

Testimony of Caswell F. Holloway
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Before the New York City Council
Committees on Contracts and Technology
(October 31, 2011)

Good morning Chairpersons Mealy and Cabrera and members of the City Council Committees on Contracts and Technology. I'm Cas Holloway, Deputy Mayor for Operations, and I'm joined today by Carole Post, Commissioner of the Department of Information Technology and Telecommunications Commissioner Carole Post and Marla Simpson, Director of the Mayor's Office of Contract Services.

Thank you for the opportunity to testify today about the role that IT plays in the delivery of services to 8.4 million New Yorkers, and the nearly 50 million people who visit New York City every year. Cutting-edge IT projects are a hallmark of the Bloomberg Administration, and have fundamentally changed the way we do business every day. Today, information technology is an essential element of virtually every service the City provides: public safety; public health and cleanliness; basic communications through NYC.gov and 311; human services; infrastructure development; and in Mayor Bloomberg's effort to make New York City government the most accessible, transparent, and responsive in the country.

From the beginning, the Bloomberg administration has invested in information technology to better serve New Yorkers, and as a general matter, these investments have been successful. A paradigmatic example is 311, which has fundamentally changed the way New Yorkers interact with City government. Announced by Mayor Bloomberg in 2002 and launched in 2003, the 311 Customer Service Center is one of the Administration's most successful and enduring IT accomplishments:

- 311 has received more than 130 million calls since it launched and now receives an average of more than 60,000 calls per day. Approximately 20 percent of all calls result in the creation of a service request, which is routed to the city agency responsible for its resolution. 311Online, a digital counterpart to the call center, went live in 2009 and receives an additional 6,000 site visits daily. And 311 continues to evolve to meet New Yorkers' evolving needs.
- Earlier this year, the 311 Service Request Map launched to provide the public access to location-specific complaints across 15 major categories, including air and water quality, construction, noise, quality of life, snow, streets and sidewalks, transit and parking, and more. The tool shows all open and recently-closed service requests throughout the City, and a user can drill down to a specific address, intersection, community board, City Council district, or zip code.
- Earlier this month, results from the recent 311 Customer Satisfaction Survey showed that satisfaction with 311 improved 3 points from 2008—on par with the highest-performing private sector call centers, and well above other government center benchmarks.

- In addition to providing a single point of access for New Yorkers, 311 increases the accountability of city agencies. The volume of 311 calls is a metric that flashes in the bullpen every day—and the Mayor asks about it all the time.
- We also use 311 data for critical agency operations. Just this weekend, while coordinating agency operations in response to the most significant October snowfall we've had in 140 years, we tracked 311 calls every four hours to maintain awareness of potential trouble spots. Heat and hot water complaints spiked early, then tree complaints, as heavy wet snow caused hundreds of trees and tree limbs to come down. This data helped us to shape public alerts, particularly to tell people to stay out of parks during and immediately after the storm.

As an IT project, 311 also has to be considered a success. It was launched within a year of being announced and has become the way that most New Yorkers experience City government—taking 131 million calls since March 2003. The first phase of the project built the 311 call-taking system, and helped us to design and execute the transition from agency-based call taking to a centralized system.

The first 311 phase was budgeted at \$40 million and included the foundational technology that 311 runs on, including voice communication (telephony) systems, telecom switches, and the Siebel analytics tool that forms the basis for much of the performance management capabilities we use today. The actual cost of the first phase of 311 was \$108 million, which significantly exceeded the initial \$40 million estimate. This was not due to mismanagement, but because we underestimated the total number and complexity of calls that City agencies received. As we built the system, we also took advantage of opportunities to improve business practices within City agencies; for example, we created an appointment scheduler for DOB which allows 311 to schedule plan examinations for the public, eliminating the need for an expediter.

In addition to 311, other notable IT investment successes include:

- **Wireless Water Meter Reading (AMR).** AMR has revolutionized customer service at DEP for the 835,000 New Yorkers who pay the water bills. The \$89 million IT component of this massive infrastructure project has increased during implementation by only 8%, and the City went live with an online tool 14 months ago that gives DEP customers real-time insight into their water usage. The project required the installation of an AMR device at 835,000 properties, and installation is more than 90% complete. In addition, DEP has incrementally added functionality—including leak detection and paperless billing—that provides better service to New Yorkers and reduces DEP's operating costs.
- **The Citywide Performance Reporting Program (CPR).** CPR was initiated to develop a robust set of analytical tools to help measure and manage performance across all City agencies. At the core of CPR is a common data warehouse that collects information from more than 25 sources and is used by all city agencies for performance management analysis. Data drawn from CPR serves many purposes in City government including providing a public window on City government performance and supporting the Federal Stimulus Tracker, the Street Conditions Observation Unite (SCOUT), and numbers other programs. The Mayor's Office of Operations provides public access to CPR data through a dedicated website that provides instant access to

more than 500 critical performance indicators encompassing every City agency, including monthly updates and automatic trend evaluation by agency, and within specific program areas. The creation of the CPR, budgeted at \$22 million, and is expected to be completed on-time and within budget.

