224: A Local Law to amend the administrative code of the city of New York, in relation to increasing the contract award threshold requiring a vendor doing business with the city to complete a VENDEX questionnaire**

The Administration agrees that the threshold requiring a vendor doing business with the City to complete a VENDEX questionnaire should be increased. The current statute is outdated and this new threshold would capture more than ninety nine percent (99%) of the dollars currently covered under the requirement while streamlining the process for many vendors.

**Intro 1271: A Local Law to amend the administrative code of the city of New York, in relation to requiring contractors and subcontractors to submit information to VENDEX electronically**

The Administration also supports requiring contractors and subcontractors doing business with the City to submit information required by the VENDEX questionnaire electronically.

**Intro 1324: A Local Law to amend the New York city charter, in relation to requiring information about city contracts and contractors to be available online for public access**

The Administration shares the goals of transparency and public access to information that Intro 1324 promotes. MOCS operates the Public Access Center terminals at our office that allow members of the public to view information about City contracts and vendors doing business with the City. Providing additional access to this information through the City's website may give the public a helpful view into the City's procurement system. We would love to work with you on making drafting changes to reach the important aim of promoting transparency while protecting private and sensitive information.

**III. Conclusion**

We look forward to continuing to work with the Council to streamline and improve the procurement process and the VENDEX system. Thank you again for the opportunity to testify today. I would be happy to answer any questions the committee may have.

PUBLIC TESTIMONY

ON

**REFORMING THE VENDEX SYSTEM**

PRESENTED BEFORE:

THE NEW YORK CITY COUNCIL  
COMMITTEE ON CONTRACTS

**FOR THE RECORD**

PRESENTED BY:

Harvey Epstein  
Associate Director  
Urban Justice Center

November 7, 2016

Hello, my name is Harvey Epstein. I am the Associate Director of the Urban Justice Center, as well as the director of the Urban Justice Center's Community Development Project, also known as CDP, which provides civil legal services, research, advocacy and policy work in low-income communities throughout the city. CDP has more than a dozen contracts with city agencies to provide civil legal services to New York City residents, and is very familiar with the contracting process for agencies including DYCD, HRA, HPD, and DSBS, among others.

I am testifying today to offer support for the three local laws before the City Council to reform the VENDEX process, and to offer some insight from the perspective of a nonprofit service provider that contracts with the city about how these laws will improve the contracting process and allow more time, money and resources to be spent on service provision rather than contract administration.

Regarding Int. 1224, which raises the aggregate funding threshold that triggers the requirement for a contractor or subcontractor to complete the VENDEX questionnaire from \$100,000 to \$250,000, CDP believes that this change will ease the administrative burden on smaller businesses and organizations who receive modest amounts of city funding. Often these businesses and agencies have limited administrative and contract management capacity, and in the case of nonprofits that provide services to needy communities, less time spent completing contract paperwork means more time spent providing essential services to New Yorkers who need them most. CDP partners with numerous small, community-based nonprofit organizations that receive smaller amounts of city funding, and we can attest that this change would have a positive impact on them, freeing up staff time and capacity. We strongly support the proposed change.

Regarding Int. 1271, which would enable electronic submission of information to VENDEX, the establishment of a centralized computer database with contractor information that is accessible to all city agencies, and enables contractors to submit VENDEX information to a single agency rather than to every agency with which they have contracts, CDP is strongly in support of this law. Currently contractors must submit signed, notarized paper VENDEX forms to every agency with which they have contracts, which is time consuming for both the contractors and the agencies administering the contracts. Creating a centralized, electronic system for submitting VENDEX information to which a contractor will only have to make one submission will save time and money for both contractors and city agencies, lessening the administrative burden of the contracting process while providing an equal or greater level of transparency and oversight. CDP views this change as a win for both the city and its contractors, and we feel it cannot be implemented soon enough.

Regarding Int. 1324, which would require that public information on city contracts and contractors that is currently available through the MOCS Public Access Center be computerized and available to the public through the City's website, CDP supports this effort to increase the accessibility and transparency of information regarding City contracts and the contractors that receive them. Making this information available online increases the NYC public's ability to be informed how their tax dollars are spent and which contractors have been chosen to provide city-funded services, and this type of public oversight further ensures that city funds are spent wisely and well. For these reasons, CDP supports this proposed law.

Thank you for the opportunity to testify this afternoon. We applaud the City Council for its efforts to streamline the process of contracting with the city while also increasing fairness and transparency, and look forward to experiencing the benefits of the proposed changes in future fiscal years.

**TESTIMONY**  
**Of Claude M. Millman for TASER International, Inc.**  
**Before the New York City Council, Committee on Contracts**

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

As the Committee may know, TASER is currently protesting the New York City Police Department's procurement of body cameras. In connection with that process, TASER has experienced numerous hurdles in its effort to get transparency into the NYPD procurement process, including relevant VENDEX filings. TASER believes that the Committee's consideration of the issues before it today would benefit from learning about some of TASER's frustrations in connection with VENDEX transparency.

