

Testimony of Daniel Symon,

Acting Director of the Mayor's Office of Contract Services, and City Chief Procurement Officer

Before the New York City Council Committee on Contracts

Intro 1067

November 15, 2018

Good morning Chair Brannan and members of the Council.

My name is Dan Symon and I am the Acting Director of the Mayor's Office of Contract Services (MOCS) and City Chief Procurement Officer. Thank you for inviting me to discuss our approach to transforming procurement operations and improving the experience of vendors who do business with the City of New York.

We support efforts to enable greater transparency as they align with our overarching approach to procurement transformation, specifically standardizing processes using a common platform for vendors and agencies, and enabling robust analytical capabilities to drive performance management. As an oversight and service agency, MOCS helps stakeholders navigate procurement rules, builds technology tools to increase efficiency and collaboration, and implements processes and supports to ensure a fair and responsible experience for all. Where tools enable process and performance data to be captured, information is made available to end users and managers on screen or through reporting modules. Statuses are also readily displayed, noting which workflow steps have been completed.

For example, in our HHS Accelerator System, which was designed with, and for, the Human Services sector, providers can easily see if their proposals have been accepted for review and can similarly determine when invoices are approved for payment; nearly \$4 billion in contract budgets are currently managed in HHS Accelerator. We continue to work with agencies to onboard remaining contracts and this will help to realize the full potential of the platform.

A significant addition, anticipated for next fiscal year, will be integration of contracts managed by the Department for the Aging and the Department of Health & Mental Hygiene. Our approach to making workflow steps and statuses transparent between agencies and vendors is now being utilized for all industries through PASSPort, the Procurement and Sourcing Solutions Portal. By 2020, PASSPort will enable all phases of the procurement and contract management process, including invoice review. Today, over 10,000 vendors use PASSPort to keep disclosure filings current and agencies have used that information to complete over 5,700 background checks thus far. Those agency transactions involved multiple agencies and individuals who were able to track statuses and improve coordination. The overall processing time for responsibility determinations was reduced from 45 days prior to PASSPort to a median of 21 days in Fiscal Year 2018.

The full benefits of these kinds of systems will be realized when we incorporate all procurement and contracting steps, including invoicing and payment for all mayoral agencies. In the current state, without a common platform for vendors and City staff to work together, comprehensive status tracking relies heavily on people exchanging information which may exist in various formats. In addition, payments are directly related to lengthy timeframes between the initiation of a solicitation or contract amendment and the registration of the resulting contract(s). Although some vendors can access interest-free loans, they can neither receive advances nor be reimbursed for services until after registration. Disconnected processes and a lack of comprehensive technology play a significant role in slowing down processing but the necessary drive for timely launch of projects and programs often contributes to lags between service delivery, contract registration and payment. With the role out of PASSPort, we aim to solve these deficiencies for all contracts.

For contracts currently managed in HHS Accelerator the median time for invoice submission to payment approval is 6 days, with payment occurring at a median time of 6 days, reinforcing the benefits of digitization where a shared platform allows for prompt remedying of invoice issues and transparent tracking of reviewer comments and provider responses. Standardization of budget and invoice templates has also

resulted in fewer returns, with 81% of invoices approved without having to return it to the provider for corrections. This prompt review and payment time was attained without clocks, reporting requirements or mandates.

Still, we know we can always do more, and technology needs to be coupled with ongoing policy reforms and nuanced, long-term change management. This is why the Administration continues to invest time and dedicated resources in convening partners and identifying projects to improve various areas of contract administration. Through the Nonprofit Resiliency Committee (NRC) the Administration collaborates with nearly 100 providers. Since its September 2016 launch, the NRC has been integral to supporting the Administration's reform agenda. Most relevant are policy shifts which enhanced cash flow for providers. Starting in Fiscal Year 2018, registered contracts are eligible for at least a 25% advance, putting cash in the hands of providers earlier in their program year, and those advance payments are recouped later in the budget cycle. In this Fiscal Year 2019, we also implemented a streamlined budget modification process that offers providers greater budget flexibility and no longer holds up the invoice payment process for routine, minimal modifications. We will continue to jointly convene agencies and vendors to generate new ideas, advance productive projects and deepen the impact of existing initiatives. This model for collaboration will also be expanded to other industries, especially where there is a great need for new solutions and creative thinking. We are currently bringing agencies together with construction industry leaders and M/WBEs to address common issues and partner on the design and deployment of PASSPort.

The Administration is committed to a fair and transparent procurement process. However, Intro 1067 is duplicative of existing processes at agencies and may present overly onerous reporting requirements, which we would like to discuss with the Council today. It is important to note that PPB Rule 4-06 already goes beyond reporting on late payments to requiring interest on late payments. This prompt payment interest is generated and paid through the City's Financial Management System (FMS) and data are publicly available through Checkbook NYC, the Comptroller's payment reporting platform. Looking ahead,

we anticipate considerable gains as we collaboratively design and deploy solutions through PASSPort. We also look forward to developing sustainable, near-term improvements and will nurture spaces for agencies, elected officials, community leaders and vendors to jointly problem-solve. Thank you again for the opportunity to testify. I am joined by Victor Olds, our General Counsel, and Jennifer Geiling, our Deputy Director for Policy and Partnerships. We are happy to take any questions you may have.



**Testimony by Jesse Laymon,
Policy Director of the New York City Employment and Training Coalition (NYCETC)
Before the New York City Council Contracts Committee
Regarding Underfunding of Workforce Development (as with other Human Services) Contracts**

November 15, 2018

Good morning and thank you for giving members of the public and the human services community the opportunity to testify on this continuing crisis of underfunding.

My name is Jesse Laymon, Policy Director for the New York City Employment and Training Coalition (NYCETC). The New York City Employment & Training Coalition (NYCETC) supports the workforce development community to ensure that every New Yorker has access to the skills, training, and education needed to thrive in the local economy, and that every business is able to maintain a highly skilled workforce. With over 150 members, NYCETC works with community-based organizations, educational institutions and labor management organizations engaged in New York City workforce development, to improve policy, practices, and outcomes to achieve economic inclusion for the city's workers, job-seekers and employers.

As has been noted by many of my colleagues from across the nonprofit and human services contracting sector, underfunding, late payment, and unreasonably low overhead cost considerations are a continuing detriment to our ability to serve the needs of New Yorkers. Our members at the Employment and Training Coalition experience these problems just as the rest of the sector does, and for our members these issues fundamentally hinder their ability to provide more New Yorkers with high quality skill building and career services.

It was because of these concerns from our members that we co-authored an Opinion article this summer with Comptroller Stinger calling out the failure of City Agencies to facilitate timely payment and full cost reimbursement to nonprofit providers in a way that would never be accepted in a contractual relationship between independent entities.

One significant source of these problems is the ineffectiveness of City Agencies at processing these contracts. In fact, according to NYC Comptroller Scott Stringer's analysis of NYC Agency contracts, in Fiscal Year 2017, 90% of human services contract arrived at the Comptroller's Office after the start date. This is important because providers are paid once the contracts are registered, creating a risky situation where we have to start the work without a registered contract and payment, or delay in starting the contract, which affects the communities dependent on the services of providers.

For the members of my Coalition in particular, we've seen these issues arise most recently with the current round of Employment Services contracts managed by HRA.

To provide some context to that an other contracting delays and hurdles our members have faced, let me just point out that oftentimes these administrative failures end up costing the City more money in the long run: the services provided by members of the Employment and Training Coalition help New Yorkers find stable and rewarding careers. When residents of our communities do not have stable employment, they can often slip into unstable housing, and ultimately be in need of much more and more expensive public assistance - for food, housing, and basic needs - than would have been the case if the City had invested properly in meeting their needs at an earlier point.

Addressing these concerns will take a multi-faceted approach, and fundamentally will ultimately require more reasonable funding of the services themselves. However, I would like to thank you, Chairperson Brannon and Council Member Lancman for proposing this bill, which at least requires the City to notify providers of the reason for late agency payments and submit reports on these late payments to the Mayor's Office of Contract Services (MOCS). While reporting on late payments is only one step in resolving the issue of delayed registration and the impact it has on providers, it is an important mechanism in shining a light on how many contracts registered late.

I know that you and your fellow City Council Members support the work of the human services community broadly, and of the Employment and Training Coalition specifically, and I want to thank you for your continued commitment to working with us all to address these concerns and solve this crisis.

Thank you for your time and consideration of these matters. We at the Employment and Training Coalition would be happy to answer any questions from the Council to the best of our ability.

**TESTIMONY PRESENTED TO
NEW YORK CITY COUNCIL
COMMITTEE ON CONTRACTS**

November 15, 2018

**Submitted By:
Building Trades Employers' Association
Louis J. Coletti, President and CEO**

Good morning Chairperson Brannan and members of the Committee, I am Donald Ranshte, Senior Vice President of the Building Trades Employers' Association, (BTEA), who was unable to attend the hearing today. The BTEA is a trade association representing 26 contractor associations, and 1,200 contractor members responsible for over almost \$50 billion (that's billion, with a "B") dollars in economic activity in New York City. Thank you for allowing me the opportunity to testify today on proposed Intro 1067, reporting the promptness of City Agency payments to contractors.

The bill, in its current form, would require the Procurement Policy Board to create a process for city agencies to inform vendors of the reason for any late payments. It would also require City agencies to provide the Mayor's Office of Contract

Services with reports on any such late payment. The Mayor's Office of Contract Services would then provide a report to the Mayor and Council every 6 months with information about the late payments from all City agencies. This is a very good idea.

This is an example where transparency and technology can be very useful in solving a systemic government problem. Contractors bidding work should know how quickly (or slowly, in this case) they should expect to be paid, and then make an informed business decision. City Agencies that know that they will have to report out payment information will try to do better in order not to have to expose to the public that they are slow, or very slow, in fulfilling their obligations.

Contractors are often treated very poorly by government agencies, this isn't a knock-on New York City, the truth is most Agencies and Authorities are notoriously bad at making payments on time. Many contractors won't bid public work for this very reason. I sit on a policy board that was created by the past Commissioner of the Department of Design and Construction (DDC). In one of our last meetings DDC was happy to report that revisions to the payment process had decreased waiting time for contractors to receive payment to 304 days. Imagine waiting for a year to receive payment for work that you had finished.

While I represent many large corporate contractors, most of my members are small (and family owned) businesses. This slow payment process prevents on time payment of salaries to working New Yorkers, prevent company growth, and, in some cause causes bankruptcies.

Because most capital work in the City is being done under Project Labor Agreements (PLA's) slow payments disproportionately effects union contactors and labor, but also MWBE contractors, who may have bid for the work under the PLA and often, as many other small businesses, cannot continue to work, or wait, for a year to get paid.

Members of the Committee, this is an opportunity to raise the bar for construction work in New York City. Many more quality contractors would bid City work if they knew that payment would be made in a more prompt manner. More contractors means more competition and more competition means lower bids. If the City could increase the quality of work, increase MWBE participation AND get lower bid prices, that's what I call a WIN-WIN. Let's take a step in that direction and pass Intro 1067. Thank you.



Committee on Contracts

Testimony

November 15, 2018 | 10:00am

Brooklyn Community Services (BCS) empowers Brooklyn residents to maximize their potential. We strengthen family connections and relationships, educate children, and help adults dealing with poverty, homelessness, mental illness or disabilities become self-sufficient. With award-winning programs and 30 locations across Brooklyn, BCS serves over 20,000 individuals in need annually. BCS is there for low income and struggling Brooklynites from early childhood to senior years. From education to employment, from housing to physical and mental health services, BCS is the consistent presence assisting the Brooklyn community.

Human services providers like BCS continue to face late contracting issues, which have a detrimental effect on both the organizations themselves and the communities that we serve. According to NYC Comptroller Scott Stringer's analysis of NYC Agency contracts, in Fiscal Year 2017, 90% of human services contract arrived at the Comptroller's Office after the start date. This is important because providers are paid once the contracts are registered, creating a risky situation where we have to start the work without a registered contract and payment, or delay in starting the contract, which affects the communities dependent on the services of providers. Many of the late contracts are also renewals, so there isn't really an option to suspend services while we wait for a registered contract; the City's delays cost us real money and jeopardize the quality of services by diverting funds away from programs to pay interest on lines of credit.

Thank you to Chairperson Brannon and Council Member Lancman for proposing this bill, which requires the City to notify providers of the reason for late agency payments and submit reports on these late payments to the Mayor's Office of Contract Services (MOCS). While reporting on late payments is only one step in resolving the issue of delayed registration and the impact it has on providers, it is an important mechanism in shining a light on how many contracts registered late. Although the City has put much time and effort in developing HHS Accelerator, more needs to be done to fix the systemic issues in the increase in late registrations. We realize that the City will release PASSPort in 18 months to resolve these issues; however, the City should address the immediate concerns that providers have with the backlog in contracts. Nonprofits are forced to compensate the delay by taking out loans, laying off staff, and scaling back or closing programs. Additionally, delays in registration or in processing contract amendments can mean that we are unable to spend down all the money on a contract. For example, if we delay in starting a contract until it is registered, the program starts late so we do not spend a full year's worth of program funds, or if an amendment is processed late, we cannot move money around to spend it where we

really need it. These delays cost our organization's money and also impact the communities we serve.

For example, in 2018, we paid \$160,000 in interest due to delays in city contracts. These funds could have been used to hire additional social work staff, make improvements to our facilities or provide emergency financial support to the people we serve. The consistent lateness of city contract payments causes cash flow issues and forces BCS to delay payment to vendors. An added financial stress is having to begin services on the contracted start date without payment. When considering bidding on new contracts to deliver services we believe BCS is uniquely qualified to provide, late contracting issues are top of mind and a real detriment. O

To make up the interest fees, we've had to invest heavily in our fundraising operation and retained the services of marketing and fundraising specialists. But we know that the results won't come overnight because increasing visibility takes time. Overall, fundraising is difficult for human services organizations, who receive about 5% of individual charitable giving according to Charity Navigator.

We understand that the City Council supports the work that human services providers do by proposing this bill to ensure prompt payment. At the same time, the City should tackle the issues in contract delays because it not only affects the stability of the human services sector, but also the assurance that providers can deliver vital services for the benefit of all New Yorkers. We look forward to working with the City during this hearing to improve the procurement process.

Thank you for providing me with this opportunity to testify. I am happy to answer any questions you may have, and I can be reached at 718-310-5614 or kreintamm@wearebcs.org.

Kristina Reintamm



Acting Director, External Relations and Advancement
Brooklyn Community Services



TESTIMONY
New York City Council
Committee on Contracts
November 15, 2018

Submitted by
Allison Sesso
Executive Director
Human Services Council of New York

Introduction

Good morning, Chairperson Brannon, Council Member Lancman, and good morning to the members of the New York City Council Committee on Contracts. My name is Allison Sesso and I am the Executive Director of the Human Services Council, and I am joined by our Deputy Executive Director, Michelle Jackson. Thank you for the opportunity to testify on Intro 1067 and the impact of late contract registration and payment on nonprofit human services providers.

About the Human Services Council of New York

HSC is a membership association representing New York's leading nonprofit human services organizations, including direct service providers and umbrella and advocacy groups. HSC strengthens New York's nonprofit human services sector, ensuring all New Yorkers, across diverse neighborhoods, cultures, and generations reach their full potential. Our members provide essential supports to a broad spectrum of New Yorkers, including children, the elderly, those experiencing homelessness, people with disabilities, individuals who are incarcerated or otherwise involved in the justice system, immigrants, and individuals coping with substance abuse and other mental health and behavioral challenges. We serve our membership as a convener, a coordinating body, and an advocate. We are also an intermediary between the human services sector and government, fostering cross-sector collaboration. 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.

State of the Human Services Sector

The nonprofit human services sector continues to play an essential role in the daily lives of millions of New Yorkers. These vital community services, ranging from homeless services, senior care, and employment training, assist approximately 2.5 million New Yorkers annually. Unfortunately, our sector has been historically underfunded, leaving many providers in dire financial situations. In fact, a report by SeaChange Partners found that 30 percent of human services community-based organizations (CBOs) have cash reserves that cover less than one month of operating expenses. Additionally, more than 40 percent of human services CBOs lack liquidity to meet their short-term financial obligations.

As leaders of the human services sector, we are witnesses to the continuing financial challenges facing providers each day. More organizations are merging, providers are reporting that they are

deciding not to compete for RFPs due to funding constraints, and some have made decisions to turn back contracts where possible and even close programs. While organizations merge and close – just like in the for-profit sector – we are hearing from more and more providers about the unsustainability of the current procurement and funding practices in government, and late contract registration and payment is one of the major factors.

Background

We recognize that the contracting system is complex and that real changes take time to implement. The Nonprofit Resiliency Committee has been working on improving systems; both HHS Accelerator and PASSPort are significant improvements in the human services contracting process. The New York City Comptroller's report, *Running Late: An Analysis of NYC Agency Contracts*, demonstrates that much more needs to be done - and quickly - to improve the timeliness of human services contract registration.

The reports shows that human services contracts are significantly delayed, with some agencies having 100 percent of contracts registered late, and an average 90.8 percent late across agencies. These numbers are worse than in previous years, and providers on the ground have also expressed that more of their contracts are registered late. It's difficult to ascertain how much worse the problem is, because the Comptroller's report looks at different data than what used to appear in the yearly Procurement Indicator Report. While the comparison is a bit "apples to oranges", the first thing to note is that the Procurement Indicator Report is no longer produced as it has been in previous years, so there is not an easy way to discover how the Administration is tracking retroactivity. From FY14, the last year the report was produced in a summary format, retroactive contracts were on the decline and at a four year low, with only about 8 percent of contracts being more than 30 days late. This is not to say that retroactivity has gone from 8 percent to 90.8 percent as the two reports defined retroactivity differently, but significant work had been done to improve contract registration, and HHS Accelerator in particular improved retroactivity, and now – even with Accelerator still in place- late registration is getting worse.