- **New York City Wireless Network (NYCWiN).** One of the most important IT projects of the Bloomberg Administration, NYCWiN is the most aggressive commitment by any municipality in the United States to provide a next-generation public safety infrastructure, and has eliminated many of the challenges of data sharing in an ultra-urban environment. Completed in 2009, NYCWiN provides secure mission-critical video, voice and data communications—through portable, mobile and fixed-location technologies—to the City's first responders and essential personnel. Nearly 400 sites provide ubiquitous coverage to more than 300 square miles spanning all five boroughs. Today, NYCWiN powers more than 300 applications that span 29 City agencies on nearly 750,000 devices. The City budgeted \$375M to build NYCWiN and Northrop Grumman was chosen after a competitive procurement process in which the City essentially piloted different technologies for free. The network was delivered on time and on budget, and we expect that it will be an essential part of the City's secure network infrastructure for many years to come as the number of applications it carries for public safety and other services continues to increase.
- **Citywide Radio Network (CRN).** CRN provides expanded coverage and capabilities to FDNY and EMS, as well as critical City services for the Departments of Corrections, Transportation, Sanitation, Parks and Recreation, Health and Hospitals Corporation Security, the NYC Sheriff, and the Office of Emergency Management. The design employs state-of-the-art Simulcast technologies to significantly enhance radio coverage, and the CRN provides more than 95% on-street portable coverage, and unprecedented coverage in the waterways surrounding the City. CRN was delivered on time, and optimization), construction of a primary back-up site, a link to the City's 800-MHz network, acceptance test plans, training programs, subscriber migration plans and dual connectivity capabilities. The project also included the purchase of 6,691 radios. The consolidated citywide radio services afforded by this network have also led to cost avoidance as agencies have decommissioned their old systems and circuits, as well as site leases and maintenance contracts when possible within its \$64 million budget.
- **HHS-Connect.** In his 2008 State of the City address, Mayor Bloomberg announced the creation of HHS-Connect to better serve residents and City workers through Access NYC and Worker Connect. The project was budgeted at \$96 million, and Worker Connect and Access NYC have gone live. Worker Connect helps case workers determine the most appropriate course of action for their clients, and Access NYC is an online benefits screening tool and Client Portal that provides New Yorkers with direct access to critical human services, including School Meals Enrollment, Medicaid Renewals, Senior Citizens Rent Increase Exemption, and Disability Rent Increase Exemption. Access NYC has had more than 1.6 million site visits; more than 360,000

New Yorkers have screened for benefits; 33,935 pre-populated applications have been created; and more than 100,000 online applications have been submitted. HHS-Connect continues to grow and works in close partnership with participating agencies to build customized enterprise case management systems that streamline and modernize operations. While we estimate that the final product could cost as much as \$124 million, we have added functionality to the scope that will dramatically improve the customer experience.

- **Automated Procurement Tracking.** Automated Procurement Tracking (APT) is a paperless procurement workflow system that has transformed the formerly paper-based and labor intensive NYC procurement process into a fully automated, electronic workflow. APT automates 17 procurement workflows and contract management actions—from creation through registration—and links 40 contracting agencies and six oversight agencies through one system. Many of the electronic forms utilize electronic signature/approval technology. Approximately 2,500 users in 40 mayoral agencies and oversights use APT to manage all procurements valued at more than \$100,000, and as of October, there are 11,281 procurements in the system. The APT system also interfaces with the City's Financial Management System (FMS) to link registered procurement data as well as vendor and commodity data. APT is an important step towards increasing transparency of the city's procurement process.

The project's initial scope was budgeted for the basic APT functionality, which went live in March of 2010. Since that time, several enhancements have been designed and came online since to expand functionality and improve the user experience. One example is the bulk processing enhancement, which was designed on a fixed price deliverable basis, and was rolled out in early 2011; it now allows users to more efficiently process and approve groups of procurements. Other software upgrades allow us to reduce the amount of custom code, which also reduces the cost of ongoing system maintenance. These upgrades, including testing, have increased the project's cost. We plan to complete the remainder of the functional enhancements by the end of 2012, and are working to ensure a smooth cutover to the DoITT staff who will support the system going forward.

These are just a few highlights of some of the large IT projects that have produced great results for New Yorkers, and there are many more in the pipeline.

Project Management Challenges

But if the story of 311 and the other successful projects I've described was a proxy for the management of every IT project, we probably wouldn't be having this hearing today. From my perspective—and I am not in any way trying to speak for the Council—this hearing is motivated at least in part by the perception that IT projects, and particularly large projects that cut across multiple agencies, are not being sufficiently well managed to ensure that New Yorkers are getting the value they expect and deserve. The projects that gave rise to this perception, and that have brought to light some clear

opportunities for improvements in the management of IT projects are CityTime and the New York City Automated Personnel System, also known as NYCAPS.

CityTime

CityTime is a large and complex automated timekeeping system currently used by 67 agencies and more than 160,000 City employees. As you know, the development and delivery of CityTime is the subject of ongoing investigations by the City's Department of Investigation ("DOI") and the U.S. Attorney's Office for the Southern District of New York. Several consultants who worked on the project, including the project manager from the lead contractor, Science Applications International Corporation ("SAIC"), have been indicted for engaging in an elaborate scheme of fraud and deception to rip off the City. The contract with SAIC terminated on June 30, 2011, and the City does not have any other SAIC contracts.

As you likely know, the Mayor has demanded that SAIC reimburse the City for the \$600 million it paid out, as well as for the cost of the investigation and remediation. Approximately \$50.5 million of SAIC's assets have been frozen or attached, and an additional \$41 million in payments have been withheld. We are confident that the City will eventually receive fair and just restitution in connection with this project.