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

On September ~~20~~<sup>30</sup>, 2016, the NYPD announced that it would hold a public hearing, on October 13, 2016, regarding a contract between it and Viewu, LLC, for the purchase of body cameras.

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

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

In terms of the lack of transparency, this was just the tip of the iceberg. We could only see the draft contract by physically going to the NYPD. We could not copy it. We could not photograph it. There was only one copy. If someone else was reviewing it, we could not.

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

The information that has been made available to TASER in connection with this procurement is a tiny fraction of the information that exists in electronic form and that State law says is public. That information should be available on the internet for everyone. It should be available on the web before the public is expected to testify at a contract public hearing.

TASER agrees with the effort to make information available at the Public Access Center on the internet. It should be clear what that means. It should be clear that the information that is submitted to MOCS in connection with procurement reviews should be on-line. Information submitted to the Comptroller by the agency in support of a contract award should be on the internet. Certainly, the entire VENDEX forms should be available on the internet. The Council should remind MOCS and City agencies that a procurement is not proper if public hearings are held without transparency and if contracts are submitted for registration without disclosure of the registration package to the public on the internet.

Body cameras can increase confidence in government by increasing transparency in law enforcement. This Committee should increase confidence in procurement by ensuring that the public can see on the web what's happening in a particular procurement before the government enters into long-term contracts on the public's behalf.



**Testimony of Denise M. Richardson, Executive Director  
The General Contractors Association of New York  
NYC Council Committee on Contracts  
Hearing on Intro 1224 and 1271  
November 7, 2016**

Thank you Chairman Rosenthal and members of the Contracts Committee. I am Denise Richardson, Executive Director of the General Contractors Association of New York. We appreciate for the opportunity to comment on Intro 1224 and 1271.

The GCA represents the city's unionized heavy civil and public works contractors that build and rehabilitate the city's parks, roads, bridges, water and wastewater network and other public facilities.

Our members' work both as prime and subcontractors and our 300 members include multi-generation family owned businesses, MWBEs, and large nationally known contractors. At one time or another, all of our members have filed Vendex questionnaires, and the complexity of the filing process is very much directly related to a given firm's size, volume of work and complexity of operations. We very much support the initiative to streamline the Vendex questionnaire by automating its submission. We believe that this change will certainly save time for both the city staff members that are tasked with reviewing the questionnaires as well as for the contractors.

We do have some concerns about raising the threshold for filing a questionnaire to \$250,000 from the current \$100,000. Although we understand the rationale to simplify paperwork for small contractors, the Vendex questionnaire does provide an important tool to assess vendor integrity. Moving the Vendex process online will address many of the concerns about burdensome paperwork for small contractors. For our prime contractors, we regularly use the publicly available Vendex data to obtain a consolidated listing of a potential subcontractor's previous contract awards. Due to data gaps within the SBS system and the fragmented nature of other databases, the publicly available Vendex information is extremely useful to obtain needed information. We hope that before the city implements this proposed change, it assures the availability of this data from some other centralized, readily available resource.



We have had the opportunity to meet with the Mayor's Office of Contracts Services about the proposed changes and we have offered to work with them to have a small, medium and large contractor test the submission process before it goes live so that we can be certain that the process works as designed and the information produced is accurate.

We recognize that the new submission process will facilitate easier public access to the publicly available sections of the Vendex questionnaire. It is our understanding that the current information that is publicly available will continue to be available under the new process and we support that access. We do, however, have concerns that the private identifying information about company principals remain secure both for identity theft and personal security reasons and we hope that you would agree that the new system must include safeguards to properly secure the information.

Finally, we urge that the new system include some information for public use that explains the data that is captured through the contractor evaluation process so that a rating can be understood in its full context. This is important for both the city and the contractors.

Thank you for the opportunity to comment today. We look forward to working with you to improve the efficiency of the Vendex questionnaire submission process.



TESTIMONY  
New York City Council  
Committee on Contracts  
Oversight Hearing on VENDEX  
Monday, November 7, 2016

Tracie Robinson  
Senior Policy Analyst  
Human Services Council of New York

Thank you for this opportunity to testify regarding the City's vendor responsibility determination system, VENDEX. I am Tracie Robinson, Senior Policy Analyst for the Human Services Council of New York ("HSC"). As you know, Accelerator is the backbone of New York City's human services system. It has streamlined the way government agencies identify and engage qualified partners to deliver essential services to communities. HSC is especially grateful for Chairwoman Rosenthal's leadership in streamlining VENDEX, and I am happy to speak about the positive impact that the proposed reforms would have on human services providers and the communities that they serve.