Impacts

The Nonprofit Finance Fund's State of the Nonprofit Sector Survey, published in May 2018, found 75 percent of New York City human services providers reported that their local contracts pay late, compared to a national rate of 56 percent among comparable nonprofits with local government funding. 32 percent reported delays of at least 90 days, almost three times the comparable national rate. Not surprisingly, these New York City nonprofits also cite greater cash flow challenges than seen nationally (31 percent versus 22 percent nationally.) Almost a quarter of the New York City providers said they have one month or less of cash on hand; they are among the 56 percent who said they have three months or less. Many of these nonprofits turn to loans to manage contract delays. Roughly half reported having loans, and 58 percent of them used this debt to manage contract delays. Such debt financing comes with a cost that City contracts do not reimburse.

When contracts are registered late, there is a real impact on the provider. First, providers cannot wait to begin service, like other contractors. A construction project could potentially be delayed until documents are in order, but a summer youth program has to start in the summer, and parents rely on a particular start date. For contract renewals, which are also delayed, providers cannot close a program while waiting for renewal documents; closing a domestic violence shelter for 2-3 months each year would be extremely problematic. This means providers take enormous fiscal and legal risks by signing leases, hiring staff, and starting programs without a contract, or continuing to operate services on the verbal agreement that things will get sorted out. Retroactivity also creates

cash flow issues for providers, who have to put off paying vendors, take out lines of credit, or utilize the loan fund, because providers cannot get paid until the contract is registered.

In particular, taking out lines of credit costs organizations real money, with multiple providers reporting they spend \$100,000 or more every year on lines of credit to manage government delays. SeaChange Capital Partners looked further in to this issue, and their report *New York City Contract Delays: The Facts*, found that nonprofits pay \$13 million in financing costs each year due to registration delays. This is money that could go to services, and it's inexcusable that nonprofits are not only essentially loaning money to government by providing services while waiting for payment, but are also paying for government's delay.

When providers face delays in payment – at registration, amendments, renewals and invoicing – they are not able to spend all their contracted dollars. With a new contract, if a provider delays in starting the work or starts work but doesn't hire all the staff/equipment necessary because of cash flow issues, they will not spend all the contracted dollars in a year. If they are waiting for a renewal with a budget change, they do not have assurance that the budget change will be approved so will hold off on those expenditures, and will do the same for budget amendments. When they do not spend down the dollars on the contracts, it means that the full value of the service was not given to the community, and further strips nonprofits of needed financial resources.

Timeline

Recent reports by the New York City Comptroller and SeaChange Capital partners highlight how bad lags in contract registration are in New York City, and how these delays impact the fiscal health of organizations. Lags in registration is not a new issue, but it has gotten worse and HSC and our partners have raised the alarm again and again on this issue, but we have not seen real progress forward.

The Nonprofit Resiliency Committee first came together in the Fall of 2016, created by the Administration "to offer opportunities for collaboration and to expand lines of communication between the City and nonprofit human service sector. The Committee is charged with identifying, designing and launching solutions to support the sector in the areas of administrative processes, service and program design and organizational infrastructure." HSC and many other nonprofits participate on the Committee and have raised lags in registration, along with delays in payment, as a key issue. The NRC has brought together workgroups to solve pieces of this issue, but have not been able to move the needle in getting contracts registered in a timely way.

In March of 2017, this Committee on Contracts held a hearing which highlighted the slow registration process, which was then followed by the Comptroller's report and another hearing in June of 2018, which required an overflow room because so many nonprofits showed up to detail how much of an issue this is for the health of their organizations. HSC, in partnership with the Human Services Advancement Strategy Group (HSASG), a group of eleven membership organizations representing 2000 human services provider organizations across the City, also sent a letter to the Administration on June 4, 2018 about the need for action after the Comptroller's Report and again in October identifying lags in registration as a critical issue facing the sector.

Next Steps

Delays in registration are not new. The Mayor's Office of Contract Services over the years has shown a real commitment to overhauling archaic processes and working very collaboratively with providers, most recently with the NRC. But as detailed above, there needs to be immediate attention and resources devoted to solving this issue.

The current team at MOCS is made up of many of the staff that designed HHS Accelerator, and from our experience working with them, we believe they are uniquely capable of building PASSPORT to better illuminate and track the contract process. Being able to see the process will be helpful, but it is important that there is a commitment to move the contract along that process in a more timely way and for the Administration to charge someone with ensuring the timeliness of registration. Additionally, PASSPort will not be ready for 18 months, and providers need relief now.

We support Intro 1067 to report on late contracting so that there is more transparency and a way to track this issue. Interest should also be paid to providers who experience delays; while there are mechanisms for interest, it is very rare for providers to be paid interest for late contract registration and payment. We appreciate the Council's commitment to looking in to this issue and also working with us to see improvement in the timeliness of registration.

Conclusion

Along with our partners in the Human Services Advancement Strategy Group, we have identified three crucial areas of concern for the human services sector:

1. Cleaning up the backlog of all contract action registrations and ensuring a transparent, timely registration system going forward;
2. Paying providers a fair indirect rate (aligned with federal guidance); and
3. Ensuring a rational rate/budget setting process for solicitations/contracts moving forward.

We look forward to engaging the Council in advancing our priorities, and continuing to work with the Administration to ensure a quality human services delivery system. The provision of human services by community-based organizations is the key to healthy, safe and diverse neighborhoods. With a continued commitment by the City towards our community's human services ecosystem, we can avoid the need to implement more costly interventions in the near future. Thank you again for providing me with this opportunity to testify, and for your partnership on all the issues impacting our community.



**New York City Council - Committee on Contracts - Hearing on Intro 1067
November 15th, 2018**

*Testimony of Caroline Iosso, Director of Community and Government Affairs
Opportunities for a Better Tomorrow (OBT)*

Good morning. My name is Caroline Iosso and I am the Director of Community and Government Affairs at Opportunities for a Better Tomorrow (OBT). Thank you, Committee Chair, Council Member Brannan, as well as Committee Members, Council Members Rosenthal, Perkins, Barron, and Yeger, for holding this hearing. I am pleased to present testimony on Intro 1067.

Founded in 1983, OBT is one of New York City's largest providers of workforce development and education services for opportunity youth, ages 17-24, and adults who are disconnected from education, and/or employment. OBT serves over 4,000 youth and adults annually across six sites in Brooklyn and Queens within the neighborhoods of Sunset Park, Bushwick, Bedford Stuyvesant, and Jamaica, Queens. OBT's programming model combines the comprehensive academic and vocational support needed to move individuals to self-sufficiency. We depend largely on government contracts to carry out this vital work.

Human services providers like us continue to face late contracting issues, which have a detrimental effect on both our organizational capacity and the communities that we serve. According to NYC Comptroller Scott Stringer's analysis of NYC Agency contracts, in Fiscal Year 2017, 90% of human services contract arrived at the Comptroller's Office after the start date. This is important because providers are paid once the contracts are registered, creating a risky situation where we have to start the work without a registered contract and payment, or delay in starting the contract, which affects the communities dependent on our services. Many of the late contracts are renewals, so we don't have the option to suspend services while we wait for a registered contract. The City's delays cost us real money and jeopardize the quality of services by diverting funds away from programs to pay interest on lines of credit.

Thank you to Chairperson Brannan and Council Member Lancman for proposing this bill, which requires the City to notify providers of the reason for late agency payments and submit reports on these late payments to the Mayor's Office of Contract Services (MOCS). While reporting on late payments is only one step in resolving the issue of delayed registration, it is an important mechanism in shining a light on how many contracts registered late. Although the City has put much time and effort in developing HHS Accelerator, more needs to be done to fix the systemic issues in the increase in late registrations. We realize that the City will release PASSPort in 18 months to resolve these issues. However, the City must address the immediate concerns that

providers have with the backlog in contracts. Nonprofits, including OBT, are forced to compensate the delay by taking out loans, laying off or delaying in hiring staff, and scaling back or closing programs.

At OBT, we rely on approximately 15 city contracts. As of today, we are still waiting on 3-4 FY19 contracts to be approved and registered. Typically, we have to wait between 3 and 12 months after the contract start date for our contracts to be registered. In FY18 alone, this has cost us \$5,000 in interest that we must pay on loans that we've taken out to cover the costs of running our programs. We've also been forced to pay late fees on certain bills, and our reputation for paying bills on time has been negatively affected. Because of the delays in the contract registration, there have been times when we have not been able to hire staff or purchase program-related supplies. We have had to account for the fact that we will not be reimbursed in a timely manner, and our ability to serve out of school and out of work young people has suffered as a result.

We understand that the City Council supports the work that human services providers do by proposing this bill to ensure prompt payment. At the same time, the City should tackle the issues in contract delays because it not only affects the stability of the human services sector, but also the assurance that providers can deliver vital services for the benefit of all New Yorkers. We look forward to working with the City to improve the procurement process. Thank you for this opportunity to testify. I am happy to answer any questions you may have, and I can be reached at ciosso@obtjobs.org or 718-369-0303.



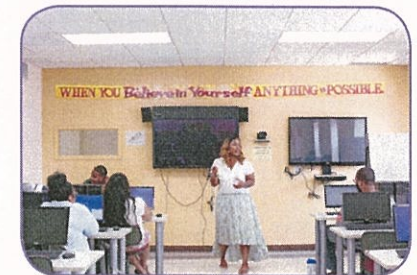
**OPPORTUNITIES
FOR A BETTER
TOMORROW**

"The mission of Opportunities for a Better Tomorrow is to help youth and adults from low-income communities to advance towards self-sufficiency and financial security through job training, academic reinforcement, improved life skills, job placement, and support services."



OUR MODEL

- Nationally recognized workforce development program provides youth, ages 17 to 24, with integrated approach to education and job training, with opportunities to advance into retail, clerical, and hospitality jobs. Our advanced training programs for high school graduates include health care, technology, and construction career opportunities. Curriculum includes High School Equivalency preparation, and training in business-skills, medical records administration, and web design and coding.
- Applied learning modules include: Public Speaking and Communication, Speed Networking, and Financial Literacy. These modules connect learning to "real world" situations.
- A typical day is modeled after a corporate workday, with trainees in attendance five days a week. Youth are required to dress in professional work attire and are evaluated based on their performance.
- Counselors assist trainees by providing one-on-one counseling, support services and referrals to social service agencies.
- Trainees can attain credentials including High School Equivalency diploma, Microsoft Office Specialist Certification (MOS) the National Retail Federation's (NRF) Rise Up (customer service) Certification, Adobe Photoshop certification, Microsoft Technology Associate in JavaScript or Python, Certified Medical Administrative Assistant, and Certified Front Desk Representative.
- Upon successful completion, trainees are provided with job placement assistance and college access services. OBT places youth in "career oriented" settings, leveraging their training and soft-skills.



OBT PROGRAMS

Youth Education and Job Training Program

An integrated approach to high school equivalency and job training, with opportunities to advance into retail, clerical, and hospitality jobs; serves youth 17-24 through a year-long program model

Adult Employment Assistance Programs

Job readiness classes and assistance with job placement, obtaining the Microsoft Office specialist Certification (MOS), and the National Retail Federation's (NRF) Customer Service Certification.

College Access Program

Academically prepares and advises trainees about the college process including degree options, application requirements, deadlines, and financial aid. One-on-one counseling services are also provided to students.

Intern & Earn Program

A 12 week paid internship program that includes job readiness workshops combined with an off-site internship at corporations, small businesses, government agencies, and nonprofit organizations; it serves youth ages 16-24.

Adult Education & Literacy Programs

Includes four levels of English for Speakers of Other Languages (ESOL), Pre-HSE, and HSE classes. Classes meet for 16-week cycles (3 cycles a year) during the morning, afternoon, or evening; it serves 800 people annually.

Young Adult Literacy Program

Pre-HSE/GED program designed to boost reading, writing, and math skills so participants may enroll in a HSE preparation or job training program.

TechSTART Program

12-week introduction to website design and coding. Certifications for Adobe Photoshop, JavaScript and Python.

Medical Administrative Assistant Program

Certified training course includes medical terminology and Occupational Skills as well as an internship in a medical setting.

Office For New Americans (ONA)

Naturalization, citizenship, and assistance with other legal forms, plus entrepreneurship and community workshops.

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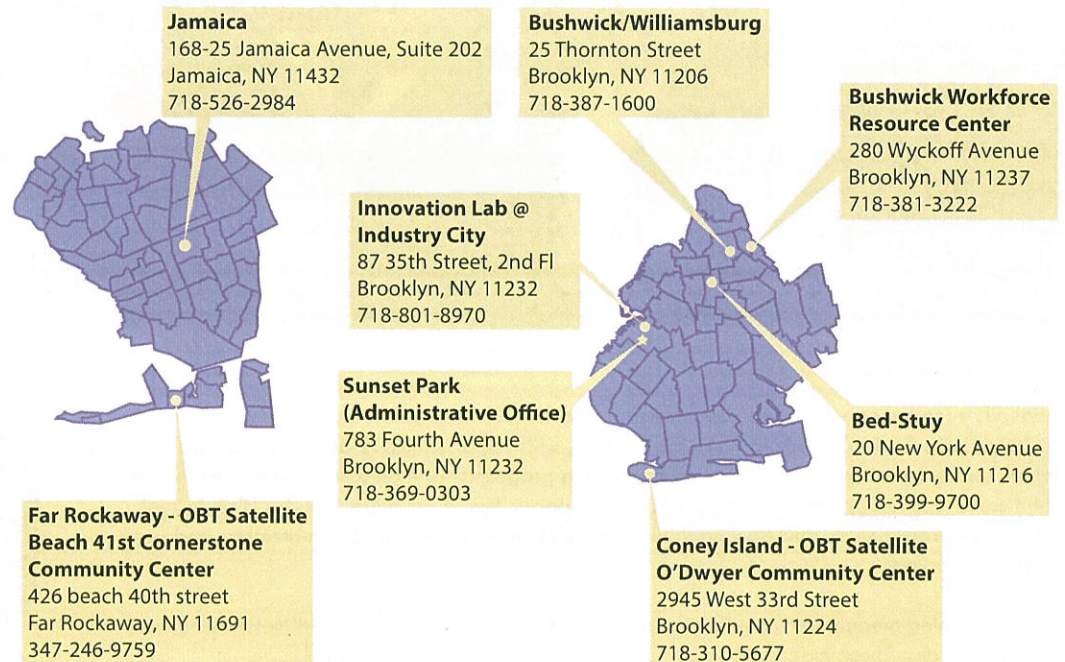
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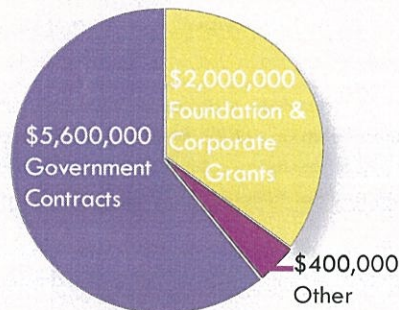
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**TESTIMONY OF THE NEW YORK ELECTRICAL CONTRACTORS ASSOCIATION
BEFORE THE
NEW YORK CITY COUNCIL COMMITTEE ON CONTRACTS
REGARDING INT 1067-2018
NOVEMBER 15, 2018
250 BROADWAY - NEW YORK CITY
COMMITTEE ROOM, 14th FLOOR**

Chairman Brannan, Councilman Lancman and members of the New York City Council Committee on Contracts, good morning. I am Peter Rescigno, Assistant Executive Secretary for the New York Electrical Contractors Association (NYECA), New York's City's leading trade association of unionized electrical contractors. Thank you for the opportunity to submit testify today on Int. 1067, a Local Law to amend the New York city charter and the administrative code of the City of New York, in relation to reporting of promptness of agency payments to contractors. On behalf of NYECA, we support this bill.

Int. 1067 would require the Procurement Policy Board to create a process for City agencies to inform vendors of the reason for any late payments. In addition, this legislation would also require City agencies to provide the Mayor's Office of Contract Services with reports on late payments, to be compiled into biannual reports to the Mayor and City Council.

One of NYECA's primary goals as a trade association is to improve the New York City business climate for our member subcontractors. This is particularly challenging, where it seems like there is often a perfect storm comprised of government overregulation, bureaucratic red tape, and challenging market conditions that can make it very difficult for contractors to survive in New York City. Yet my construction subcontractors, who employ Local Union #3, IBEW electricians are a huge part of the backbone of the New York City economy, providing a level of salary and benefits that can offer a comfortable, middle class life to hard-working New Yorkers. Government should recognize this and support our efforts, but unfortunately the reverse is all too often the case. Int. 1067 bucks this trend and could potentially help subcontractors working with the City to get paid on time, which is so crucial when running a business, particularly a small business, and is why we enthusiastically support the bill.

For many years NYECA has been working to make life better for electrical contractors by affecting positive policy changes, and Int. 1067 represents yet another such positive change. Our reform efforts focus on three primary areas of concern: protecting the public from unscrupulous contractors who jeopardize public safety by working without an appropriate license, streamlining the bureaucratic process by which contractors must secure necessary permits and approvals, and

expediting payments to contractors and their subs for completed work, particularly on public works jobs.

We have been successful in many of our effort and are happy to report that conditions have improved, and our members are grateful for your help. In 2017, we were successful in adopting Local Law No. 46, which increases civil and criminal penalties for performing electrical work without a license in New York City – a measure that can literally save lives. We worked with the Department of Buildings to help them implement the new Building One City eFiling system, whereby contractors can now do much of their filings online, saving them time and money. And we worked on the introduction of Int. 1054, a bill presently pending before the Council which in a similar fashion would require that the New York City Fire Department allow for online applications for fire alarm plan examinations, also saving contractors time and money. And now our third area of concern where we must do better: prompt payment.