Because of the ongoing criminal investigation into CityTime, my comments will be limited to an update on the system's current status. In December 2010, the Financial Information Services Agency ("FISA")—which is jointly managed by the Mayor and the Comptroller—assumed responsibility for the implementation of CityTime, and the system is now maintained by a combination of city employees and independent IT professionals. To date, 163,388 City employees at 67 agencies use the system, which works as intended: it ensures that time and leave are recorded accurately and that the City is complying with Fair Labor Standards Acts requirements. As of July 1, 2011, FISA is responsible for the day-to-day management, maintenance, and operation of CityTime; that responsibility previously resided with the Office of Payroll Administration, which is also jointly by the Mayor and Comptroller. Since FISA assumed responsibility for CityTime, the number of consultants working on the project has been reduced from 154 to 81, with an annual savings of approximately \$18 million. There are 62 City employees working full-time on the project as well. Over the next several months, FISA will continue to make functional improvements to CityTime and deploy it in other government offices, including the City Council, the Public Advocate, and the Borough Presidents.

I presided over the completion of the rollout as Commissioner of the Department of Environmental Protection when we completed a 32-month rollout for nearly 6,000 employees in more than 100 work locations, some more than 125 miles from the City. DEP field teams, wastewater treatment staff, and DEP police operate 24/7 and the hand scanners allow supervisors to verify actual employee arrival and departure times across many different schedules. CityTime eliminated an enormous amount of paper from attendance sheets and leave and overtime requests, as well as clerical errors associated with manual payroll calculations.

Putting aside the fraud that was committed, and for which the City expects to be fully compensated, CityTime has taken well over a decade to implement, and the cost of the system far exceeded the \$63 million estimate. A project assessment commissioned by FISA is currently under way, and the preliminary findings suggest that the project was plagued by problems common to large-scale government IT investments. As an initial matter, the assessment concludes that the current CityTime product has successfully put the attendance and time-keeping records for 160,000 employees across 67 mayoral agencies and 127 collective bargaining units. At the outset of the time covered by the

assessment—approximately 2003—a commercial, off-the-shelf product (COTS) that could meet the City’s needs was not available, so the decision to build a stand-alone system was sound. (Note that the first CityTime contract was signed in 1998.)

This problem is not unique to New York City. In his 25-Point Plan to reform Federal IT management issued last December, former US CIO Vivek Kundra points out that the multi-year development time frame of many federal IT projects and the siloed approach that led to an explosion of federal data centers from 430 to nearly 3,000 within 12 years help to explain why so many large-scale IT projects run over budget and take much longer to complete than anticipated. In government IT, weak governance can be a particular problem when agencies are not required—or a project manager is not have authority—empowered—to limit scope creep and establish business process consistency across affected agencies. This is not a comprehensive assessment of CityTime, but provides some insight into the management challenges that the project faced.

NYCAPS

NYCAPS is a single, integrated human resources and health benefits system for City employees. Like CityTime, it automates formerly paper-intensive transactions and increases employees’ access to and control of their own information. It also provides agencies with tools to analyze employee data and to exchange data as necessary, and it includes an automated interface with the Payment Management System. More than 358,000 city employees in all 80 agencies and 57 community boards use NYCAPS and have produced more than 775,000 employee records since it launched, which are accessed in more than 4 million transactions per year. Documentation for the early stages of a single, automated benefit management system dates back to at least 1999, when the project was housed at the Department of Citywide Administrative Services. It is important to note that in 1999 the Board of Education was not under mayoral control and was therefore not included in the planning of a unified system.

In 2004, FISA assumed responsibility for a contract with Accenture for \$22.3 million. The project was governed by an Executive Steering Committee and Working Group Committee, with the advice of a Quality Assurance vendor. At the time NYCAPS transitioned to FISA, Accenture presented a scope of work valued at \$100 million including the full cost of a build for some items, and an analysis of others. The Accenture contract ended last March, at a total cost of \$211.8 million. This is significantly above the value of the proposed work presented in 2004, and includes a substantial amount of work not included in the initial scope, including:

- Integration of the Department of Education administration and teacher populations of approximately 105,000 users;
- Automation of the Planned Action Report (PAR) process, which facilitates the approval/disapproval process for staffing;
- An update of the HR system Peoplesoft
- A self-service portal for employee information;
- E-Benefits, which provides self-service functionality for Health Benefits;

- Training Administration;
- Autostep process, which automates the salary step plan for uniform employees;
- E-hire, a digital hiring workflow project; and
- Performance management for employee evaluations.

Additional expenses associated with the build out of NYCAPS beyond the contract with Accenture—at DCAS and at FISA—and the ITCS resources include business analysis services to integrate it with DOE’s timekeeping and payroll system and quality assurance services through DoITT. FISA is currently in the final transition from independent consultant resources to city employees for ongoing NYCAPS operations and maintenance; so far, 15 of 26 consultant positions have been converted to full-time city employee positions. As with CityTime, the scope of the NYCAPS project appears to have changed significantly over time, which contributed to significant cost increases and delays in delivering a working product.

Making Changes in IT Project Management

As CityTime and NYCAPS demonstrate, that perception that City IT projects are not sufficiently well managed is partly true—these particular projects have far exceeded their initial budgets and schedules. But the majority of significant IT projects undertaken by the Bloomberg Administration have come in at or under budget.