### About the Human Services Council

HSC is a membership association representing more than 160 of New York's leading nonprofit human services organizations, including direct service providers and umbrella and advocacy groups. Our members foster well-being and uplift communities by providing essential supports to a broad spectrum of New Yorkers, including children, the elderly, the homeless, people with disabilities, individuals who are incarcerated or otherwise involved in the justice system, immigrants, and individuals coping with substance abuse and other mental health and behavioral challenges. We help our members better serve their clients by addressing matters such as government procurement practices, disaster preparedness and recovery, government funding, and public policies that impact the sector. VENDEX is an example of a system that affects the vast majority of our members.

### The Changing Role of VENDEX

The City uses the VENDEX database to help make decisions regarding a provider's fitness for doing business with City agencies. The database contains detailed organizational and personal information from complex VENDEX questionnaires, as well as other information about related entities, performance history, tax status, contract history, and business integrity issues. When VENDEX questionnaires were first mandated by law, publicly accessible information about individual providers was scarce. Since that time, however, this has changed dramatically. The information elicited by the VENDEX questionnaires is now nearly the same as the information required by the new Federal Form 990, which became effective in 2008. The information requested by the VENDEX questionnaires is also virtually identical to the State's existing online

Vendor Responsibility Questionnaire. In Fiscal 2016, the Mayor's Office of Contract Services received and processed 12,661 VENDEX submission packages.<sup>1</sup> Thus, the utility of the VENDEX system has been significantly reduced.

### Requiring Online Submission of VENDEX Forms: Int. 1271-2016

As explained above, the VENDEX requirement imposes a significant burden on many nonprofit human services organizations. In particular, smaller organizations in which program staff are also tasked with administrative duties, have difficulty completing the VENDEX questionnaires. The outdated practice of mailing hard copies of these forms adds to the expense—in terms of both time and money—of the requirement. It also increases the risk of forms being lost incomplete. HSC supports the proposal to require online submission of the VENDEX forms as it will reduce burdens for providers and City agencies alike, expedite the administrative process, and reduce waste of notoriously limited resources. The City's online human services procurement portal, HHS Accelerator, could be an appropriate vehicle for the online submission and processing of VENDEX forms.

### Increasing the VENDEX Contract Award Threshold: Int. 1224-2016

HSC supports Chairwoman Rosenthal's proposal to increase the contract award threshold for requiring a vendor doing business with the city to complete a VENDEX questionnaire. Compliance with VENDEX, especially for nonprofit human services providers with limited resources, has become an unnecessary administrative burden that consumes valuable staff time that would be better spent serving the complex needs of clients. For this reason, providers that already have a current IRS Form 990 (which is publicly accessible) or have already filed a State Vendor Responsibility Questionnaire should be exempt from the requirement to complete a VENDEX questionnaire. This does not in any way diminish a provider's accountability inasmuch as the information continues to be available to the City. The only distinction is that it would be provided in a different format.

Increasing the VENDEX contract award threshold would take a number of small providers out of the system, greatly mitigating administrative burdens for these organizations. Similarly, it would mitigate burdens for providers that, regardless of their size, do little business with the City. At the same time, most of the City dollars that go to providers would still be subject to VENDEX. The purposes of VENDEX are to ensure that public funds go to soundly managed organizations that have a strong performance history and to foster transparency in government contracting. The City can still meet both objectives while reducing the burden on providers.

### Conclusion

HSC is excited about the City's ongoing efforts to streamline the procurement process, and again, we are grateful to Chairwoman Rosenthal for her important role in advancing the process. The changes discussed today will allow providers to spend more time doing what they get paid to do: deliver high-quality services to communities throughout the City. Accordingly, we look forward to working with the Council to improve the business of uplifting communities.

Thank you.

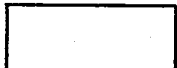
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<sup>1</sup> The City of New York. *Agency Procurement Indicators: Fiscal Year 2016*.  
<http://www1.nyc.gov/assets/mocs/downloads/pdf/IndicatorsReport/AgencyProcurementIndicators20161017.pdf>

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**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card



I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: Nov. 7, 2016

(PLEASE PRINT)

Name: Claude Millman

Address: Koshelevets + Falk, 7 World Trade

I represent: TASER International, Inc.

Address: \_\_\_\_\_

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I intend to appear and speak on Int. No. 1224 Res. No. 1271

in favor  in opposition

Date: 11/7/16

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Name: DANIEL RICHARDSON

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I represent: GENERAL CONTRACTORS ASSOC

Address: \_\_\_\_\_

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in favor  in opposition

Date: 11/7/16

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Name: Trairie Robinson - HSC

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I represent: Human Services Council of New York

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I intend to appear and speak on Int. No. 1224 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 11/7/16

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Name: Harvey Epstein

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I represent: Urban Justice Center

Address: Same

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

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Date: \_\_\_\_\_

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Name: MICHAEL OWH

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I represent: MOCS

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