NYECA works tirelessly to help their member contractors get paid on time. Without prompt payment, businesses get squeezed and struggle to make payroll. And a struggling business is not thinking about growing in New York City - it's thinking about leaving New York City. Additionally, NYECA works on many policy initiatives at the state level that are designed simply to help contractors get paid on time. We are finding a large part of that effort is educating elected officials and policymakers – many of whom have never faced the challenge of running a business and making payroll – about the critical nature of prompt payment.

It's still all-too-common that construction subcontractors can wait months for payment on public works jobs with the City and State, sometimes longer if there is a change order involved. All too often getting payment on public projects has become a matter of survival in New York and we have got to do better.

Int. 1067 helps address this situation, and again thank you for its introduction. If nothing else this bill sends the right signal to the business community: prompt payment on public works. That in and of itself is helpful and tells us that our message to policymakers is being received on this critical issue. It says that the business community is finally being heard by some politicians who frankly are often perceived as not being empathetic to the plight of local businesses. And if this is the case the New York City economy may be failing to reach its true potential.

And perhaps the bill will even do more. If agencies are required to provide contractors with a specific reason as to why their check isn't in the mail, maybe that agency will better focus on the nature of the delay, and try to resolve it in the first place. And by involving the Mayor's Office of Contract Services, there will be another pair of eyes to overlook the various City agencies to help expedite prompt payment to contractors, or at least question those agencies that are the worst offenders.

It's not rocket science: if you do your job and do it well, you should be paid within a reasonable period of time. To the extent Int. 1067 helps further that goal, we support it fully.

As the leading trade association of unionized electrical contractors in New York City, NYECA helps build New York, serves our communities in times of crisis, provides opportunities for minority and women-owned businesses, and promotes the highest standards of worker safety in the industry. NYECA supports Int. 1067, and we look forward to working with the bill sponsors and the Committee on passing this measure into law.

Thank you for the opportunity to submit testify on behalf of the New York Electrical Contractors Association in support of Int. 1067.



Testimony by the New York Legal Assistance Group (NYLAG)

Regarding Int. 1067

Before the New York City Council Committee on Contracts

November 15, 2018

Chair Brannan, Council Members, and staff, good morning and thank you for the opportunity to speak to the Committee on Contracts regarding Intro 1067, which would put into place rules to ensure prompt payment to contractors and create more transparency in the contracting process. My name is Beth Goldman, and I am the President & Attorney-in-Charge of the New York Legal Assistance Group (NYLAG). NYLAG uses the power of the law to help New Yorkers in need combat social and economic injustice. We address emerging and urgent legal needs with comprehensive, free civil legal services, impact litigation, policy advocacy, and community education. NYLAG serves veterans, immigrants, seniors, the homebound, families facing foreclosure, renters facing eviction, low-income consumers, those in need of government assistance, children in need of special education, domestic violence victims, people with disabilities, patients with chronic illness or disease, low-wage workers, low-income members of the LGBTQ community, Holocaust survivors, as well as others in need of free legal services.

I want to thank the Committee for taking on the important issue of the delays in NY City contract payments. Nonprofits like NYLAG face serious challenges as a result of the City's failure to pay for services rendered until months or even more than a year after services are provided. There is a reason we enter into contracts with New York City: these grants allow us to do a tremendous amount of life-altering work on behalf of the vulnerable, low-income populations we serve. Funding from the City allows us to provide a wide range of free civil legal services to those who would otherwise have no recourse for accessing justice. The City supports and nurtures our work to an

extraordinary extent, and we are incredibly fortunate to have a City Council and Mayoral Administration with a true understanding of the importance of funding civil legal services for low-income individuals and families.

NYLAG has contracts with multiple city agencies, including the Human Resources Administration, the Department of Youth & Community Development, the Mayor's Office of Criminal Justice, the Mayor's Office of Immigrant Affairs, and Health + Hospitals, and our working relationship with them is excellent. The same applies to the Mayor's Office of Contract Services (MOCS). The people within City government with whom we work on our contracts are professionals and, in my experience, are trying to help us navigate the system.

That does not mean that there is not a problem with the City's contracting process. According to a recent report from Comptroller Scott Stringer, 80% of FY17 contracts arrived at the Comptroller's office for registration after the start date of the contract.¹ Many contracts are not even registered until the year in which the services were provided is over. Because nonprofits are not currently entitled to payment under a City contract until there is registered contract, we provide services for months or even a year or more without any reimbursement of the costs associated with performing on the contract. This means that the City, with a budget of over \$88 billion, is forcing nonprofits with budgets of a fraction of that to float the cash to perform the services—sometimes for a full year. It is ludicrous, but also has the potential to be incredibly harmful, even catastrophic, to nonprofits which operate on small margins, with limited resources, and limited access to cash to pay the bills and the staff members who are providing critical services for the City.

With respect specifically to NYLAG,

¹ "Running Late: An Analysis of NYC Agency Contracts." 29 May 2018.
<https://comptroller.nyc.gov/reports/running-late-an-analysis-of-nyc-agency-contracts/>

- In FY17, of the 22 contracts with a start date of July 1, 2016, three were registered at the beginning of the contract period. The remaining contracts were registered from May – August 2017.
- In FY18, of our 14 contracts with a July 1 start date, three were registered at the start of the contract period; by April, only 1/3 were registered;, the rest were finally registered by October 15, i.e., after the end of the first quarter of the following fiscal year.
- For FY19, we have \$11 million in NYC contracts, all of which started on July 1, 2018. As of now, with more than a quarter of the year past, only \$1.3 million are registered. .

In order to cover the cash flow needs created by late contract payments, NYLAG is fortunate to have a line of credit at its bank (which not all non-profits do) – and we borrow against that *and pay interest on the amounts borrowed*. We also have a reserve fund from which we can borrow a limited amount. But NYLAG, like most nonprofits doing business with the City, does not have reserves sufficient to cover multiple months of operating costs, representing millions of dollars.

Compounding the cash flow issues, the costs of borrowing and the opportunity costs of not being able to grow our reserves are not compensated by the City. Indeed, it may get to a point where we will not be able to take on additional City contracts because we will not be able to afford to; we will not be able to lay out the cash necessary to cover the costs of providing the services while awaiting reimbursement.

The problem as we see it is that no one entity in the City is responsible for ensuring contracts are registered in a timely manner, and there is no definition of the meaning of “a timely manner.” After a contract is signed between a vendor and the contracting agency, we understand that five other City agencies play a role in review before it is submitted for registration at the Comptroller’s Office. With multiple agencies required to sign off and no time limits, it takes months and even years. Moreover, we have absolutely no ability to track the contracts. The process is so opaque that we cannot

determine the status of any particular contract we are waiting for, which agency is currently reviewing it, or how soon we can expect registration. This uncertainty leads to enormous budgetary uncertainties and cash flow issues. In fact, in my experience, our agency partners also do not know the status of any given contract once it leaves their agency. This leads to frustration on both sides, as we push to get more information and agency staff are unable to give us accurate updates.

We believe that the solution to this problem requires a number of important steps:

1. NYLAG strongly supports imposition by the Council of deadlines for all City agencies to register contracts, including the provisions of Int. 1067 and other provisions that would limit the amount of time agencies have to process contracts and payments. We have seen that these types of rules, such as the one in the City Charter giving the Comptroller's office 30 days to approve contracts, work – in fact, last year, the Comptroller's office registered 95% of contracts within the given timeframe. We recommend requiring that all City contracts be sent to the Comptroller within 60 days of the contract start date.
2. NYLAG also strongly supports the increased transparency measures within Int. 1067, which would compel City agencies to provide nonprofits with an accurate timeline for contract and payment processing, and an explanation should there be delays in the process. Nonprofits must have access to information about where in the process a certain contract is, which agency is holding it, and who to contact if the process is delayed. By putting in place a system like this, nonprofits would have the ability to better project cash flow and budget accordingly. The requirement for agencies to submit regular reports on the timeliness of their contracting processes will also hold them accountable.
3. NYLAG agrees that in order to enforce the deadlines imposed, it is necessary to require agencies to pay interest to contractors when registration of contracts is delayed. This amount would help cover the costs of borrowing that many of us must do in order to pay our bills

while we await payment from the City. Alternatively, we would suggest the Committee consider a mechanism to allow payment advances on contracts, similar to the structure that currently exists for many State agencies. For several of NYLAG's State contracts, agencies offer the opportunity for the organization to apply for an advance, usually 25% of the total funding amount, under certain circumstances. This allows NYLAG to receive immediate payment while the contract moves through processing and helps stabilize cash flow. Providing advance payments, at least when a contract registration is still pending after the first quarter of the grant, would go a long way toward helping nonprofits budget and manage cash flow.

A more transparent and streamlined contracting process that would allow nonprofits to invoice on costs more quickly each year is critical to keeping organizations healthy and functional and ensure that the vital services the City entrusts to its nonprofit partners can continue to be performed.

Thank you for the opportunity to testify today on this issue that is so critical to the health of New York City's vibrant nonprofit community. I am happy to answer any questions, and look forward to continuing this conversation.

Respectfully submitted,

New York Legal Assistance Group

**Testimony of Felice Farber, Senior Director Policy & External Affairs
General Contractors Association of New York, Inc.
Committee on Contracts
Hearing on Intro 1067
250 Broadway, 14th Floor Committee Room
Thursday, November 15, 2018, 10:00am**

Thank you, Chairman Brannan and members of the Committee on Contracts, for the opportunity to testify today in support of Intro 1067. I am Felice Farber, Senior Director of Policy and External Affairs at the General Contractors Association of New York. The GCA represents the heavy civil construction industry in New York City whose members build New York's roads, bridges, transit and water systems, parks, schools and building foundations.

We applaud the Council's efforts to bring daylight and transparency to the payment process.

At the outset we would like to commend the efforts of the Mayor's Office of Contract Services to streamline, digitize, and automate the procurement process. Their efforts have already begun to improve the project award process. We look forward to the additional phases of PassPort.

My comments today focus on the challenges experienced in obtaining timely payment on public works construction projects.

While the City must pay interest on payments made after 30 days, most of the delays occur in the time period between when a payment requisition is submitted and when that invoice is officially accepted signaling the start of the 30-day countdown.

Rather than tracking payments from the official invoice acceptance date, we recommend that the tracking start with each of the steps that leads up to the invoice acceptance. It is this interim period between close of the billing period and the official approval of the payment where delays occur and which are ripe for process improvements. These delays can hold up the payment process for 60 days or several months, thus impacting the timeliness of payments to the prime contractor, and to each and every subcontractor and MWBE.

I would like to run through the payment approval process in order to provide an understanding of the various places where a payment requisition can get held up.

The first step is the contractor's submission of the payment requisition or invoice to the City's resident engineer. The payment requisition lists the quantity of work performed during the prior month and the amount of money due. The City and its resident engineer consultant must verify the quantities submitted or the amount and type of work completed.

Included with the payment requisition are the contractor's and subcontractors' EEO documentation and certified payrolls. Some owners review this documentation for completeness prior to approving the payment.

After all of this documentation is reviewed and approved by the field office, the City must manually input the quantities into the city's own internal system.

After all the data is entered, it is sent back to the project field office for review and verification. Any data entry errors are noted and sent back for correction.

Once the data is correct, the payment document is printed, compiled with the other paperwork requirements, and signed by the Engineer-in-Charge and the Resident Engineer. This marks the official acceptance date and the start of the payment tracking process. It can take two months or longer just to get to this point.

The payment package now ready to be sent to both Engineering Audit and Quality Assurance for review and approval. Any adjustments made to the payment package by EAO or Quality Assurance can create delay. After Engineering Audit and Quality Assurance sign off on the requisition, it is returned to the agency's fiscal office where it is sent to the Department of Finance for the check to be cut.

An online tracking system, similar to PassPort, that starts the countdown from the minute the payment is initially submitted, rather than when the payment is finally approved and accepted, would provide the data necessary to identify problems and take corrective action to streamline the process.

We believe the City is on the right track in its efforts to streamline and automate these processes and look forward to seeing the results.



**Testimony before City Council Committee on Contracts
November 15, 2018 | 10:00am**

Good morning Chair Brannan, Council Member Lancman, and members of the Committee. My name is Mark Hurwitz, and I am presenting testimony today on behalf of Urban Pathways. Urban Pathways provides services to chronically homeless individuals through a unique combination of street outreach, safe havens, extended stay residences, permanent supportive housing, and employment programs. Our programs engage street homeless individuals to end their homelessness, and to succeed and thrive as they move into the future. In FY '17 our outreach teams and drop-in center made 198 placements of street homeless individuals into permanent housing and 413 placements into transitional settings. Additionally, our three safe havens placed 50 individuals into permanent housing.

These results have been achieved in partnership with the City Department of Homeless Services and Human Resources Administration, as well as other City and State agencies, whose funding and support allow us to provide critical solutions to homelessness. I am here today to discuss some of the challenges that arise when these city-funded contracts are registered late, which includes late payments and a high administrative burden on our organization.

Our last renewal contract was just recently registered on October 12th, well over three months into the fiscal year; this was a DHS contract for our Travelers' Safe Haven in midtown Manhattan. Up until then, we were running this program without a contract, and so were without payment for the services being provided. Our safe havens are residential programs that receive individuals directly from the street who have engaged with an outreach team, so clearly it is not an option to temporarily suspend these critical services until a contract is registered.

With late contracting having become the norm, three to four months into the fiscal year doesn't seem so bad compared to our experience waiting over a year for an amendment to be registered with a Department of Health and Mental Hygiene contract. We were

instructed by DOHMH to begin hiring staff to provide supported Employment direct services in the Bronx on September 1, 2017. We were assured that our contract would be amended promptly to allow our costs to be reimbursed. However, the contract amendment was not registered until October 23, 2018, more than a year later. To make matters worse, DOHMH has an opaque process for registering amendments, including four administrative layers: the Agency Chief Contracting Officer, a separate Director of Contracts, the program team, and the finance team. This made it difficult to even know to whom we should address our concerns about the delay. We expended significant high-level management resources monitoring and resolving the stalled progress of the contract, including time spent resolving conflicting information we were given about which internal department was responsible for the next step in the process.

Late contract registrations impact our cash flow, as well as come with high administrative costs that would be avoided with timely registrations. When our contracts are delayed, we are forced to delay subcontracts, and payments to vendors and subcontractors. Internally, our staff members expend great efforts to try to determine the status of contract actions, plead with City agency staff to expedite the process, escalate our requests when necessary, and devise cash flow solutions. This is staff time that could be better spent contributing to our program needs, and ultimately also increases our costs.

We believe that creating greater accountability is a step in the right direction to solving the delayed contract problem we, and other nonprofits across the city, face each year. This is why we thank you Chair Brannan, Council Member Lancman, and the other cosponsors for proposing this bill, Introduction 1067, which requires the City to notify providers of the reason for late agency payments and submit reports on these late payments to the Mayor's Office of Contract Services (MOCS). We feel the transparency this bill would create will move us towards solving the systemic issues that lead to late contracts.

We recognize that there are many dedicated individuals who work at DHS, HRA, DOMHM, and other City agencies, as well as the work that the City has put into HHS Accelerator and the impending release of PASSPort in 18 months. However, we believe that the delays in the contracting process are avoidable and have seriously undermined the City's efforts to support our programs. We hope that the City Council passes this bill and continues to help us create long-term solutions for timely contract registrations.

Thank you for the opportunity to testify today. I am happy to answer any questions you may have, and I can be reached at mhurwitz@urbanpathways.org.



**Testimony delivered by Anthony Edwards, Chief Financial Officer
Prepared for the NY City Council Committee on Contracts
November 15th, 2018**

Good afternoon. My name is Anthony Edwards and I'm the Chief Financial Officer for Sheltering Arms Children and Family Services. Thank you Chair Brannan and members of the New York City Council Committee on Contracts for the opportunity to testify before you today.

Sheltering Arms is one of the City's largest providers of education, youth development, and community and family well-being programs for the Bronx, Manhattan, Brooklyn, and Queens.

Human services providers continue to face late contracting issues, which have a detrimental effect on both the organizations themselves and the communities that we serve. According to NYC Comptroller Scott Stringer's analysis of NYC Agency contracts, in Fiscal Year 2017, 90% of human services contract arrived at the Comptroller's Office after the start date. This is important because providers are paid once the contracts are registered, creating a risky situation where we have to start the work without a registered contract and payment, or delay in starting the contract, which affects the communities dependent on the services of providers. Many of the late contracts are also renewals, so there isn't really an option to suspend services while we wait for a registered contract; the City's delays cost us real money and jeopardize the quality of services by diverting funds away from programs to pay interest on lines of credit.

Thank you to Chair Brannon and Council Member Lancman for proposing this bill, which requires the City to notify providers of the reason for late agency payments and submit reports on these late payments to the Mayor's Office of Contract Services (MOCS). While reporting on late payments is only one step in resolving the issue of delayed registration and the impact it has on providers, it is an important mechanism in shining a light on how many contracts registered late. Although the City has put much time and effort into developing HHS Accelerator, more needs to be done to fix the systemic issues in the increase in late registrations. We realize that the City will release PASSPort in 18 months to resolve these issues; however, the City should address the immediate concerns that providers have with the backlog in contracts.

In FY18, Sheltering Arms had a total of 10 late contracts, primarily from DYCD for Afterschool and Youth Services programs. To compensate for these delayed contracts, we had to draw more than \$1M from our line of credit, for which we paid ~\$20,000 in interest. Enhancement funds that were added to our ACS Preventive contracts in FY18 were registered with only three months to spend down the funds. We spent as much as possible on things like salary increases and furniture, but nearly \$800,000 were left unspent.

In FY19, our Early Childhood Education contracts through ACS, which total ~\$18M, were registered two months late, requiring us to apply for an interest-free loan from the Fund for the City of New York. Our FY19 contracts for Non-Secure Detention through ACS, totaling ~\$3.5M, are still not registered, though the contracts expired in September.