To prepare for this hearing, we gathered data on significant IT projects that have been completed or are under way throughout the city. Excluding CityTime and NYCAPS—which I’ve addressed separately—of the 29 IT projects that started with a budget of \$25 million or more since FY 2003, 55% were or are on budget, 6 (21%) are projected to be under budget, 2 (7%) were over budget by 10% or less, and 6 (21%) were more than 10% over budget.

This data suggests that while there may be management problems in individual cases, it is not categorical—that is, large IT projects undertaken by the City of New York are not uniformly over budget. But we have come to the conclusion that we can certainly improve the management of large IT projects, from the way we develop the rationale for an investment, to project design and implementation.

And we believe there is a role for the Council in this effort. While the Administration thinks that the draft bill proposed by Councilmember James is overly broad in what it requires, we are committed to work with you on a bill that would require reporting on the progress of IT projects that exceed certain thresholds that can be defined in terms of a project’s initial budget, timeline, or other indicators. Assuming we can come to terms on mutually agreeable legislation, the fact is that the majority of improvements to be made in this area to ensure accountability, and that projects are delivered on time and on budget, have to do with management at the project level.

From one perspective, the successful management of an information technology project is just like any other capital investment. It requires: the development of a rationale (or business case) for the investment; assembling a project team—with City agency resources, or a combination of City

employees and technologists or other IT expertise; and ruthless attention to the scope, schedule, and budget of the project as it moves from requirements gathering, to design, development, and delivery to the City as a finished product. In this connection, contract terms with a systems integrator or other service/technology provider are as important as the agency team managing the project on the ground. And we are looking at improvements we can make in both areas.

These kinds of improvements apply to capital projects across the board—whether bricks and mortar or fiber and code.

- At DEP—which has a \$14 billion construction program—I reorganized the capital division to focus exclusively on project delivery by hewing closely to the scope, schedule and budget that had been promised. Change orders that exceeded a low threshold required my personal sign-off, and we instituted the development of a rigorous business case for every capital project.
- If a project could not be justified in terms of advancing DEP’s core strategic priorities, it did not move forward. For example, I was presented with an \$8 million contract for the design of a new testing laboratory upstate. A rule of thumb in these projects is that design generally costs 10% of construction, so the resulting lab could have been \$80 million. I asked whether the testing we needed to do could be consolidated in an existing state-of-the-art lab DEP has upstate, and said that until a plan was put together justifying the need for building a new lab from scratch, the design RFP would be put on hold. This morning I confirmed that they are still holding.
- At the same time, we developed new standard operating procedures to deal with errors and omissions by contractors—to ensure that the burden was on them to correct, and pay for their own mistakes. We also sought to induce more companies to bid on our work with better contract provisions regarding compensation for delays caused by the City, and expediting the resolution of scope disputes during construction that—left unresolved—could grind work to a halt.

But IT projects—and particularly the execution of large-scale IT projects in the government sector—present unique challenges, even with a capable project team, clear project goals, and appropriate oversight. These challenges are not unique to New York City. I’ve mentioned some of those problems earlier, and we are in the midst of a thorough review that I initiated of the way the City manages large, complicated IT projects—particularly those that impact more than one agency. I should note that this review builds on an assessment that DoITT Commissioner Carole Post conducted last year, and that resulted in the creation of a Vendor Management Office at DoITT that will play an important role in IT project management going forward.

One of the results of that assessment was Executive Order 140, which established a new framework for IT policies and investments. EO 140 has three key objectives: (i) consolidation of IT infrastructure across data centers, (ii) the establishment of policies and standards for certain IT functions that have citywide implications such as network and desktop security, basic architectural standards, mapping and GIS, and mobile technology; and (iii) the development of governance bodies to manage the City’s IT investments, including a Technology Governance Board comprised of the CIO of each City agency to make recommendations about policies and standards, and a Strategic Governance Board comprised of representatives of each Deputy Mayor’s office, plus the Mayor’s Office of Operations, the Mayor’s Office of Contract Services and the Office of Management and Budget.

While the steps I'm committing to undertake today are not exhaustive, they are a continuation of our efforts, evidenced by governance and management changes like EO 140 and DoITT's new Vendor Management Office, to give New Yorkers confidence that the IT investments we make will deliver real value at a fair price—and through a management structure that incorporates best practices from project conception to delivery.

1. **Investigate off-the-shelf solutions first.** The first step in improving the City's IT contracting practices begins before our agencies even talk to the contractor, when they are developing the requirements for a new software solution. Until recently, City agencies turned first—or in short order—to developing an expensive, stand-alone solution when a Commercial Off-the-Shelf (COTS) product could meet an agency's business needs at far less time and expense. A recent example of success in this area is the NYC Development Hub that the Department of Buildings launched with Mayor Bloomberg a few weeks ago. The Hub is a state-of-the-art plan review center that will accelerate the approval process for construction projects throughout the City and speed up job creation. Licensed architects and engineers can submit digital construction plans to the Department of Buildings at the Development Hub and resolve any issues with City officials in a virtual environment -- without ever meeting in person. DOB was able to develop and launch the Hub in only three months, primarily because it relies on simple, commercially available applications and technology. Plans are reviewed as PDFs; and the Department is leveraging GO TO MEETING (a web application) to conduct the virtual Plan Examination Reviews directly with architects and engineers. But to recognize and accept the potential value of a COTS solution, agencies must do more than scour the market place. Business owners and IT managers and staff have to be willing to look at existing agency business rules to determine whether simple changes make a COTS solution feasible. Rather than rejecting commercially available products because they don't accommodate all existing agency practices, we'll ask agencies to thoroughly investigate COTS solutions, and the changes that would be required to adopt them.