We understand that the City Council supports the work that human services providers do by proposing this bill to ensure prompt payment. At the same time, we urge the City to take on the issues in contract delays because it not only affects the stability of the human services sector, but also the assurance that providers can deliver vital services for the benefit of all New Yorkers. We look forward to working with the City during this hearing to improve the procurement process.

Thank you for providing me with this opportunity to testify. I am happy to answer any questions you may have, and I can be reached at aedwards@shelteringarmsny.org or 212-886-5618.



**ADVANCING OUR
COMMUNITY**

Chinese-American Planning Council, Inc. (CPC)
150 Elizabeth Street, New York, NY 10012 (212) 941- 0920
www.cpc-nyc.org

**Chinese-American Planning Council, Inc.
Testimony at the New York City Council
Committee On Contracts
Honorable Justin Brannan, Chair
November 15th, 2018**

Thank you Chair Brannan and the Members of the City Council for the opportunity to testify today. The mission of the Chinese-American Planning Council, Inc. (CPC) is to promote social and economic empowerment of Chinese American, immigrant, and low-income communities. CPC was founded in 1965 as a grassroots, community-based organization in response to the end of the Chinese Exclusion years and the passing of the Immigration Reform Act of 1965. Our services have expanded since our founding to include four key program areas: Childhood Development, Education & Career Services, Senior Services, and Community Services.

CPC is the largest Asian American social service organization in the U.S., providing vital resources to more than 60,000 people per year through more than 50 programs at over 30 sites across Manhattan, Brooklyn, and Queens. Our revenue is approximately half New York City funding.

CPC now employs a team of over 700 staff members, many of whom come from the same neighborhoods we serve. With the firm belief that social service can incite social change, CPC strives to empower our constituents as agents of social justice, with the overarching goal of advancing and transforming communities.

CPC offers holistic services that target both individual and family needs. Our programs are available for community members of all ages and backgrounds, and span five key service areas:

- **Early Childhood Education:** child care for children of ages 1-5 and workshops for parents.
- **School-Age Child Care Services:** after-school programming for children in grades K-5.
- **Education & Career Services:** ESOL classes, youth development, and workforce trainings.
- **Senior Services:** wellness, recreation, meals, and workshops for adults aged 60 and older.
- **Community Services:** family resources, public benefits, counseling, advocacy, and referrals

To that end, we are grateful to testify about issues that impact the individuals and families we serve, and we are grateful to the Council for their leadership on these issues.

Human services providers continue to face late contracting issues, which have a detrimental effect on both the organizations themselves and the communities that we serve. According to NYC Comptroller Scott Stringer's analysis of NYC Agency contracts, in Fiscal Year 2017, 90% of human services contract arrived at the Comptroller's Office after the start date. This is important because providers are paid once the contracts are registered, creating a risky situation where we have to start the work without a registered contract and payment, or delay in starting the contract, which affects the communities dependent on the services of providers. Many of the late contracts are also renewals, so there isn't really an option to suspend services while we wait for a registered contract; the City's delays cost us real money and jeopardize the quality of services by diverting funds away from programs to pay interest on lines of credit.

Late payments are a chronic issue for nonprofits that already strapped for cash flow due to the severe underfunding of New York City Contracts. They mean that we have to delay other important payments, put off critical investments in things like infrastructure and technology. They often mean we have to take out a line of credit to float the difference. Last year, we paid nearly \$100,000 in interest on late payments. That money that we subsidize the city on, is money that could have been used to provide adult literacy classes to 111 more students, a full year of afterschool programming to 33 young people, or over 8,300 culturally appropriate home delivered meals for home-bound seniors.

Exacerbating this issue is the fact that we don't even know when late payments will come in, with no reliable way of finding out. This makes planning impossible, so we can't even say how long we have to put off a needed repair, for example. It is worth noting that discretionary contracts are among the worst offenders for late payments.

Thank you to Chairperson Brannon and Council Member Lancman for proposing this bill, which requires the City to notify providers of the reason for late agency payments and submit reports on these late payments to the Mayor's Office of Contract Services (MOCS). While reporting on late payments is only one step in resolving the issue of delayed registration and the impact it has on providers, it is an important mechanism in shining a light on how many contracts registered late. Although the City has put much time and effort in developing HHS Accelerator, more needs to be done to fix the systemic issues in the increase in late registrations. We realize that the City will release PASSPort in 18 months to resolve these issues; however, the City should address the immediate concerns that providers have with the backlog in contracts. Nonprofits are forced to compensate the delay by taking out loans, laying off staff, and scaling back or closing programs. Additionally, delays in registration or in processing contract amendments can mean that we are unable to spend down all the money on a contract. For example, if we delay in starting a contract until it is registered, the program starts late so we do not spend a full year's worth of program funds, or if an amendment is processed late, we cannot move money around to spend it where we really need it. These delays cost our organization's money and also impact the communities we serve.

CPC appreciates the opportunity to testify on these issues that so greatly impact the communities we serve. We look forward to working with you on them.

If you have any questions, please contact Carlyn Cowen at ccowen@cpc-nyc.org



Violence Intervention Program, Inc.

P.O. Box 1161 Triborough Station, New York NY 10035 | Tel. 212.410.9080 | Fax 646.975.4554 | www.vipmujeres.org

City Council of the City of New York Committee on Contracts

Testimony Submitted by: Margarita Guzman, Executive Director
Thursday, November 15, 2018
10:00am

My name is Margarita Guzman and I am the Executive Director of the Violence Intervention Program, Inc. Established in 1984, VIP is a culturally specific organization working within Latinx communities to address intimate partner and sexual violence. We provide a full continuum of services to survivors and their families in all five boroughs of New York City that includes both residential and non-residential services, as well as a 24/7 hotline.

In FY 2018, VIP served over 1,700 clients and provided over 30,000 services. We conducted 500 outreach activities, disseminating almost 70,000 materials, and reaching over 13,000 people, resulting in over 7,200 calls to our hotline.

Our current operating budget is just under \$4.8M, with approximately \$2M allocated for rental expenses for our scattered site shelter program, and operation of our transitional housing program. We have a roster of 48 full-time staff, plus a dozen part-time and per diem workers.

Every one of those services I mentioned is in perpetual jeopardy. Every single one of those survivors, along with all of their children, are in constant danger of going unseen, unheard and unserved. The problem is not a lack of dedicated workers. It is not a lack of expertise, or even a lack of funding - because we secured funding for all the work we provide. However, unlike any other sector or business practice, the City of New York (our biggest partner), delays payments for our services - often for an entire fiscal year.

Because of those delays, we find ourselves struggling, negotiating, sometimes begging our other

vendors and landlords to understand why we are late with our own payments in turn. We cannot pay rent - over \$2M a year, with explanations about delayed contract registrations, or info sessions about HHS Accelerator's technical glitches. We cannot pay our staff in promises. We cannot support survivors with commitments, but failed follow-through.

VIP is currently fronting the City \$423,556 from City Council funding sources for this fiscal year, including City Council discretionary (DOVE) funds, the citywide Sexual Assault Initiative, and a grant through the Speaker's Initiative. We don't expect payment on any of these until June 2019, at the earliest, but more likely in late July or August.

In addition to that funding, we are still waiting for payment for domestic violence shelter services we provided through our HRA Residential contract for not one or two, but five months of services. For VIP, that is \$494,868. I understand that payments cannot always be turned around as quickly as we'd all like – but we have still not been paid for services we provided in June. In the meantime, we are expected to figure out how to continue providing services to the people under our roof now in November. This is not about a payment schedule that would be ideal – it is about a payment schedule that will not bring us to the brink of closing down every other payroll solely because we are hoping and praying that our payments for services rendered will finally come through.

If you're following the math, you'll notice that I've detailed almost \$1M in money owed to VIP. If you'll recall, I said our budget is under \$4.8M. Well over a fifth of our annual budget is outstanding. Half a million will not get here this fiscal year. We have to be able to carry these expenses with our reserves and line of credit until we receive reimbursement. We are currently operating at a deficit. Our line of credit is \$150K. That won't go far to float the payments we are owed. For an organization like ours, this means functioning on the constant brink of instability. And that is a huge injustice to the immigrant survivors of intimate partner and sexual violence that you chose to support by granting us these funds in the first place.

In addition, we are punished for errors and late notices via systems that were meant to improve those whole process. Last year, we received notice that our HRA Non-Residential Services grant was renewed and it detailed a contract in the amount of \$836,875.36 for the period from April 1, 2018 to March 31, 2019. In August 2018 (4 months after the contract began), HRA entered the contract into HHS Accelerator, an online billing platform. Because of an error in Accelerator, we were not able to enter our budget for the contract year. On October 16, 2018, we were notified that the error was corrected. We went to enter the annual budget, but the total amount available was only one quarter, or \$206,111.09, and the period was from April 1, 2018 to June 30, 2018. Even though the grant period is April 2018 to March 2019, they split the funding at the fiscal year and would not permit spending for that quarter to carry over into the next fiscal year. Because we were not aware of that at the time – in fact were not made aware of it until October – we inadvertently left over \$33,000 unspent and we are told we cannot recover it. Do you have any idea how much \$33,000 means to a small non-profit like ours? That loss is devastating.

I thank Chairperson Brannon and Council Member Lancman for proposing this bill, which requires the City to notify providers of the reason for late agency payments and submit reports on these late payments to the Mayor's Office of Contract Services (MOCS). While reporting on late payments is only one step in resolving the issue of delayed registration and the impact it has on providers, it is an important step towards transparency. Although the City has put much time and effort in developing HHS Accelerator, more needs to be done to fix the systemic issues in the increase in late registrations. I am here to ask you to help the city to fulfill its commitment to some of New York's poorest and most vulnerable communities.

We look forward to working with the City during this hearing to improve the procurement process. Thank you for providing me with this opportunity to testify. I am happy to answer any questions you may have, and I can be reached at mguzman@vipmujeres.org, or 212-410-9080, ext. 102.



Committee on Contracts

November 15, 2018 | 10:00am

Good morning. I am Maria Lizardo, Executive Director of Northern Manhattan Improvement Corporation (NMIC). NMIC is a settlement house serving 14,000 community residents in upper Manhattan and the Bronx. Our mission is to serve as a catalyst for positive change in the lives of the people in our community on their paths to secure and prosperous futures.

Thank you to Chairperson Brannon and Council Member Lancman for proposing this bill, which requires the City to notify providers of the reason for late agency payments and submit reports on these late payments to the Mayor's Office of Contract Services (MOCS). While reporting on late payments is only one step in resolving the issue of delayed registration and the impact it has on providers, it is an important mechanism in shining a light on how many contracts are registered late.

Human services providers continue to face late contracting issues, which have a detrimental effect on both the organizations themselves and the communities that we serve. According to NYC Comptroller Scott Stringer's analysis of NYC Agency contracts, in Fiscal Year 2017, 90% of human services contract arrived at the Comptroller's Office after the start date. This is important because providers are paid once the contracts are registered, creating a risky situation where we have to start the work without a registered contract and payment, or delay in starting the contract, which affects the communities dependent on the services of providers. Many of the late contracts are also renewals, so there isn't really an option to suspend services while we wait for a registered contract.

Although the City has put much time and effort in developing HHS Accelerator, more needs to be done to fix the systemic issues in the increase in late registrations. The City should address the immediate concerns that providers have with the backlog in contracts. Nonprofits are forced to compensate the delay by taking out loans, dedicating a tremendous amount of administrative time to tracking down unregistered contracts, resubmitting documents that have expired, and managing available funds in order to meet basic necessities such as covering payroll, paying rent and insurances, and purchasing program supplies. Additionally, delays in registration or in processing contract amendments can mean that we are unable to spend down all the money on a contract. For example, if we delay in starting a contract until it is registered, the program starts late so we do not spend a full year's worth of program funds, or if an amendment is processed late, we cannot move money around to spend it where we really need it. These delays cost our organization's money and also impact the communities we serve.



I want to take this opportunity to highlight some of the impact that late contract registration has had on NMIC:

- For FY 17, NMIC has one contract that is not registered totaling \$85,996.
- For FY 18, NMIC has 3 contracts that are not registered totaling \$109,051.
- For FY 19, NMIC has 11 direct contracts. Out of those 11, 2 are registered but the budget has not been approved and 9 are not registered.
- For FY 19, NMIC is a subcontractor on 4 contracts and none have been registered.
- As of October 31, 2018, NMIC's accounts receivable is \$2,287,905.
- NMIC currently owes 3 months of rent and the real estate taxes at the main site. The landlord constantly threatens NMIC with court proceedings. In fact, in 2016, NMIC was 6 months behind on the rent and the landlord did serve us with court papers. He did not pursue on the action but continues to threaten NMIC with displacement.

Having large amounts of accounts receivables on our fiscal books has impacted our banking services. Due to the large amounts of accounts receivables, and the fact that it took NMIC three years to pay back the loan used for the Manhattan Borough President's Capital grant that had been awarded in 2014, NMIC's former bank eliminated the line of credit and charged really high interest rates on the loan. Since then we have moved to another bank and we now have a credit line. Since the start of FY 19, we used the line of credit once and paid \$171.53 in interest for 7 days of use. If it were not for the fund balance that NMIC has accrued over the last few years, we would not be able to meet our financial obligations including covering payroll.

We understand that the City Council supports the work that human services providers do by proposing this bill to ensure prompt payment. At the same time, the City should tackle the issues in contract delays because it not only affects the stability of the human services sector, but also the assurance that providers can deliver vital services for the benefit of all New Yorkers. Although we are a non-profit, we are also a business that serves as an economic engine by employing 145 staff (125 full-time and 15 part-time). As such, we expect to be treated as a business. We need to be paid on time for the services that we offer. We look forward to working with the City during this hearing to improve the procurement process.

Thank you for providing me with this opportunity to testify. I am happy to answer any questions you may have, and I can be reached at (212)822-8319 or email marializardo@nmic.org.

Respectfully,

Maria Lizardo, LMSW
NMIC Executive Director



New York City Council
Contracts Committee
Reporting of Promptness of Agency Payments to Contractors
INT. 1067
November 15, 2018

Good morning. Thank you for the opportunity to address this very important topic. My name is Molly Krakowski and I am the Director of Legislative Affairs at JASA. Established in 1968, JASA is one of New York's largest and most trusted not-for-profits serving the needs of older New Yorkers in the Bronx, Brooklyn, Manhattan, and Queens. JASA's mission is to sustain and enrich the lives of aging New Yorkers in their communities, enabling them to live safely at home and connect with the people, places and experiences that provide meaning. JASA's programming promotes independence, safety, wellness, community participation and an enhanced quality of life for New York City's older adults. Our varied programs provide a continuum of care to over 40,000 clients annually.

JASA has been a leader among New York's not-for-profit organizations for 50 years. We provide subsidized senior housing, licensed home care and a robust array of services ranging from senior centers to legal services to case management to home delivered meals to adult protective and community guardian services. In total, we have a consolidated annual budget in excess of \$117 million and approximately 2,000 staff.

As with so many of New York City's human services organizations, the services programs at JASA are largely government funded. Approximately 81% of our \$48 million services budget receives direct government funding, with an additional 10% approximately, coming from service fees that are the result of our government services. We are proud of our long-standing partnership with our government funders, in particular the New York City Department for the Aging and the New York City Human Resources Administration, and we are committed to serving the citizens of this city.

However it is untenable for government funders to expect human services organizations to have funds readily available to meet the significant underfunding of contracts and the delays in contract payments. JASA is pleased that the challenges facing the human services sector due to these issues have gained traction and strongly supports INT 1067. We know that Council Speaker Johnson understands this issue, as do so many members of the City Council and certainly the members of this committee. We are also

appreciate the New York City Comptroller's office for the recent report highlighting the struggles facing the sector.

The FY18 New York City budget included a much needed infusion of funding for many human service programs. Through a model budget process, the FY18 budget also sought to increase salaries for Adult Protective Services workers and address the underfunded and understaffed DFTA sponsored senior centers. Unfortunately, delays in contracting and payment significantly reduced the potential positive impact for New Yorkers in need and for the dedicated workforce carrying out these crucial services. I would like to share some examples of what we are experiencing and the issues we face as a result of delayed contracts and delayed contract amendments.

Delayed Contracts, Amendments and Reimbursements

- JASA experienced extensive delays in approval for the supplemental budget for Adult Protective Services and Community Guardian Programs for FY18.
 - The City FY 18 budget beginning July 2017 allocated a Protective Services supplement, which would bring \$557K to JASA primarily for front line case management salary increases. We just received these funds last week, 16 months later. While we waited for this funding, JASA had to take out a loan to cover salary increases for staff. This, combined with delays on contract advances for FY19, created a cash flow crisis for the organization.
 - For Community Guardian Program, the FY18 supplemental budget was also approved in early 2017 for \$136K. We have yet to receive the FY19 contract advance for \$835K, which only continues the cash problem.
- We received a signed contract this past week for NY Connects, although the contract period began 7 months ago. NY Connects is a state-funded program administered by DFTA, with the goal of promoting seamless access to long-term care services and supports for older individuals as well as people of all ages with disabilities.
- Because of changes in some New York City Council grant contract numbers, new contracts needed to be prepared and executed. The change in contract numbers came after JASA's submission of reimbursement for FY18 expenses. As a result, JASA will need to spend time and administrative resources on avoidable re-work to resubmit the claim once the new contract is registered.
- DOHMH grants - Though JASA's DOHMH contract for our Geriatric Mental Health Clinic in the Bronx was registered in a timely manner, there has been a delay in approval of the budget modification. As a result, we are experiencing a delay in the reimbursement of claims.
- Senior Center Model Budgets - JASA received additional funding for 18 of our 22 senior centers as part of the model budget process in FY18. However, some

model budgets have still not been registered. As a result, JASA is not able to voucher for funds expended in these programs and is unable to close FY18.