This does not mean the end of specialized software development, or that a stand-alone application can't be developed effectively to get the job done. For example, another IT innovation the Mayor announced this month is a program to reduce the impact of construction on city roads by better coordinating utility and private construction company work. The online program – called the Street Works Manual – is the City's most far-reaching effort to improve coordination among utility companies, contractors and agencies to minimize the number of times streets are dug up, reducing congestion and extending the life of resurfacing projects. The Department of Transportation has already enhanced its permit and inspection procedures and now can issue 90 percent of all permits electronically, with most permits issued within just one or two days of an application. In Fiscal Year 2011, the department issued nearly 265,000 permits for work in city streets by utilities, construction companies and contractors. This new functionality was developed largely in-house, and on-top of DOT's existing data infrastructure, MOSAICS.

2. **Develop IT Contract Negotiating Expertise.** The City will change the way it negotiates significant IT contracts through the development of protocols that will include, but not be limited to the following elements:

- Modular Contracting—In the words of a recent federal report: “Programs designed to deliver initial functionality after several years of planning are inevitably doomed.” Recognizing this, City agencies negotiating IT contracts already strive toward what’s known as “modular” contracting. This practice aims to ensure that the contract provides a deliverable at the end of each new phase, allowing for adjustments as necessary before the next phase begins. Future releases are planned over shorter time horizons (ideally no greater than six months), and functionality is prioritized to fit within these shorter release cycles. This ensures that the most critical functionality is completed first, and that projects do not go off course before corrective action can be taken. Going forward, however, we will aim to do even more, requiring a firm “go/no go” decision made on future phases based on the progress made within the completed phases. Ensuring that useable functionality is delivered early in the development cycle allows decisions on future work to be firmly grounded on the promise of additional functionality, because the City has the ability to walk away with a useable asset.
- Preference for Fixed Price Contracts over T&M Contracts—In recent years, the City has made progress to shift, whenever feasible, toward fixed-priced contracts for IT projects, as opposed to a time and material (T&M) contracts. Under a fixed-price contract, the City pays a fixed price to receive certain deliverables within a set time-frame. Under a T&M contract, the City pays the vendor based on how much time the vendor’s employees expend, and the cost of any materials. A fixed-price contract depends on the City establishing early well-defined requirements and a firm scope. If these are established, however, this type of contract limits the City’s risk and gives the vendor a built-in incentive to control costs. The City will soon issue guidance to agencies aimed at maximizing the use of fixed-price contracts, drawn from its recent progress in this area. Where a T&M contract must be utilized, the City will impose additional controls—including requiring agency contracting officers to prepare a determination and findings why no other alternative is available, and to establish that the programmatic objective has been structured to maximize the use of the fixed-price contracts on future procurements.
- Standard Clauses. Because the majority of IT contracts are drafted by individual agencies, key terms and conditions can vary among agencies, even when contracting with the same vendor. As a result, the City may often not secure the same level of value in each of its contracts, and may face delays as the contract undergoes review by the various oversight agencies. To address these challenges, DoITT, MOCS and Law will develop a set of standard contract clauses and terms and conditions for IT contracts. When an agency has made a business decision to seek such a provision, it can simply plug that language into the contract. Standard language will include intellectual property provisions, “favorite nation” pricing to allow all agencies to pay the same rate for the vendor’s services, provisions addressing City ownership and depreciation of hardware and licenses, and volume discounts.
- Contract Negotiation team—In many instances, significant IT projects are negotiated between agency staff and the vendor, without the presence of agencies like OMB and MOCS. Experience has shown that having these oversight entities involved in the negotiating process—at the bargaining table, alongside the agency—helps get the City a better deal. Going forward, this best practice will be mandatory for all significant IT contracts greater than \$5 million. By bringing the collective experience from different disciplines within the

City during the negotiation process, the City can maximize value and can ensure that the services negotiated align with technology standards and industry best practices. As part of this effort, DoITT will develop guidelines for common IT contracting issues to assist City agencies. These will aim to help agencies follow some of the requirements noted above, and will also provide guidance on better managing the use of subcontractors, leveraging City investments, and managing consultant logistics.

To be sure, adopting these practices does not mean the end of large, multi-year IT projects in the City. Some functions—like a new 911 system—simply require longer to develop, and a modular approach, or the use of a COTS solution may not be feasible. This was the case with the ECTP program—which will soon deliver a state-of-the-art 911 system—but in these cases, we must have project controls in place that are flexible enough to allow for the incorporation of technological advances, but rigorous enough to prevent a project scope from being completely undefined.