Impact of delays on programs:

JASA has a handful of programs that are funded predominantly or exclusively through New York City Council funds. Because of the timing of award announcements, JASA is in the position of having to decide to suspend or cancel programs pending award notification and contract registration, or continuing programs and risking incurring unreimbursable program expenses if those funds are not awarded. JASA has had to send termination letters to staff in these programs and scale back staff time until the funds were awarded and the contracts were registered. This not only harms immediate service delivery to clients in need, as programs halt services from July 1st until the contract is registered, but also often results in the loss of valued staff members who could not afford to be unemployed. Often JASA is asked to hold off on sending out termination notifications, because the money is approved, with the expectation that JASA will continue operations without funding, until the contracts are registered. This system has a tremendous impact on programs. For example:

- JASA provides supportive services at 1199 NORC in East Harlem. When contracts are not registered, staff time is reduced to three days per week on July 1st. The additional two days can only be reinstated when the funding is actually awarded and the contract registered.
- In Far Rockaway NNORC, past contracts have been registered as late as January. When the money is released, it is dedicated for 12 months of programming, but must be spent within six months, after which it is stopped again for another 6 months while we wait for the next contract.
- A similar pattern exists at senior centers and NORCs receiving funds from NYC Council. Classes were cut short or canceled altogether until funding is renewed. The post budget adoptions have, at times, come when the fiscal year is half over.
- One senior center received notice last year of an additional \$20k discretionary allocation in March, and the money needed to be spent by the end of June. This can be extremely challenging, and is particularly frustrating when there are so many good uses for the funding were it available already at the start of the fiscal year.

Despite delays in funding and underfunded contracts, JASA and its extraordinary staff have provided continuous support, assistance and varied programming to New York's older adult population.

Today, the not-for-profit sector in New York City is at a crossroads. The gap between the funding we receive from government to provide services and the cost of providing those services as required by our government funders is large and growing, and contract delays and delays in contract amendments are making it extremely challenging to

operate with a necessary predictability. We have made every reasonable effort to find funds to cover delayed contracts until the government funding came through, but that presents a significant burden on agencies and severely limits our ability to be responsive to our clients. We are no longer comfortable masking the problem.

Size does not mitigate these problems – larger not-for-profits like ours simply face larger gaps for which to raise funds and more significant problems when payments are delayed. Quite simply, the structure of government funding for human services today does not work. Left at risk are a broad network of not-for-profit organizations and, more importantly, the hundreds of thousands of people who rely on them for support and assistance.

Like all the providers and advocates that come before you, JASA argues for more funding to meet client needs; for meals, legal services, elder abuse prevention and case management services and for senior centers, among others, as these are critical services helping seniors live rich and fulfilling lives in the community. And, we appreciate that government only has so much to spend. We are asking for government pay for what government asks us to provide. It is unreasonable to expect the not-for-profit community to make up the difference for what government can't or won't pay. The non-profit sector cannot be expected to sustain losses year after year. We also cannot cover a portion of every service while we wait for delayed payments. That practice places the entire sector at risk.

JASA welcomes INT 1067, which we hope will help to resolve some of the issues we've continued to face with our NYC contracts. We are particularly pleased that this legislation would set a timeframe for the processing and payments of vouchers, and inform vendors of the reason for a lack of prompt payment. We are hopeful that the added requirement for regular reports to the Mayor's Office of Contracts, and to the Council Speaker will help reduce the number of delayed payments and increase transparency.

JASA is a mission-based organization in the business of serving seniors to make their lives better. We are proud of what we do, proud of our history and proud of the extraordinary staff that make that happen. We want to continue to do what we do, providing quality services to seniors across New York City.

We ask for fair and timely funding to provide quality service. With that in hand, JASA looks forward to the next 50 years of serving aging New Yorkers, working together with the City's agencies and elected officials to improve the lives of our elders.

Thank you for the opportunity to testify today.

Molly Krakowski
Director, Legislative Affairs, JASA
mkrakowski@jasa.org
212 273-5260

Hello, my name is Aaron Cyperstein and I am the Associate General Counsel for **Metropolitan Council on Jewish Poverty**. I first want to commend Councilmembers Lancman and Brannan for Intro No. 1067 and for being the driving force in enabling vendors/organizations, that contract with the city to provide essential social services, to receive their payments promptly.

Met Council one of the largest Jewish-Sponsored Social Safety Net in America, relies heavily on being reimbursed by the City in a timely manner. This Local Law will help that become a reality.

Special focus on human service contracts. These contracts pay for a range of educational, social, and health services – often for vulnerable populations – such as crisis intervention services, home delivered meals for seniors, home repair services or seniors, food for the hungriest in our City, after-school programs for youth, and shelters for the homeless. Human services are typically provided by non-profit organizations, like Met Council that find themselves in a catch-22 when contracts are not registered on time: provide services without payment, causing budget strain and cash flow problems, or wait to provide services until a contract is registered, which may mean turning away clients in need or shuttering and then reopening programs – which is often unfeasible.

A City report recently offers data and analysis to provide insight into the City contracting process, revealing that:

- In FY17, 81% of all new and renewal contracts arrived at the Comptroller's Office for registration after their start date had already passed. When examining human service contracts only, a full 90% arrived at the Comptroller's Office after the contract start date.
- In FY17, 10% of new and renewal contracts arrived at the Comptroller's office more than a year after their start dates, and an additional 25% of contracts arrived between six months and a year after their start date.

In conclusion, by requiring a process for an Agency to inform vendors of the reason for the lack of prompt payment on vouchers not paid within the maximum amount of time, will definitely improve the promptness of payments to the vendors who provide these important services to the neediest in our City.

Thank You.



Making New York a better place to age

**New York City Council
Committee on Contracts
Council Member Justin Brannan, Chair
November 15, 2018
Late Payment of Contracts**

LiveOn NY is a nonprofit membership organization representing 100 community-based organizations serving 300,000 older New Yorkers annually through senior centers, congregate and home-delivered meals, NORCs, affordable senior housing and other services. LiveOn NY also administers a citywide outreach program and staffs a hotline that educates, screens and helps with benefit enrollment including SNAP, SCRIE and others, and also administers the Rights and Information for Senior Empowerment (RISE) program to bring critical information directly to seniors on important topics to help them age well in their communities.

LiveOn NY thanks Chair Brannan and the Contracts Committee for the opportunity to testify on the importance of timely payments to nonprofits.

LiveOn NY is a member of the Human Services Advancement Strategy Group (HSASG), a group of 11 coalition organizations supporting improvements and investments in the human services sector and the contracting process for nonprofits. We recognize the initial investments by the Council and Administration in the human services sector over the past two years as well as the continued work of the Nonprofit Resiliency Committee. That said, more work needs to be done including increasing funding for the sector which we will talk more in detail in the upcoming months. Today, we will focus on the continued concern over the late payment of contracts to nonprofits.

The Effects of Late Payments to Nonprofits

The recent Comptroller Report titled *Running Late: An Analysis of NYC Agency Contracts* relays what our members have been telling us for years: chronic late payments are a daily strain on nonprofit human service providers. Of note, DFTA submitted 98.9% of its contracts retroactively, meaning all but 3 DFTA contracts arrived at the Comptroller's Office, the final step in the process, for registration after the contract start date. According to a recent SeaChange Capital Partners Research Note titled *New York City Contract Delays: The Facts*, these delays cost nonprofits upwards of \$675 million a year.

We asked our members what these late payments from the city mean on a day to day basis and they reported the following issues:

- Concern among leadership and Board of Directors
- Effects on relationships with vendors because of late payments
- Forced to pay interest on past due accounts
- Challenges making payroll
- Stress among staff
- Lack of ability to innovate or plan for new programs
- Negative impacts on Vendex score
- Inability to submit invoices due to contracts not being registered
- Cuts or changes in level of services to clients



Making New York a better place to age

- Lost or unspent funds on contracts due to delays in registration, amendments or modification requests
- Loss of qualified employees
- Lack of ability to innovate or plan for new programs
- Forced to take out loans with the Fund for the City of NY in order to have enough cash to make payroll and continue to pay our bills timely
- Forced to liquidate funds from investment/reserve funds

Because of the city's inability to pay nonprofits on time, they find themselves mirroring their clients by living payroll to payroll. Innovation is impossible when organizations are loaning the City funds to cover the cost of serving the most vulnerable. Executive Directors and all levels of staff spend countless hours navigating contractual bureaucracy, leaving their key skills, strengths and creativity that should be spent moving this city forward on the back burner. We can do better.

Recommendations

LiveOn NY will continue to outline and support investments and improvements to the contracting process through budget, regulations and legislation. Some recommendations have included a tracking system to better follow registration of contracts, and regular updates by city agencies about contract registration. Further LiveOn NY supports Int. No. 1180, particularly because it would provide a process for interest payments to nonprofits for late payments by the city as well as increase transparency and communications to nonprofits so that they can better budget and plan. Reporting by each agency can also help identify more efficient ways to move the contract process forward. In addition, LiveOn NY will continue to work through HSASG to identify and support continued investments and improvements to the contracting process as we move forward.

We look forward to working with City Council, the Department for the Aging, all city agencies, the Administration and the Nonprofit Resiliency Committee to make New York a better, and fairer, place to age through a strong network of community based services.

LiveOn NY's members provide the core, community-based services that allow older adults to thrive in their communities. With a base of more than 100 community-based organizations serving at least 300,000 older New Yorkers annually. Our members provide services ranging from senior centers, congregate and home-delivered meals, affordable senior housing with services, elder abuse prevention services, caregiver supports, case management, transportation, and NORCs. LiveOn NY advocates for increased funding for these vital services to improve both the solvency of the system and the overall capacity of community-based service providers.

LiveOn NY administers a citywide outreach program that supports seniors in communities where benefits are most underutilized. This program educates thousands of older adults, including those who are homebound, about food assistance options, as well as screens and enrolls those who are eligible for SNAP and SCRIE/DRIE.



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**Testimony before the New York City Council Committee on Contracts
Honorable Justin Brannan, Chair**

***Reporting on promptness of agency payments to contractors
November 15, 2018***

Submitted by Kevin Douglas, Co-Director of Policy and Advocacy

UNH is the membership organization of New York’s settlement houses. We mobilize our members and their communities to advocate for good public policies, and we promote strong organizations and practices that keep neighborhoods resilient and thriving for all New Yorkers. Our goal is to strengthen and sustain settlement houses’ contribution to the economic vitality, health, and cultures of their communities and New York City.

Today, UNH’s membership includes 40 settlement houses in New York City and two in upstate New York. The work we do strengthens the capacity of more than 30,000 employees and volunteers working across 680 locations to continue providing necessary services and quality of life enrichments for over 765,000 New Yorkers who come to settlement houses each year to learn, find safety, and grow.

With thanks to Chair Brannan and the Contracts Committee for their attention to the issues impacting nonprofit human services contractors, and to Council Member Lancman, and all sponsoring members of Int. No. 1067 (relating to reporting of promptness of agency payments to contractors), UNH strongly endorses this proposed reform.

Sector Sustainability

While UNH is perhaps best known to the New York City Council for helping lead advocacy campaigns focused on human services investments—including the Campaign for Children (C4C), the Aging Advocates, the Campaign for Summer Jobs (CSJ), and the New York City Coalition for Adult Literacy (NYCCAL) to name a few—our nonprofit membership has increasingly looked to us to not only advocate for investments, but to focus on the quality of those investments.

The financial stressors of late and underfunded government contracts, coupled with administrative burdens and inflexibility, have led our members and their board leadership to assess with a more critical lens how government contracts promote or undermine their organization’s short-term cash flow, workforce retention, and long-term sustainability. While the historic calculus of the nonprofit human services sector has generally been to find a way to “make it work,” growing recognition of the risks government contracts pose to organizational sustainability is increasingly leading providers to decline bidding on human services contracts with state and local government. UNH has worked to tackle these issues in partnership with the Strong Nonprofits for a Better New York campaign at the state level, and the Human Services Advancement Strategy Group at the city level.

Recent Progress

In light of these challenges it is worth noting that the City Administration has taken steps in recent years to begin addressing contracting issues, including:

- The Mayor's commitment in early 2016 to raise the wages of employees funded through government contracts to \$15.00/hr. by the end of this calendar year (2018);
- The launch in 2016 of the Nonprofit Resiliency Committee (NRC), which has made progress in several areas, including contract advances, recoupments and audits, as well as in program design;
- Investments beginning in FY2018 for modest Cost of Living Adjustments (COLAs)¹ and indirect rate enhancements², as well as funding to create "model budgets"³ for a handful of human services contracts.

Work Remains

Despite the good intentions of these initiatives, the reality on the ground for nonprofit human services contractors remains challenging:

- Scheduled COLAs come atop funding levels stagnant for so long that they only serve to help recapture some of the ground lost to inflation over the years and do not allow for staff salaries to be set at competitive rates (in fact the salary disparity between the community-based early childhood education workforce and those employed by the DOE remains persistent and damaging to nonprofits);
- Indirect rate enhancements were not uniformly approached to ensure that *each* provider realized a 10% rate on *each* contract—though even if had been, 10% remains well below the more realistic level of 15% needed to cover organizational administrative costs;
- Model budgets not only had insufficient resources devoted to them, but in some cases, they also suffered from poor development and execution due to a lack of nonprofit engagement;
- City funding to bring covered employees up to \$15.00/hr. does not address wage compression—the need of organizations to increase the salaries of staff already near or above the \$15.00/hr. level. Also on the horizon are new exempt employee regulations, which will require organizations to grapple with a significant new unfunded State mandate regarding salary thresholds and overtime pay beginning January 1, 2019⁴.

Need for Prompt Payments

Beyond the challenges that insufficient funding presents to nonprofits in recruiting and retaining a skilled workforce, and the systemic financial risk of operating programs with reimbursement rates below the true cost of delivering services, one of the most significant issues nonprofit providers that contract with City government face on a daily basis is cash flow.

NYC government typically expects contracted nonprofits to commence service delivery before their contracts are registered (or renewed) and paid out on—summer camp must start in the summer, adult literacy classes must begin in the fall, and senior centers must run year-round. In order to meet payroll for the staff delivering these services, nonprofits are often forced to draw on lines of credit (when they have access to one, and upon which they pay interest), without having a clear sense of when they will be paid

¹ Commitment to 2% increases in FY2018, FY2019, FY2020

² Commitment to bring the *average* indirect rate on contracts to 10% by FY2022

³ DHS shelters, HRA adult protective services, ACS preventive services, DYCD runaway & homeless youth services, DFTA senior centers

⁴ Beginning January 1, 2019, employers (of more than 11 people) in New York City will need to pay a minimum salary of \$58,500 to avoid paying overtime, up from \$50,700

for their services. And since contract advances cannot take place until a contract is registered, “advances” are often experienced as a reimbursement for expenses already incurred and paid out. Once a nonprofit actually has a registered contract and submits vouchers to the City against that contract, they often experience yet another delay in receiving payment.

Managing an unpredictable and inconsistent cash flow due to delays in government payments is an extremely challenging and unnecessary proposition for nonprofit human services contractors that we hope will be addressed by *Int. No. 1067*, which proposes increased transparency regarding delays in voucher payments. With this data we anticipate the City will be in a better position to identify systemic challenges in making payments on time and will take steps to correct the problem(s). We thank the City Council for its attention to and advocacy on this issue.

Future Considerations

In addition to taking this step toward transparency, UNH and the Human Services Strategy Advancement Group have called on the Administration to act immediately to address the backlog in human services contract registrations and amendments, fully fund reasonable indirect rates, and adopt a more inclusive approach the development of programs and rate setting moving forward.

Finally, as noted in our previously submitted testimony to the City Council Charter Review Commission, UNH endorses the following recommendations for the City to improve the human services procurement process, as proposed by the Human Services Council:

- Provide greater access to information on the timeliness and status of contract registrations;
- Reduce the turnaround time on capital appropriations by requiring that these appropriations happen at least as quickly as program appropriations;
- Expedite the contract registration process by setting a 60-day time limit for the entire process;
- Include a sample budget with each procurement that demonstrates how the City arrived at proposed reimbursement rates;
- Survey existing contractors to gather information on rates, deliverables, and outcome measurements before developing new requests for proposals;
- Reimburse interest payments made by nonprofits forced to take out loans and/or draw on lines of credit while waiting for payments from the City;
- Require that the Procurement Policy Board (PPB) hold quarterly meetings open to nonprofits and other members of the public.

Thank you for the opportunity to submit this testimony; requests for additional information may be directed to Kevin Douglas (kdouglas@unhny.org) or 917.484.9321.

A photograph of the New York City skyline at night, featuring several prominent skyscrapers with their lights on. The image is partially obscured by a large, dark blue diagonal shape that cuts across the frame from the top right to the bottom left. A semi-transparent blue horizontal band is overlaid on the middle of the image, containing the main title text.

NEW YORK CITY CONTRACT
DELAYS: THE FACTS

AN ANALYSIS OF THE FINANCIAL IMPACT

RESEARCH NOTE | **AUGUST 2018**

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NEW YORK CITY CONTRACT DELAYS: THE FACTS

AN ANALYSIS OF THE FINANCIAL IMPACT

Many nonprofits receive the majority of their funding from government. So they need to understand the risks associated with the sufficiency, flexibility and timing of their local, state, and federal contracts. In our experience, most board members understand the insufficiency risk — namely that government contracts often pay significantly less than the fully-loaded cost of delivering the services — but far fewer appreciate the equally problematic timing risks.

Fortunately, data recently released by New York City Comptroller Scott Stringer finally sheds light on just how late, unpredictable, and costly funding under New York City contracts can be. The facts are staggering: in Fiscal 2017 only 9% of the city's social service contracts were registered on time; on average contracts were registered 210 days after their start date; and a full 19% of contracts were still unregistered after one year.¹ We estimate that these registration delays imposed a cash flow burden of approximately \$675 million on the 1,025 nonprofits receiving contracts before consideration of any delays in payment after those contracts were registered.