3. **Consider Value Engineering Current Significant IT Projects.** We will assess all IT projects over \$10 million to determine whether they should be value engineered for scope and cost reductions. We will establish guidelines for mandatory value engineering going forward, such as when estimated spending is projected to exceed a fixed percentage of the initial budget. Among the key questions that the Value Engineering review can help answer include the merits of COTS solutions vs. customization, the potential to alter agency business rules or operational approaches to match available COTS resources, and the potential to achieve projects' central goals within existing budget constraints by modifying or scaling back scopes of work "in flight." We will also examine change order governance—if change orders amount to more than 10-15% of initial project budget we will establish a process to figure out what and whether value engineering needs to be applied.
4. **Evaluate the nature and scope of Project Management/Quality Assurance engagements.** PM/QA vendors play a vital role in seeing that an IT project delivers the promised results. Typical current practice, however, is that an IT project's quality assurance function is generally paired with its project management function, and both functions report to the agency sponsoring the IT project. This creates a potential conflict in the sponsoring agency's project manager, who is invested in the success of the project. It also places vendors in the position of reporting project risks, while simultaneously needing to maintain good relations with the agency sponsor. To address this, we will consider whether the PM/QA vendor should report to an entity, or business unit independent from the one managing the project. As part of this effort, we will better define the precise role that a PM/QA vendor performs on an IT project.
5. **Develop and Implement Best Practices for IT Project Management Across City Agencies.** As I noted earlier, delivering real value in IT projects, as with any significant infrastructure investment, requires strong project management—both the SOPs governing IT projects and the personnel managing internal and/or external IT professionals to deliver a product. As part of our review we are looking at the way IT projects are managed across the board, from the definition of business needs by business owners, to the development of a project team and contract vehicles to execute it. In addition to modular contracting, we're looking at basic project-management

SOPs to maintain a project's scope, and deliver it on time and on budget. Governance is critically important here, as any IT solution that cuts across more than one business unit, City agency, or unit of City government must satisfy multiple business owners, and absorb input from multiple agency and IT heads. We have to strike the right balance between the flexibility needed to account for technological change as a project develops, and knowing when to freeze a scope and future enhancements to a future roll-outs.

6. **Revisit E.O. 140 and the need for additional IT investment governance/accountability measures.** As part of this effort, we'll revisit E.O. 140 to determine whether we need to develop or re-invigorate a City Hall-led governance structure for significant IT projects that will address questions of business rules, IT infrastructure decisions, and application requirements across agencies.

These are initial steps that we will take to better manage IT investments by the City of New York, and I look forward to returning in a few months to report on the progress of these and any other additional measures we think appropriate. Thank you for the opportunity to testify and I'll be happy to take any questions.



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BOROUGH PRESIDENT

**Testimony of Manhattan Borough President Scott M. Stringer
Before the New York City Council Committee on Technology and Committee on Contracts**

Regarding the need for better management of New York City Government IT Contracts

October 31, 2011

I want to thank Councilmember Cabrera and Councilmember Mealy for holding this important hearing on the management of New York City government IT contracts.

In recent years, we have seen an exponential growth in City contracts with outside consultants and contractors. In the past five years, according to recent estimates, spending on contracts has increased at nearly twice the rate of spending in the overall city budget – and now exceeds some \$10 billion annually on everything from security guards to computer consultants.

This growth is particularly evident at the Department of Education and its many contracts for computer services. This past May, my office conducted an analysis of the Mayor's FY 2012 Executive Budget which found a startling increase in recent years in Department of Education spending on outside consultants, with total spending approaching \$1 billion this coming fiscal year. The amount had risen from \$177 million in FY 2004 to a total of \$982.3 million in FY 2012. This represents an increase of over 455 percent over the course of eight years.

While spending on outside consultants has grown at an alarming rate, oversight and transparency of these contracts remains limited. During the annual budget process, for example, the documents describing these expenditures failed to provide the public and elected officials with the level of information required to make informed judgments, despite multiple requests for more detail.

The recent contract awarded to Verizon for the City's IT needs is an example of a contract needing greater oversight. In August, 2011, the Panel for Educational Policy (PEP) approved a \$120 million contract with Verizon for them to provide voice and data connectivity to City Schools. At the same time the City was entering into this contract, Verizon was implicated in a scandal relating to Ross Lanham, an IT consultant hired by Verizon to perform work for the DOE.

In short, Mr. Lanham is facing charges that he defrauded the City of more than \$3.6 million through both consulting and over-billing fraud. As a result of his actions, for which he has been indicted, Verizon gained over \$800,000 according to a report by the Special Investigator for the NYC Schools.

Despite having been found by the Special Investigator to have not only profited but also to have “facilitated” the fraud, Verizon has yet to repay the City the \$800,000 and was still granted the \$120 million contract with the DOE. This contract was approved over the objection of my appointee to the PEP, Patrick Sullivan, as well opposition from the Bronx, Queens and Brooklyn representatives.

As the City continues to spend exponentially more on contracts with outside consultants and firms, there must be greater transparency and oversight. We need to guard our funds, contract with respectable companies, maintain a budget that protects jobs. And we must demand that the City lay bare the details of outside contracts *before* they are signed, not after the bills have come due.

At a time when every agency is being forced to tighten its belt, and schools in particular are struggling to balance their books – despite the recent lay-offs of some 700 school aides – the administration should no longer be allowed to keep hidden the details of its outside contracts. Taxpayers deserve full disclosure, especially as these contracts continue to claim a larger and larger share of the City’s overall budget.

Thank you all for your time.



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Testimony of Leonie Haimson, Executive Director of Class Size Matters
Before the NYC Council Technology and Contracts Committees
On the NYC Department of Education's wasteful and corrupt technology contracts

October 31, 2011

Thank you, Council members and Chairs Cabrera & Mealy, for holding these important hearings today. My name is Leonie Haimson, and I am the Executive Director of a citywide parent advocacy group called Class Size Matters.

In August of 2009, the NY State Legislature passed new legislation on school governance that was supposed to ensure more transparency and accountability in the NYC Department of Education's contracting. This was in response to a general recognition that DOE's contracting process was out of control. Indeed, an audit from the State Comptroller in May 2009 had revealed that the number and amount of no-bid DOE contracts had mushroomed to 291 between July 2005 and June 2008, amounting to \$340 million, and that in many cases the DOE had "failed to properly document" the reason why these contracts had been awarded. Moreover, 59 percent of the contracts had start dates prior to the internal DOE committee meeting at which the contract was approved.¹ The state legislature included a provision in the new governance law that would require that from then on, DOE contracts be vetted through a public hearing and a vote of the Panel for Educational Policy.

I am sad to say that this legislation has utterly failed. Though the Panel for Educational Policy is required to vote on all DOE contracts, they have acted as a rubber stamp, and have approved every single contract put forward by the chancellor, no matter how wasteful or potentially corrupt.

The first test of the new governance law took place on September 14, 2009. At that meeting, a \$54 million, four year extension of a no-bid contract with Future Technology Associates was on the PEP. This company had recently been the subject of three columns by Juan Gonzalez, investigative reporter for the Daily News.

His first column, published on July 22, 2009, pointed out that though the extension of FTA's contract was no longer officially no-bid, the bid requirements appeared to have been tailored by DOE specifically for the company, despite the fact that FTA had no real address except for mail

¹ Office of the NY State Comptroller, "New York City Department of Education Non-Competitively Awarded Contracts," Report 2008-N-1, May 19, 2009; <http://www.osc.state.ny.us/audits/allaudits/093009/08n1.pdf>

drops in Florida and Brooklyn and no other apparent clients besides DOE.² The second column, published on July 29, pointed out that the average pay of each of the FTA consultants was more than the chancellor's salary at \$250,000 per year, and the annual cost of the contract had ballooned from \$2.5 million to \$15.7 million.³ The third column detailed how FTA had brought in foreign workers under temporary visas, and was paying them one fourth of what they charged DOE for their labor.⁴

All this information pointed strongly to the existence of either mismanagement or corruption on the part of DOE, and millions of dollars wasted. And yet, remarkably, the PEP approved a new \$54 million contract with FTA with few questions asked, except from panel member, Patrick Sullivan, the Manhattan Borough president appointee. Sullivan pointed out that the contract was "actually four separate projects that were inappropriately bundled together," apparently to "appease FTA or otherwise protect their incumbency." Here is Sullivan's account from that time, as posted on our NYC Public School Parent blog:

Despite the clear language of the law requiring the PEP to "approve contracts," DOE has refused to provide the actual contracts. Instead, we were supposed to make do with DOE-crafted summaries. I explained how the summaries did not accurately explain what we were buying, how were paying for it and how much it was going to cost. After much back and forth I said "you will give us the contracts yes or no?" [DOE Chief Operating Officer Photo Anagnostopoulos] eventually agreed. Four mayoral appointees then admonished me, citing the risks of violating vendor confidentiality, the dangers of trying to micromanage the operations of the DOE, the vast complexity of the contracts and perhaps most remarkably, our fiduciary duty to the vendors! "We don't need to see the contracts" they insisted. I wish the mayor's appointees were as equally energetic in looking after the interests of the public school children as they were with the interests of DOE contractors....

He went on:

"I could not get a straight answer from DOE on why the system was outsourced to expensive consultants I was told the system required the latest software skills in order to function, skills not available amongst DOE employees, but the only skills listed in the RFP were decades-old mainframe skills. ..I voted against the FTA contract and

² Juan Gonzalez, "Joel Klein is ready to give firm without offices new \$95 million DOE contract," NY Daily News, July 22, 2009; <http://www.nydailynews.com/new-york/brooklyn/joel-klein-ready-give-firm-offices-95-million-doe-contract-article-1.427854>

³ Juan Gonzalez, "Computer geeks at Future Technology Associates earn more than Joel Klein does, NY Daily News, July 29, 2009; http://articles.nydailynews.com/2009-07-29/local/17927530_1_doe-contract-fta-fringe-benefits

⁴ Juan Gonzalez, "Computer firm bills Ed Dept. average of 250K per consultant, " NY Daily News, July 31 2009; <http://www.nydailynews.com/news/computer-firm-bills-ed-dept-average-250k-consultant-article-1.395220#ixzz1clVTFPrq>

requested the work be re-bid in separate pieces as I suggested above. The contract was approved 11-2.⁵

As the NY Times reported at the time,

"It had been derided as a committee of puppets, a rubber-stamp board with no clear power or purpose. So when word came from Albany over the summer that the Panel for Educational Policy would have greater power over the New York City schools, some thought things might be different. The old days, however, did not seem far behind at the panel's first meeting of the school year on Monday: The "ayes" were nearly unanimous, and friction was virtually nonexistent."⁶

Here is NY1's account:

... said panel member Patrick Sullivan. "I think there as we saw tonight there were a number of irregularities in the materials that they presented and yet all the resolutions and all of the contracts were passed overwhelmingly, so there has been no real change in the balance of power." ...On Monday, the 13 members easily passed 15 different contracts... "I think it was fine. I mean, these were all necessary contracts, there is no question about it," said [Chancellor] Klein. ⁷[emphasis added].