This research note builds upon the Comptroller's earlier [Contract Retroactivity Report](#) by further exploring the nature of the contracts and delays, and by estimating the extent of the associated financial burden imposed upon nonprofits. At a minimum, our analysis should help nonprofits better plan for the timing risks associated with their New York City contracts. We also hope it will encourage the city to consider taking bolder steps to mitigate the late-payment crisis at a time when it needs healthy nonprofit partners more than ever.

THE CONTRACTING PROCESS

While nonprofits are not legally entitled to payment under a city contract until it has been registered, they have little choice but to begin service from the start date: few organizations can easily lay off and later rehire program staff; most have fixed costs associated with the program (e.g. rent) that would not be reimbursed during a gap in service; and government agencies take a dim view of organizations that withhold services. While some tough-minded organizations may refuse to begin a new program prior to contract registration — particularly one requiring meaningful upfront investment — very few mission-driven organizations are willing to disrupt existing services which represent the largest portion of social service spending.

In the corporate sector, counterparties pay late to manage their working capital, out of financial necessity, or as part of a dispute or negotiation. These reasons seldom apply to New York City which usually pays late because of the complexities and inefficiencies of the

¹ The data in this report covers the 2,448 NYC contracts that were issued to nonprofits by the seven social services agencies and registered in Fiscal 2017. These agencies are: ACS, DOE, DOHMH, DYCD, HRA, DFTA and DHS (see the Glossary for full-names). The data exclude 330 contracts issued to nonprofits by HPD and DCA. See [Running Late: An Analysis of NYC Agency Contracts](#).

contracting process and the incentives, priorities, and staffing levels of the myriad parties involved.

The New York City contracting process can be thought of in seven phases:²

1. **Pre-solicitation:** An agency designs (or redesigns) a program, releases a “Concept Paper” and takes comments from nonprofits and other stakeholders.
2. **Solicitation:** The agency releases a Request for Proposal (“RFP”). Vendors have a period during which to ask questions. Interested nonprofits submit proposals.
3. **Evaluation:** The agency evaluates and scores the proposals.
4. **Award:** The agency holds meetings with potential vendors, negotiates rates, and awards contracts.
5. **Registration (Pre-Comptroller):** The VENDEX process is completed. A “Responsibility Determination” is made. This phase can involve MOCS, DOI, the Agency, OMB, and perhaps the nonprofit. During this phase, there is very little visibility, if any, into where the contract stands in the process.³
6. **Registration (Comptroller):** The contract is submitted to the Comptroller’s office and appears on checkbooknyc.com. The City Charter requires that the Comptroller register the contract within 30 days.⁴
7. **Payment:** Once registered, payments can be made against the contract providing any other conditions are met. Many contracts require the nonprofit to submit monthly reimbursement vouchers detailing the expenses that have been incurred against a detailed line-item budget. Each of these vouchers is subject to approval, resubmission and delays. The nonprofit may be able to borrow (i.e. get an advance) from the city once the contract is registered.⁵

Several things are worth highlighting about the process:

- A nonprofit is not legally entitled to payment under a contract until it is registered. As a result, nonprofits find it virtually impossible to borrow against unregistered contracts from commercial lenders even though the contracts are ultimately registered and the funds received in almost all cases.⁶
- The registration date is not the date on which nonprofits begin receiving funds. Under a typical submit-vouchers-and-wait-for-reimbursement contract a nonprofit might need to wait at additional 45-60 days after registration to begin receiving payments.

2 In this note, “Agency” always refers to New York City Agency and never to a nonprofit.

3 There is a new system in development, currently entitled PASSport 2.0, that is expected to provide more of this information. No release date has been set.

4 The Retroactivity Report indicates that 96% of contracts submitted to the Comptroller in Fiscal 2017 were registered within the 30-day window (avg: 18 days); the other 4% were registered an average of 83 days after submission.

5 Nonprofits can now request a 25% advance against registered contracts. See the [Nonprofit Resiliency Committee](#) for more information.

6 Opinions differ as to whether a nonprofit that has provided service under a contract that is never registered could make a successful legal claim for payment. There is no hard data on the number of contracts that are awarded but never registered. However, anecdotal evidence suggests that this is extremely rare.

- A meaningful portion of city’s due diligence process takes place after the contract is awarded. An executed contract is more analogous to a “term sheet subject to due diligence” than the term “contract award” might suggest. Nonprofits should be aware of any issues that might arise in the post-award due diligence phase and proactively work to address them.⁷

NEW YORK CITY CONTRACTS: A FINANCIAL PROFILE

Tables 1A-D show a summary of the 2,448 contracts issued by the city’s seven social service agencies and registered in Fiscal Year 2017; contracts representing \$5.7 billion of spending with 1,025 nonprofits:

- The contracts had a median value of \$338,000 and a median term of one year. The average contract value (\$2.3 million) and average term (1.9 years) were larger as a result of the small number of significantly larger (and somewhat longer) contracts. (**Table 1A**)
- ACS and DHS issued the largest contracts (median: \$3.4 million; average: \$8.7 million) representing 15% of the total number but 57% of the value; contracts issued by DFTA, DOE, and DYCD (median: \$391,000; average: \$589,000) represented 63% of the total number but only 14% of the value. (**Table 1A**)
- Most of the value (81%) was in the 43% of contracts with terms of 2-4 years. Contracts of one year or less were 53% of the total number but only 8% of the total value. (**Table 1B**)
- Contracts of less than \$100,000 were 45% of the total number but less than 2% of the total value. Contracts of over \$1,000,000 represented 30% of the total number but 92% of the total value. (**Tables 1C, 1D**)

The skew in contracts is not surprising given the skew in the size of nonprofits and the wide range of services contracted for by the city.⁸ However, the large number of small contracts probably exacerbates the late registration problem and has implications for how the city might address it.

RETROACTIVITY

Retroactivity is the delay between a contract’s start date and its registration date. (Note: the Comptroller’s report defined it as the delay between the contract’s start date and the date when it was submitted to the Comptroller’s office.) **Tables 2A-E** show the retroactivity of the contracts registered in Fiscal 2017 along a number of dimensions:

- Contracts were registered a median of 175 days (average: 210) after their start date. Individual agencies ranged from a median of 6 days (ACS) to 270 days (HRA). The “odds” that a given contract was registered on time were 9%, within

⁷ This is a detailed process diagram from several years ago. See [The Human Services Contracting Process - MOCs](#)

⁸ For data on the skew in New York’s nonprofits see [Risk Management for Nonprofits](#).

90 days (33%), within 6 months (50%), and within a year (81%).⁹ (Table 2A, 2B)

- Organizations could only be “pretty sure” (i.e. 80% sure) that a contract would be registered within 356 days, though this ranged from 95 days for ACS to 435 days for DOE. Organizations could only be “really sure” (i.e. 95% sure) that a contract would be registered within 511 days, though this ranged from 248 days for ACS to 647 days for DOE. (Table 2A)
- Larger contracts were registered more promptly by every agency. Contracts of more than \$500,000 had a median registration delay of 70 days versus 270 days for those less than \$500,000. Nevertheless, even nonprofits that had been awarded a large contract could still only be “pretty sure” (i.e. 80%) it would have been registered within six months. (Table 2D)
- Nonprofits beginning service on the start date would have completed 29% of the work under contracts before they were registered: 78% for one-year contracts; 5-11% for contracts of two years or more. (Table 2C)
- Nonprofits with contracts that were already late could still not assume that they would face commensurately shorter additional delays. For example, the median delay for contracts unregistered at their start date was 206 days; the median additional delay for those contracts unregistered after three months was still an additional 182 days. Only for contracts already delayed six months or more did incremental delays begin to fall in a significant way.¹⁰ (Table 2E)

COPING WITH DELAYS

The award of a government contract is viewed as “great news” by most nonprofits. However, trustees and executives must think carefully about whether their organization has the liquidity necessary to handle the potential delays in registration and payment.¹¹ A nonprofit delivering services under an unregistered contract faces a growing cash flow burden associated with the unreimbursed expenses. It must also pay interest and fees on the debt it uses to finance this cash flow need – if it can be financed at all.¹² The liquidity needs are greatest if the contract(s) are new and/or the organization’s total amount of government funding is growing.¹³

A nonprofit’s ability to weather the delay of a given contract depends upon its pre-existing financial resources, the relative size of the contract, and the length of the delay. However, the data confirm that the individual burdens can be significant. In 2017, 223 contracts

⁹ The on-time statistics for DCA (9%) and HPD (3%) appear in-line with the social services agencies. The large city agencies dealing with for-profit vendors have substantially higher “on-time” statistics: DSNY (60%), DDC (40%), DOT (56%) and DEP (37%).

¹⁰ This pattern makes planning difficult, particularly since there is little to no information on the status of unregistered contracts until they are submitted to the Comptroller. It also suggests that not much work is being done on the backlog of contracts until after six months.

¹¹ There is no evidence that 2017 was an unusually bad year for registration, so nonprofits with NYC funding should use the “odds” from Table 2 for planning purposes.

¹² Even a nonprofit that does not actually borrow from a bank (or its vendors) to finance late payments incurs opportunity costs if the funds would otherwise have been invested in income-producing assets. For a discussion of the dysfunctional ways that nonprofits finance their working capital see [Nonprofits, Sin, and Shadow Loans](#).

¹³ An organization that is not growing may be able to use the late payments from last year’s contracts to bridge until they receive the late payments under this year’s contracts. A growing organization can’t do this. What is best from a mission standpoint – getting a new contract – can be the worst in terms of cash flow burden.

imposed individual cash flow burdens over \$500,000, 119 over \$1.0 million, 57 over \$2.0 million and 17 over \$5.0 million. **(Table 3A)** Very few nonprofits have the liquidity to easily handle individual burdens of this scale. In many cases, organizations have been forced to delay payments to vendors or even furlough staff while waiting to get paid by the city.

Worse yet, a nonprofit can be exposed to multiple delayed contracts at once. Out of the 1,025 nonprofits with contracts registered in 2017, 84% experienced registration delays on all their city contracts, 10% experienced some delays, and only 6% had no delayed contracts. One nonprofit had 26 delayed contracts! Eleven organizations faced total burdens of \$10 million or more. Burdens of this scale pose an existential threat to even the best run nonprofits.

In total, we estimate that the burden imposed on nonprofits due to registration delays in 2017 was \$675 million: \$662 million in negative cash flow associated with the expenditures from the start day to the registration date and a further \$13 million in associated financing costs.¹⁴ In theory, the cash flow burden only reflects the timing, not the amount, of the money received by the nonprofit (assuming it survives to collect it!). But the financing cost is an absolute loss and comes directly out of the nonprofit's precious unrestricted net assets as it is seldom a reimbursable expense under city contracts. The total cash flow burden represented 30% the annual contract value: 52% for contracts of one year (or less) and 23% for contracts of greater than one year. In other words, nonprofits receiving \$1.00 in funding under one-year city contracts registered in Fiscal 2017 needed \$0.52 in financing to bridge gap from when they started doing the work to when the contracts were registered **(Table 3B)**.

ADDRESSING THE BROADER PROBLEM

Fortunately, the late-payment crisis appears to be getting more attention from the city. [The Nonprofit Resiliency Committee](#), launched in late 2016, has made some important procurement-related policy changes. Steven Banks, Commissioner of the Department of Social Services, has publicly acknowledged the problem and taken concrete steps to begin addressing it.¹⁵ Comptroller Stringer has recommended that each agency with an oversight role in procurement be given a specific timeframe within which to complete its task and that a tracking system be created to allow nonprofits to view the status of their contracts throughout the registration process. Most recently, a bill is being introduced which would require that city agencies disclose to nonprofit contractors the reasons for delays in the registration and payment process.¹⁶

Despite these positive developments, tackling the root causes of registration delays will take time. And realistically, the nonprofit sector – fragmented, mission driven – will not be able to demand better treatment by refusing to do business with the city given its status as a near-monopoly buyer of many social services. So, in parallel with working to solve

¹⁴ We are assuming 1% fee plus annual interest of 5%. In the current environment, this is probably a low estimate. Of course, some nonprofits self-finance the cash need or borrow in other ways (e.g. by paying vendors late) but the costs remain real even if hidden.

¹⁵ [Testimony of Steven Banks, Commissioner Department of Social Services Before the New York City Council General Welfare and Contracts Committees Oversight: Model Budget, June 21, 2018](#) ; ["De Blasio Administration Clears Massive Contract Backlog with Homeless Services Vendors"](#), *New York Post*, June 21, 2018.

¹⁶ ["New Legislation Plans to Tackle City's Broken Contracting System"](#), *New York Post*, August 7, 2018.

the problem, the city should consider steps to mitigate its negative impact on nonprofits through four strategies:

- **Lend them the money:** For the 1,600 contracts of \$500,000 or less, the city might ensure that the Fund for the City of New York – or some other efficient, volume-driven financing vehicle closely connected to the city – has the resources available to bridge any unregistered contract, from any agency, at any time. While representing 75% of all contracts, these 1,600 contracts represent only 20% of the financial burden on nonprofits and their small size (average value: \$79,000) prevents them from being financed by traditional third-party lenders given the associated transaction costs. Although the Fund for the City of New York does excellent work, it is simply not the case – despite suggestions by city officials to the contrary – that it is always available. Our analysis suggests that \$150 million could fully finance these smaller contracts.¹⁷
- **Make it easier to borrow from others:** For contracts of \$500,000 or more, the city might consider making it easier for the private market to provide financing. The scale of the financing need – roughly \$400 million – is a pittance in the commercial financing market and the individual contracts are large enough that asset-based lenders might get more involved if the city reduced their risk by allowing contractual payments to be assigned to third-party lenders. While the city’s financial management system (“FMS”) allows direct payments to third parties, agencies have been unwilling to allow it in practice.
- **Establish a SWAT Team:** For contracts of \$1.0 million or more that remain unregistered after 90 days, the city might create a special “fast track” registration process with dedicated staff. These 180 contracts represent 8% of the total (by number) but 65% of the financial burden for nonprofits. If the \$1.0 million+ contracts currently registered after the second quarter (i.e. after 180 days) had been registered during the second quarter (i.e. at 180 days), the burden associated with them would be halved.
- **Collect Late Fees:** The city might consider collecting “late fees” from each agency. For example, a fee of 0.25% of the contract value for every quarter that a contract registration is late would have totaled \$23 million for the \$5.7 billion in contracts covered in this analysis. This fee would be simple to calculate, fair to nonprofits, and might create an incentive for faster registration.¹⁸ The fee could be paid to the affected nonprofits or used to provide the “first loss” capital to support a third-party fund lending against unregistered contracts.

Finally, the city might consider reporting annually on registration delays. Not only would this encourage agencies to make process improvements but it would give nonprofits information they need to understand and manage their timing risks. The city would also be able to more easily compare results and share best practices across agencies and even

¹⁷ [The New York City Acquisition Fund](#), a partnership between the City of New York, major foundations and commercial lending institutions, demonstrates that the city can effectively create funds of this size when sufficiently motivated.

¹⁸ Apparently, there is a rule that requires penalties for late registration but our interviews suggest that agencies never pay it and there is no mechanism to ensure that it is collected or paid.

with other cities and states.¹⁹ A recent report from the Office of the New York State Comptroller²⁰ suggests that New York State contracts are more often registered on time (46% versus 9%), but it would be helpful to get a better understanding of how and why states and cities differ.

NOW IS THE TIME FOR TIMELINESS

The risks associated with late registration and delayed payments are only poised to grow. Interest rates are rising and with them the cost of bridging government funding with borrowed money. Traditional lenders (i.e. banks) continue to have a limited appetite to lend to nonprofits given concerns about credit risk in the aftermath of FEGs and other nonprofit failures. Many nonprofits – including most of the larger “battleship” organizations that are individually vital for New York City – face increased demands on their resources from the movement toward managed care. In this environment, nonprofit boards and executives must be laser-focused on liquidity even if this sometimes means rejecting otherwise attractive, on-mission city contracts with potentially fatal timing delays.

At the same time, New York City needs healthy nonprofit partners more than ever; partners that cannot be healthy without timely and predictable payments. While how much to pay nonprofits is a thorny political issue – there is only so much money to go around – a commitment to paying on time should be much more straightforward provided the necessary political will. So we hope the city will consider our suggestions for how to mitigate the financial burden of the current contracting process on its nonprofit partners while working in parallel to improve it.

¹⁹ ACS appears to be doing far better at prompt registration than the other agencies. For example, 15 nonprofits had contracts with ACS and at least two other agencies; the average delay for ACS was 71 days; for the other agencies, it was 237; ACS was the fastest in 12 of the 15 cases. Part of this is likely to do with contract mix – ACS has a smaller percentage of small contracts than most other agencies – though ACS also has below average delays for its larger contracts.

²⁰ See [2017 Calendar Year: Not-For-Profit Prompt Contracting Annual Report](#).

APPENDIX

TABLE 1A shows a summary of \$5.7 billion across 2,448 contracts registered in Fiscal 2017 issued by New York City's seven social service agencies. For example, ACS issued 259 contracts totaling \$2.3 billion with a median size of \$3.3 million (average \$8.9 million), a median term of 2.0 years (average 2.2 years) and annual spending of \$901 million. The table also shows the range of size and term for each agency. For example, 25% of DHS contracts are \$990,000 or less; 75% are \$10.8 million or less. All dollar figures in \$'000's.

Agency	Total	%	Total Value		Contract Size		Term (Years)		Annual Value
			\$'000's	%	Median	Avg	Median	Avg	\$'000s
ACS	259	11%	\$2,326,567	41%	\$3,322	\$8,983	2.0	2.2	\$901,150
DHS	104	4%	\$882,370	16%	\$3,533	\$8,484	3.0	3.1	\$356,134
HRA	231	9%	\$796,784	14%	\$1,535	\$3,449	3.0	2.5	\$249,028
DOHMH	314	13%	\$851,851	15%	\$141	\$2,713	1.0	1.7	\$305,340
DFTA	275	11%	\$212,395	4%	\$684	\$772	2.4	1.8	\$95,803
DOE	406	17%	\$229,102	4%	\$346	\$564	2.0	1.7	\$149,288
DYCD	859	35%	\$370,659	7%	\$144	\$432	1.0	1.6	\$229,338
Total	2,448	100%	\$5,669,728	100%	\$338	\$2,316	1.0	1.9	\$2,286,081

Agency	Distribution of Contract Size (\$'000's)				Distribution of Term (Years)			
	25%	50%	75%	95%	25%	50%	75%	95%
ACS	\$1,252	\$3,322	\$9,896	\$41,210	2.0	2.0	2.7	4.0
DHS	\$990	\$3,533	\$10,808	\$37,319	1.0	3.0	5.0	6.0
HRA	\$126	\$1,535	\$4,700	\$13,285	1.0	3.0	3.0	5.0
DOHMH	\$78	\$141	\$971	\$4,160	1.0	1.0	3.0	3.0
DFTA	\$106	\$684	\$1,067	\$2,311	1.0	2.4	2.4	3.0
DOE	\$52	\$346	\$893	\$1,708	1.0	2.0	2.0	3.0
DYCD	\$55	\$144	\$361	\$1,765	1.0	1.0	3.0	3.8
Total	\$82	\$338	\$1,251	\$9,908	1.0	1.0	3.0	4.0

TABLE 1B Shows a summary of the \$5.7 billion across 2,448 contracts registered in Fiscal 2017 issued by New York City's seven social service agencies by term. For example, DYCD issued 859 contracts of which 590 were for 1 year and 180 were for 3 years. The second table shows the percentage of contacts by term. The third table shows the total value and the fourth shows the percentage of total value. All dollar figures in \$000's.

# of Contracts by Length (Years)						
Agency	1	2	3	4	5	Total
ACS	40	151	41	27	-	259
DFTA	125	128	21	1	-	275
DHS	41	6	6	21	30	104
DOE	190	135	80	-	1	406
DOHMH	199	8	105	-	2	314
DYCD	590	33	180	56		859
HRA	109	4	65	3	50	231
Total	1,294	465	498	108	83	2,448

% of Contracts by Length (Years)						
Agency	1	2	3	4	5	Total
ACS	15%	58%	16%	10%	0%	100%
DFTA	45%	47%	8%	0%	0%	100%
DHS	39%	6%	6%	20%	29%	100%
DOE	47%	33%	20%	0%	0%	100%
DOHMH	63%	3%	33%	0%	1%	100%
DYCD	69%	4%	21%	7%	0%	100%
HRA	47%	2%	28%	1%	22%	100%
Total	53%	19%	20%	4%	3%	100%

Value of Contracts by Length (Years)						
Agency	1	2	3	4	5	Total
ACS	\$17,009	\$1,038,923	\$395,611	\$875,024		\$2,326,567
DFTA	\$19,242	\$141,336	\$50,301	\$1,516		\$212,395
DHS	\$169,118	\$35,945	\$59,598	\$359,766	\$257,942	\$882,370
DOE	\$34,833	\$121,036	\$72,130		\$1,104	\$229,102
DOHMH	\$29,649	\$10,971	\$809,005		\$2,227	\$851,851
DYCD	\$131,455	\$8,680	\$162,299	\$68,225		\$370,659
HRA	\$40,921	\$83,859	\$275,216	\$25,461	\$371,327	\$796,784
Total	\$442,226	\$1,440,750	\$1,824,160	\$1,329,992	\$632,600	\$5,669,728

Value of Contracts by Length (Years)						
Agency	1	2	3	4	5	Total
ACS	1%	45%	17%	38%	0%	100%
DFTA	9%	67%	24%	1%	0%	100%
DHS	19%	4%	7%	41%	29%	100%
DOE	15%	53%	31%	0%	0%	100%
DOHMH	3%	1%	95%	0%	0%	100%
DYCD	35%	2%	44%	18%	0%	100%
HRA	5%	11%	35%	3%	47%	100%
Total	8%	25%	32%	23%	11%	100%

TABLE 1C shows a summary of the \$5.7 billion across 2,448 contracts registered in Fiscal 2017 issued by New York City's seven social service agencies by size. For example, DYCD issued 859 contracts, of which 187 were for under \$50,000 and 8 were above \$5.0 million. The second table shows the percent of the contracts by size. The third shows the total value by size and the fourth shows the percent of total value. All dollar figures in \$000's.

# of Contracts by Contract Value (\$000's)								
Agency	0-\$50	\$50-\$100	\$100-\$250	\$250-\$500	\$500-\$1000	\$1000-\$5000	\$5000+	Total
ACS	10	9	2	14	24	93	107	259
DFTA	43	17	40	22	73	78	2	275
DHS		1	3	5	17	31	47	104
DOE	97	35	54	39	95	85	1	406
DOHMH	32	98	57	24	26	66	11	314
DYCD	187	156	185	155	79	89	8	859
HRA	24	15	35	24	12	66	55	231
Total	393	331	376	283	326	508	231	2,448

% of Contracts by Contract Value (\$000's)								
Agency	0-\$50	\$50-\$100	\$100-\$250	\$250-\$500	\$500-\$1000	\$1000-\$5000	\$5000+	Total
ACS	4%	3%	1%	5%	9%	36%	41%	100%
DFTA	16%	6%	15%	8%	27%	28%	1%	100%
DHS	0%	1%	3%	5%	16%	30%	45%	100%
DOE	24%	9%	13%	10%	23%	21%	0%	100%
DOHMH	10%	31%	18%	8%	8%	21%	4%	100%
DYCD	22%	18%	22%	18%	9%	10%	1%	100%
HRA	10%	6%	15%	10%	5%	29%	24%	100%
Total	16%	14%	15%	12%	13%	21%	9%	100%

Contract Value by Contract Size (\$000's)								
Agency	0-\$50	\$50-\$100	\$100-\$250	\$250-\$500	\$500-\$1000	\$1000-\$5000	\$5000+	Total
ACS	\$86	\$729	\$398	\$5,415	\$19,408	\$239,662	\$2,060,870	\$2,326,567
DFTA	\$1,089	\$1,213	\$5,882	\$7,200	\$57,693	\$128,404	\$10,914	\$212,395
DHS		\$100	\$531	\$1,903	\$12,448	\$74,001	\$793,387	\$882,370
DOE	\$3,317	\$2,416	\$9,337	\$13,904	\$71,951	\$121,860	\$6,317	\$229,102
DOHMH	\$1,178	\$7,248	\$8,485	\$8,152	\$18,959	\$134,290	\$673,539	\$851,851
DYCD	\$5,960	\$11,548	\$29,521	\$52,941	\$57,921	\$156,486	\$56,283	\$370,659
HRA	\$735	\$995	\$4,948	\$8,587	\$8,669	\$189,088	\$583,762	\$796,784
Total	\$12,365	\$24,249	\$59,100	\$98,102	\$247,048	\$1,043,792	\$4,185,073	\$5,669,728

% of Total Value by Contract Size (\$000's)								
Agency	0-\$50	\$50-\$100	\$100-\$250	\$250-\$500	\$500-\$1000	\$1000-\$5000	\$5000+	Total
ACS	0.0%	0.0%	0.0%	0.2%	0.8%	10.3%	88.6%	100.0%
DFTA	0.5%	0.6%	2.8%	3.4%	27.2%	60.5%	5.1%	100.0%
DHS	0.0%	0.0%	0.1%	0.2%	1.4%	8.4%	89.9%	100.0%
DOE	1.4%	1.1%	4.1%	6.1%	31.4%	53.2%	2.8%	100.0%
DOHMH	0.1%	0.9%	1.0%	1.0%	2.2%	15.8%	79.1%	100.0%
DYCD	1.6%	3.1%	8.0%	14.3%	15.6%	42.2%	15.2%	100.0%
HRA	0.1%	0.1%	0.6%	1.1%	1.1%	23.7%	73.3%	100.0%
Total	0.2%	0.4%	1.0%	1.7%	4.4%	18.4%	73.8%	100.0%

TABLE 2A show a summary of delay between the start date and the registration date for the 2,448 contracts registered in Fiscal 2017 issued by New York City's seven social service agencies. In total 91% of the contracts were late, the average lateness was 210 days, 50% of contracts were registered within 175 days, 80% within 356 days and 95% within 511 days.

Key Retroactivity Statistics by Agency (#, % Late, Avg Delay, Distribution of Retroactivity in Days)						
Agency	#	% Late	Avg	50%	80%	95%
ACS	259	59%	51	6	95	258
DHS	104	100%	209	179	273	572
HRA	231	100%	250	270	378	477
DOHMH	314	84%	241	237	405	597
DFTA	275	99%	143	48	299	426
DOE	406	100%	278	245	435	647
DYCD	859	93%	225	193	343	523
Total	2,448	91%	210	175	356	511

TABLE 2B show a summary of delay between the start date and the registration date for the 2,448 contracts registered in Fiscal 2017 issued by New York City’s seven social service agencies. The first table shows the number of contracts, the second table shows the percentages in each “bucket” and the third shows the cumulative percentage. In aggregate, 9% of the contracts were registered on time, 18% within 30 days, 28% within 60 days. etc. For example, 58% of the DOE contracts had been registered within one year.

# of Contracts by Retroactivity Bucket (Days)								
Agency	0	1-30	30-60	61-90	91-180	181-365	366+	Total
ACS	107	64	20	14	26	23	5	259
DFTA	3	92	53	6	24	78	19	275
DHS		1	6	7	39	39	12	104
DOE	1	4	71	23	77	59	171	406
DOHMH	49	26	10	10	25	117	77	314
DYCD	64	16	57	60	209	323	130	859
HRA		25	6	11	30	108	51	231
Total	224	228	223	131	430	747	465	2448

% of Contracts by Retroactivity Bucket (Days)								
Agency	0	1-30	30-60	61-90	91-180	181-365	366+	Total
ACS	41%	25%	8%	5%	10%	9%	2%	100%
DFTA	1%	33%	19%	2%	9%	28%	7%	100%
DHS	0%	1%	6%	7%	38%	38%	12%	100%
DOE	0%	1%	17%	6%	19%	15%	42%	100%
DOHMH	16%	8%	3%	3%	8%	37%	25%	100%
DYCD	7%	2%	7%	7%	24%	38%	15%	100%
HRA	0%	11%	3%	5%	13%	47%	22%	100%
Total	9%	9%	9%	5%	18%	31%	19%	100%

Cumulative % of Contracts Registered by Days of Retroactivity						
Agency	0	30	60	90	180	365
ACS	41%	66%	74%	79%	89%	98%
DFTA	1%	35%	54%	56%	65%	93%
DHS	0%	1%	7%	13%	51%	88%
DOE	0%	1%	19%	24%	43%	58%
DOHMH	16%	24%	27%	30%	38%	75%
DYCD	7%	9%	16%	23%	47%	85%
HRA	0%	11%	13%	18%	31%	78%
Total	9%	18%	28%	33%	50%	81%

TABLE 2C shows a summary of delay between the start date and the registration date for the 2,448 contracts registered in Fiscal 2017 issued by New York City's seven social service agencies. The table expresses this delay as a percentage of the contract term. For example, nonprofits were 71% through the one year contracts when they were registered. For one-year contracts issued by HRA, nonprofits were 98% of the way through the term when they were registered.

Median Contract Term Completed at Registration by Contract Length (Years)						
Agency	1	2	3	4	5	Total
ACS	60%	0%	1%	0%	0%	1%
DFTA	80%	3%	4%	34%	0%	7%
DHS	42%	44%	19%	10%	9%	20%
DOE	100%	7%	14%	0%	26%	44%
DOHMH	84%	4%	1%	0%	13%	62%
DYCD	68%	27%	10%	9%	0%	39%
HRA	98%	29%	6%	10%	11%	31%
Total	78%	5%	9%	6%	11%	29%

TABLE 2D shows the date by which 80% of contracts had been registered for small contracts (less than \$500,000) and large contracts (greater than \$500,000). For example, nonprofits could be 80% certain that a large contract issued by DOHMH would have been registered within 111 days versus 459 days for a small contract.

Date by which 80% of Contracts were Registered by Value			
Agency	Under \$500	Over \$500	Total
ACS	260	40	95
DFTA	352	49	299
DHS	313	272	273
DOE	463	341	435
DOHMH	459	111	405
DYCD	350	223	343
HRA	415	313	378
Total	398	196	356

TABLE 2E shows the median number of days remaining until registration for contracts that are already a certain number of days late. For example, contracts that were already 60 days late required a further 198 days (median) until being registered. In aggregate, contracts delayed 60 days only see 8 days of reduced waiting time!

Remaining Time to Registration (median) for Contracts by Days Already Late						
Agency	0	30	60	90	180	365
ACS	39	87	90	95	64	21
DFTA	53	197	230	201	133	91
DHS	179	149	129	106	62	62
DOE	245	234	324	296	213	64
DOHMH	266	246	220	200	151	106
DYCD	208	183	164	155	117	100
HRA	270	261	232	204	146	47
Total	206	199	198	182	147	75

TABLE 3A shows the number of contracts imposing burdens of \$500k+, \$1.0 million+, \$2.0 million+, and \$5.0 million+. For example, under 12 contracts issued by DHS, a nonprofit beginning work on the start date would have incurred more than \$5.0 million in unreimbursed expenses before the contract had been registered. DYCD issued 7 contracts imposing burdens of more than \$1.0 million.

# of Contracts Imposing Large Burdens (\$000's)				
Agency	\$500	\$1,000	\$2,000	\$5,000
ACS	26	12	7	1
DFTA	2	-	-	-
DHS	65	47	35	12
DOE	28	8	1	1
DOHMH	9	5	4	1
DYCD	29	7	2	-
HRA	64	40	8	2
Total	223	119	57	17

TABLE 3B shows a summary of the retroactivity statistics for each agency and the associated cash burden for nonprofits. For example, DFTA issued 143 contracts, 99% of which were late. The total contract value was \$212 million, the annual value was \$95.8 million and the associated burden on nonprofits was \$17.9 million, representing 19% of the annual contract value. The second table shows the data only for one-year contracts. The third table shows the data for contracts of greater than one year. All dollar figures are in \$000's.

Key Retroactivity Statistics by Agency with Associated Cash Burden on Nonprofits						
Agency	% Late	Avg	Total	Annual	Burden	% of Annual
ACS	59%	51	\$2,326,567	\$901,150	\$66,405	7%
DHS	100%	209	\$882,370	\$356,134	\$207,137	58%
HRA	100%	250	\$796,784	\$249,028	\$128,151	51%
DOHMH	84%	241	\$851,851	\$305,340	\$92,883	30%
DFTA	99%	143	\$212,395	\$95,803	\$17,894	19%
DOE	100%	278	\$229,102	\$149,288	\$70,547	47%
DYCD	93%	225	\$370,659	\$229,338	\$92,912	41%
Total	91%	210	\$5,669,728	\$2,286,081	\$675,930	30%

Cash Burden: One-Year Contracts		
Agency	Annual Value	Burden
ACS	\$20,103	\$9,999
DFTA	\$19,678	\$9,434
DHS	\$176,188	\$96,222
DOE	\$64,269	\$30,307
DOHMH	\$29,704	\$18,335
DYCD	\$153,641	\$64,907
HRA	\$43,203	\$32,795
Total	\$506,785	\$261,998

Cash Burden: Multi-Year Contracts		
Agency	Annual Value	Burden
ACS	\$881,047	\$56,406
DFTA	\$76,125	\$8,460
DHS	\$179,947	\$110,915
DOE	\$85,019	\$40,241
DOHMH	\$275,637	\$74,548
DYCD	\$75,697	\$28,005
HRA	\$205,825	\$95,356
Total	\$1,779,297	\$413,932

GLOSSARY

1. Mayoral Agencies

- 1.1. Social Services: Administration for Children's Services (ACS); Department of Education (DOE); Department of Health and Mental Hygiene (DOHMH); Department of Youth and Community Development (DYCD); Human Resource Administration (HRA); Department for the Aging (DFTA); Department of Homeless Services (DHS).
- 1.2. Other agencies important to nonprofits: Department of Housing Preservation and Development (HPD); Department of Cultural Affairs (DCA)
- 1.3. Agencies that typically do not contract with nonprofits: Sanitation, Transportation, Environmental Protection, etc.

Each agency also has an Agency Chief Contracting Officer (ACCO) as well as its own finance and legal departments.

2. Mayoral Offices

- 2.1. **Office of Contract Services (MOCS):** Oversight and service agency that is dedicated to optimizing existing operations and transforming processes to make it easier to do business with the City.
- 2.2. **Office of Intergovernmental Affairs (MOIGA):** Coordinates the City's interaction with the City, State and Federal Legislative Affairs Offices, as well as the offices of the City Comptroller, Public Advocate and Borough Presidents. The Office keeps the Mayor and the First Deputy Mayor informed about intergovernmental issues and is the liaison between the City and other governments, seeking to foster constructive links between the Administration and these entities.
- 2.3. **Office of Management and Budget (OMB):** The City's chief financial agency. OMB's staff of more than 350 analysts and experts assembles and oversees both the expense budget and the capital budget.
- 2.4. **Department of Investigation (DOI):** The City's independent inspector general. Pursuant to the City Charter, DOI reports to the Mayor and the City Council, but operates independently of both. As a law enforcement agency, DOI arrests individuals who corrupt the process and issues reports on systemic government failure. DOI has a unique ability to carry out these functions based upon (i) its complete access to all government documents, workers and information, (ii) its ability, as part of the government, to insist upon systemic changes to the governing process, and (iii) its ability to see across all government agencies.

3. Offices and Entities Independent of the Mayor

- 3.1. **Office of the Comptroller (COMP):** An independently elected official, the Comptroller is New York City's Chief Financial Officer.

- 3.2. **Procurement Policy Board (PPB):** Authorized to promote and put into effect rules governing the procurement of goods, services, and construction by the City of New York. The board has five members: three from the Mayor; two from the Comptroller. Its rules are here: [NYC PPB Rules](#)
- 3.3. **City Council:** An elected body of 51 members who each get \$400,00 in one-year discretionary funding to distribute to nonprofits. See [FY 2019 Discretionary Funding Policies and Procedures](#)

4. Contract-related Infrastructure

- 4.1. **VENDEX (Vendor Exchange System):** The New York City Administrative Code requires that the City maintain a data system containing information for every city contract and very specific information about every prospective vendor for awards over \$100,000, and for vendors (including subcontractors) doing more than \$100,000 in cumulative annual business with the City. The majority of the vendor information placed on the VENDEX system comes from the VENDEX questionnaires.
- 4.2. **Responsibility Determination:** The determination that the contractor has the capability in all respects to perform fully the contract requirements and the business integrity to justify the award of public tax dollars. Factors affecting a contractor's responsibility may include: (i) financial resources; (ii) technical qualifications; (iii) experience; (iv) organization, material, equipment, facilities, and personnel resources and expertise necessary to carry out the work and to comply with required delivery or performance schedules, taking into consideration other business commitments; (v) a satisfactory record of performance; (vi) a satisfactory record of business integrity; (vii) where the contract includes provisions for reimbursement of contractor costs, the existence of accounting and auditing procedures adequate to control property, funds, or other assets, accurately delineate costs, and attribute them to their causes; and (viii) compliance with requirements for the utilization of small, minority-owned, and women-owned businesses as subcontractors.
- 4.3. **Certificate of No Change:** Self-certification that prior VENDEX information remains true. See the [Certificate of No Change Form](#)
- 4.4. **HHS Accelerator:** An online-system designed to improve the City's contracting process. The System provides centralized access to the City's Human Service funding opportunities and the ability to complete financial transactions. The newest version is called PASSPORT.
- 4.5. **FMS (Fiscal Management System):** A payments and accounting system which manages the city's expenses, revenue, contracts, payroll, and budget, and allows authorized access only. New York City's FMS just exports its non-sensitive data fields on a regular basis to Checkbook NYC.
- 4.6. **CheckBookNYC (www.checkbooknyc.com):** An online transparency tool that places the City's day-to-day spending in the public domain. Checkbook NYC provides up-to-date information about the City's financial condition.

ABOUT THIS RESEARCH NOTE

This research note draws upon our first-hand experience regarding the difficulty nonprofits have in managing the risks associated with late government payments and the frustration that incredulous board members feel that these late payments are accepted as “par for the course”. We’d like to thank the Office of the New York City Comptroller Scott Stringer for making available the data allowing us to quantify the extent of late payments and for its thoughtful recommendations on how to improve the situation.

SeaChange wishes to thank everyone who provided helpful feedback on an earlier draft of this research note. The views and opinions expressed in this report are those of SeaChange and do not necessarily reflect the views of these reviewers.

We welcome feedback from readers about their experiences in New York City or with other state, local or federal funding. We would be pleased to consider doing similar analyses for other local/state/federal funding streams where granular contract-level data are available.

For more information about this report or SeaChange Capital Partners, please contact:

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August 2018

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TESTIMONY: UJA-FEDERATION OF NEW YORK

New York City Council

Committee on Contracts

Intro 1067-2018: Reporting of agency payments to contractors

Submitted by: Louisa Chafee

UJA-Federation of New York

November 15, 2018

Good morning Chairperson Brannan and members of the Committee on Contracts. My name is Louisa Chafee and I am the Senior Vice President for Public Policy and External Relations at UJA-Federation of New York.

Established more than 100 years ago, UJA is one of the nation's largest local philanthropies. UJA's mission is to fight poverty; connect people to their communities and respond to crises both locally and around the world. UJA supports nearly 100 nonprofit organizations serving those that are the most vulnerable and in need of programs and services.

On behalf of UJA, our network of nonprofit partners and their clients, thank you for holding this hearing and thank you to Chairperson Brannan and Council Member Lancman for proposing Introduction 1067, which requires the City to notify providers of the reason for late agency payments and submit reports on these late payments to the Mayor's Office of Contract Services (MOCS).

Nonprofit Human Services Contracting Challenges

New York City provides a wide range of human services to low-income and vulnerable individuals and families to address a myriad of needs including: food supports, senior centers, sheltering, supportive housing, mental health care, workforce development, and legal services. These services are provided by outsourcing the work to nonprofits and managed through contractual relationships.

Contracts govern the nature of the services and dictate who is eligible for the services and how the services will be received. However, the ability of nonprofit organizations to provide the services required by their contracts is challenged by a host of issues, which can jeopardize service delivery, including:

- Late Registrations As noted in Comptroller Stringer's recent report, *Running Late: An Analysis of NYC Agency Contracts*, nonprofit human services contracts experience significant delays. In several agencies, more than 90 percent of contracts are registered late, forcing nonprofits to begin service delivery without startup costs or payments covered.
- Late Payment Once contracts are registered many invoices are paid late, according to many nonprofits' records. HHS Accelerator financials offers remedy, but not all Agencies use HHS Accelerator and not contracts are in this system.
- Contracts do not fully cover the cost of service provision - As documented by numerous studies providers are in general paid about 80 cents on the dollar.
- Occupancy costs - Escalating costs due to rent, relevant taxes, maintenance and relevant insurance are not consistently covered in contracts.
- Food costs- Budgets allocated for food do not increase despite the rising costs of food. This is especially difficult in covering the cost of culturally competent food such as kosher and halal. As these costs rise, providers are expected to fund the difference, adding to the fiscal shortfall.
- OTPS/ Indirect Rates- Despite the Federal circular issued in December 2015, New York City has not implemented clear rules. OMB has engaged KPMG to study this issue. We have been told results will be ready for the start of this fiscal year.
- Minority and Women-Owned Business (M/WBE) and other hiring requirements: These requirements can place burdens on nonprofits, with extreme management of hiring and often placing providers in a "Catch 22" where they have to choose between violating the scope of the contract or not complying with hiring requirements.
- Pay Parity With workforce classes, there are frequently circumstances where workers performing equal responsibilities are paid extremely unequal amounts. This may occur between nonprofit and a City agency--for example NYC Department of Education and Universal Pre-K providers-- or between City Agencies contracts such as Human Resources Administration's Adult Protective Service case manager contracts and DFTA case manager contracts.
- Cost of Living Increases (COLAs). COLAs are not built into NYC contracts. In 2014 a two percent COLA was promised for non-management workers employed through City contracts as long as information on each employee was provided by the nonprofit provider to the City. An extensive spreadsheet with Personally Identifying Information (PII) was required causing administrative burden, as many nonprofit agencies have a high turnover and a seasonally fluctuating workforce. The data gathering took months, and with related contract amendments completion even longer. Further unionized agencies were contractually obliged to pay out and waited on average 18 months for reimbursement, and non-unionized workers waited till amendments were completed. Some NFPs even turned down COLAs as the work level and delays were not worth the wait. Also, as the COLA was only to employees funded through NYC contracts, it created employee discontent: equal jobs were unequally raised. In FY 17 another COLA was extended, this time with data collection via HHS accelerator, which while less cumbersome, still takes large agencies days of work to complete.
- The Fair Labor Standards Act, a federal act, proposed to raise exempt thresholds. States, as part of regular order, prepared to implement mirror rules. Days before FLSA was to be implemented a judge issued a stay, and then the new Federal Administration suspended Federal implementation. NYS had already implemented its plan. Many nonprofits are facing an unfunded increase, as their staff qualify for these increases.
- Timely processing and exit clauses in City Council capital funding

In NYC there is little capital money available for nonprofits. While City Council will grant discretionary capital funding, these funds are reliant on bonds, and frequently take years for City agencies to process. The bond

covenants will not easily allow the nonprofit to re-purpose the structure, causing scenarios where many years in to a service the delivery is restructured and nonprofits cannot exit the original purpose.

These challenges cause extreme fiscal, operational and workforce issues for nonprofits. UJA believes that these issues must be addressed concurrently and completely to ensure that providers can adequately serve the populations with which they work.

REMEDIES

Introduction 1067 is a good first step in resolving the issue of delayed payment and the impact it has on providers. We thank the City Council for this proposed action to bring transparency to payments.

UJA also recognizes that the New York City Mayor's Office has established the Nonprofit Resiliency Committee to address the challenges of the business relationship between nonprofits and NYC. Building on robust information technology of HHS Accelerator, the Mayor's office will release another Information Technology system — PASSPort- in 2020.

In closing UJA thanks the City Council for this leadership in transparency in prompt payment through Intro 1067.

Moving forward, UJA encourages the City Council to use its authority to:

- Mandate that all agencies (including DOE) participate in HHS Accelerator;
- Require City Agencies to pay interest on late registrations/payments;
- Codify the Model Budget according to ACS' process;
- Dramatically shift procurement rules and governance through the Charter Revision Commission currently underway.

Thank you for the opportunity to testify. We look forward to working with the Council and the Administration to improve the procurement process. If you have any questions, please contact me at chafeel@ujafedny.org or 212-836-1105.



Testimony of Bridget McBrien, Government Relations Manager, The Jewish Board
New York City Council Contracts Committee Oversight Hearing on Reporting of Promptness of
Agency Payments to Contractors; November 15, 2018

As a large provider that receives millions of dollars through contracts with several city agencies, including DOHMH, HRA and ACS, the city contracting process is critically important to funding our services in a timely and efficient manner. While the process has improved over the years with greater transparency and innovations like the HHS Accelerator, there are still ways to improve the system for all parties involved.

Although the City has put much time and effort in addressing our concerns within the Nonprofit Resiliency Committee, more needs to be done to fix the systemic issues of inadequate funding and lateness of city contracts. The Jewish Board must secure its cash flow through lines of credit and when the contract process is delayed, we incur significant interest costs for the money we borrow. Additionally, delays in registration or in processing contract amendments can mean that we are unable to spend down all the money on a contract.

This issue is especially seen in the contracting process of city discretionary awards. The City Council allocates funding for a general purpose, but when a non-profit agrees to the contract; city agencies oftentimes require narrowly defined scopes and do not allow enough flexibility to most effectively use the funding. Non-profits know the needs of their clients. Thus, direct service providers should have greater input in the most efficient, culturally competent means to fulfill the intent of the city contracts. Our recommendation is that the city, of course, continues to be diligent stewards of public funding but allow additional discretion to the non-profits who have the expertise in providing direct services and are often using an inordinate amount of staff time to respond to the renewal of discretionary awards.

Although delays in contract registration certainly impede our ability to provide dependable services to some of the most vulnerable New Yorkers, the greatest issue for the Jewish Board remains inconsistencies in the OTPS process, both among different city agencies and different contract managers within the same city agency. For example, The Jewish Board has an overhead rate of 12%, which, per the mandated federal indirect non-profit reimbursement rate, we are supposed to receive in all city and state contracts.



To address the longstanding underfunding of contracted services within the human services sector, city contracts should include cost escalation formulas in all new procurements for the duration of the contract.

Another example of inefficiency for non-profits such as The Jewish Board remains city managed computer systems with inflexible data entry. For many years, faced with multiple systems that do not necessarily interface, we have been concerned about the staff inefficiency and data entry error rates associated with data entry into multiple systems. Additional reporting requirements and consolidation of agencies come at a time when internal agency resources are already strained. We propose that the various government-mandated systems add a bulk data load mechanism and a mechanism for extracting data that non-profits enter into government systems to streamline the contracting process. As a member of the Nonprofit Resiliency Committee, we are grateful for the city's efforts to resolve issues the sector faces in regard to administrative processes, program design and organizational infrastructure.

In FY 18, the Jewish Board provided contracted services with New York City worth \$46.7 million dollars. Of our current contracts, we have experienced contract delays between three to seven months for domestic violence housing, school based mental health services, and preventive programming. The City's \$374 million investment in the human services sector during the Fiscal Year 2018 budget rightfully acknowledged the increasing costs of delivering services. We hope this committee will continue to examine the nonprofit sector and advocate for pay equality within contracts for the workforce that implements these needed city services.

Thank you to Chairperson Brannon and Council Member Lancman for proposing this bill, which requires the City to notify providers of the reason for late agency payments and submit reports on these late payments to the Mayor's Office of Contract Services (MOCS). While reporting on late payments is only one step in resolving the issue of delayed registration and the impact it has on providers, it is an important mechanism in shining a light on the contracting process for nonprofits. As the agency government turned to after the collapse of FECS, we know that safeguarding the efficiency and sustainability of the vital social services is an ongoing process that requires continuous investment.

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1067 Res. No. _____

in favor in opposition

Date: _____

Name: CAROLINE IOSSO (PLEASE PRINT)

Address: 93 Halsey St. Brooklyn

I represent: Opportunities for a Better Tomorrow

Address: 783 4th Ave Brooklyn

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1067 Res. No. _____

in favor in opposition

Date: _____

Name: Jennifer Gelling (PLEASE PRINT)

Address: 253 Broadway

I represent: AAC Broadway

Address: MOC

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1067 Res. No. _____

in favor in opposition

Date: 11/15/18

Name: Beth Goldman (PLEASE PRINT)

Address: _____

I represent: New York Legal Assistance Group

Address: 7 Hanover Sq. NY NY 10004

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1067 Res. No. _____

in favor in opposition

Date: 12/15/18

(PLEASE PRINT)

Name: Margarita Guzman

Address: PO Box 1161, Triborough Stn, NY, NY

I represent: Violence Intervention Program, Inc.

Address: same

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1067 Res. No. _____

in favor in opposition

Date: 11/15/18

(PLEASE PRINT)

Name: Rebecca Souer

Address: _____

I represent: Supportive Housing Network of NY

Address: 247 W. 37th St. 18th fl.

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1067 Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Jennifer Rodriguez

Address: 253 Broadway

I represent: MOC

Address: MOC

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Andree Cianfrani

Address: _____

I represent: Live On NY

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1067 Res. No. _____

in favor in opposition

Date: 11/15/18

(PLEASE PRINT)

Name: Peter Resugno

Address: 633 31st Ave Floor 9, NYC

I represent: New York Electrical Contractors Assn

Address: 633 31st Ave Floor 9, NYC

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Michelle Jackson

Address: 130 East 59th street

I represent: Human Services Council

Address: _____

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

THE COUNCIL ^{Human Services}
THE CITY OF NEW YORK

Appearance Card

11/15/18

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

in favor in opposition

Date: 11/15/18

(PLEASE PRINT)

Name: John MacIntosh

Address: _____

I represent: SeaChange

Address: _____

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 1067 Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Dan Symon

Address: 253 Broadway

I represent: MOCs

Address: _____

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

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

in favor in opposition

Date: 11/15

(PLEASE PRINT)

Name: Kevin Douglas

Address: _____

I represent: United Neighborhood Houses

Address: _____

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

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1067 Res. No. _____

in favor in opposition

Date: 11/15

(PLEASE PRINT)

Name: AARON CYPERSTEIN

Address: _____

I represent: ME7 Council on Jewish Poverty

Address: 77 WATER STREET NY

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1067 Res. No. _____

in favor in opposition

Date: 11/15

(PLEASE PRINT)

Name: Felice Farber

Address: _____

I represent: General Contractors Association

Address: of New York

**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: 11/15/18

(PLEASE PRINT)

Name: Donald RANSHE

Address: B T E A

I represent: 1329 6th Ave

Address: _____

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

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

in favor in opposition

Date: 11/15/2018

(PLEASE PRINT)

Name: Annie Minquez

Address: 305 Seventh Avenue

I represent: Good Shepherd Services

Address: _____

THE COUNCIL Human Services Council
THE CITY OF NEW YORK

Appearance Card

11/15/18

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

in favor in opposition

Date: 11/15/18

(PLEASE PRINT)

Name: Mark Horwitz

Address: _____

I represent: Urban Pathways

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1067 Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Kristina Rentamm

Address: 83 Grand St. Jersey City NJ

I represent: Brooklyn Community Services

Address: 285 Schermerhorn St.

THE COUNCIL *Human Services*
THE CITY OF NEW YORK

Appearance Card

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

in favor in opposition

Date: 11/15/18

(PLEASE PRINT)

Name: Carlyn Cowen

Address: _____

I represent: Chinese American Planning Council

Address: _____

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

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

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Molly Krakowski

Address: _____

I represent: JATSA

Address: _____

THE COUNCIL *Human Services*
THE CITY OF NEW YORK

Appearance Card

11/15/18

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

in favor in opposition

Date: 11/15/18

(PLEASE PRINT)

Name: Rebecca Sauer

Address: _____

I represent: SHINNY

Address: _____

Human Services
THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

11/15/18

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

in favor in opposition

Date: 11/15/18

(PLEASE PRINT)

Name: Louisa Chafee

Address: _____

I represent: WJA Federation

Address: _____

Human Services
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: 11/15/18

(PLEASE PRINT)

Name: Maria Lizardo

Address: _____

I represent: NMIC

Address: _____

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

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

in favor in opposition

Date: 11-15-18

(PLEASE PRINT)

Name: Jesse Layman

Address: 110 Wall St. 26-50 Crest St.

I represent: NYC Employment + Training Coalition

Address: 110 Wall St.

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

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

in favor in opposition

Date: 11/15/18

(PLEASE PRINT)

Name: Kate Ford

Address: _____

I represent: Phipps Neighborhoods

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1067 Res. No. _____

in favor in opposition

Date: 11/15/18

(PLEASE PRINT)

Name: Anthony Edwards

Address: _____

I represent: Sheltering Arms

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1067 Res. No. _____

in favor in opposition

Date: 11/15/2018

(PLEASE PRINT)

Name: PENNI BUNYAVOCHT

Address: 1011 FIRST AVE, 6TH FL, NY, NY 10022

I represent: CATHOLIC CHARITIES

Address: (SAME AS ABOVE)