While Chancellor Klein called the FTA contract "necessary," and the mayoral majority of PEP members approved it without question, the suspicious information revealed in the Gonzalez columns was more than enough to trigger an investigation by the Special Commissioner of Investigation, Richard Condon.

Two years later, in September 2011, Condon's report was finally released. He had indeed found fraud and corruption, including the fact that this was an "inside job". A high level DOE official, Judith Hederman, executive director of the DOE's Division of Financial Operations, was personally involved with Jonathan Krohe, co-owner of FTA, and had provided him with confidential information to aid him in his fraudulent scheme.⁸

Condon found that FTA stole at least \$6.5 million of taxpayer funds, through setting up subsidiary companies overseas which paid employees \$10 an hour, while billing DOE for over \$100 per hour. The FTA owners had repeatedly lied, while stealing millions and wining and

⁵ Patrick Sullivan, "Mayor's Appointees Take Reins of PEP, Defend Dubious Contracts, September 21, 2009, NYC Public School Parents ; <http://nycpublicschoolparents.blogspot.com/2009/09/mayors-appointees-take-reins-of-pep.html>

⁶ Javier C. Hernandez, "Newly Empowered Education Panel, Looking Like the Compliant One of Old," NY Times, Sept. 14, 2009; <http://www.nytimes.com/2009/09/15/education/15panel.html>

⁷ Lindsey Christ, "New Educational Policy Panel Faces Old Concerns," NY1, Sept. 15, 2009; http://www.ny1.com/content/top_stories/105768/new-educational-policy-panel-faces-old-concerns

⁸ Special Commissioner of Investigation Richard Condon, "Final Report Re: Future Technology Associates, LLC, Tamer Sevintuna, Jonathan Krohe, Judith Hederman, Swaroop Atre, Kabir Rekhi, Mustafa Cem Arpacı, SCI Case No. 2009-2871, September 28, 2011; <http://www.nycsci.org/reports/09-11%20FTA%20Report%20letter.pdf>

dining city employees, and even charged their Mets season tickets to the contract, without a single DOE official apparently registering any concern, as the bill got bigger and bigger.⁹ In his report, Condon concluded:

"The DOE cannot allow consultants to have free reign over DOE projects that cost millions of dollars. DOE officials who are charged with oversight of the projects must be held accountable for failing to supervise them..."

Many other wasteful and possibly corrupt contracts have been approved and extended by the PEP since the FTA contract was extended, including the recent Verizon contract. In that case, Verizon had already been implicated in another scandal, in which a DOE consultant named Ross Lanham in charge of wiring schools for the internet had stolen \$3.6 million dollars through a false billing scheme, again by setting up a fake sub-contracting company.

Special Investigator Condon found that Verizon had "*profited... from Lanham's scheme*" and "had agreed to Lanham's demand that Verizon use subcontractor Custom Computer Specialists ("CCS") at a higher cost to the DOE than Verizon would have charged for the same service.." He concluded that Verizon had "*facilitated this fraud*" and "concealed from the DOE and law enforcement that they got millions of dollars in contracts through Lanham only after agreeing to hire CCS as a subcontractor."¹⁰

In justifying a new contract with Verizon, DOE said that "Verizon is in discussion ... regarding repaying of the overcharges." Yet the company has to this day refused to pay back any of the excessive profit it took, and in a letter to the PEP dated August 16, 2011, Jim Gerace, the NY Regional President of Verizon, falsely stated that the Condon report had cleared the company of all wrongdoing.¹¹

Nevertheless, on August 16, 2011, the PEP approved a new \$120 million Verizon contract by an 8 to 4 vote; with the Mayor's appointees again unanimously voting yes.

⁹The only question asked internally by DOE officials about the overcharging of FTA consultants was by Deputy Chancellor Anagnostopoulos, apparently in response to points made during the meeting by PEP member Sullivan: "In September 2009, Hederman shared with Krohe [co-owner of FTA] another internal DOE e-mailstring concerning FTA. Apparently acting in response to a request by a member of the DOE Panel on Educational Policy, Deputy Chancellor Anagnostopoulos requested information about the cost to maintain the DOE financial system in the future. She specifically asked for the "difference in the costs between consultants and" full-time equivalents. Giordano forwarded these messages to Carlo and Hederman who sent the e-mails to Krohe 12 minutes later. <http://www.nycsci.org/reports/09-11%20FTA%20Report%20letter.pdf>

¹⁰ Special Investigator Condon, Re: Ross Lanham SCI Case #2008-4446, April 28, 2011, see esp. p. 26 at: <http://www.nycsci.org/reports/04-11%20Lanham%20Rpt.pdf>. See also Chris Arp, "Report on thieving DOE consultant damning for IBM and Verizon, GothamSchools, April 29, 2011 <http://gothamschools.org/2011/04/29/report-on-thieving-doe-consultant-damning-for-ibm-and-verizon/>

¹¹ The contract with Verizon began on January 1, 2011, and yet DOE only asked for PEP approval "retroactively", despite the fact that here is *no allowance for DOE retroactive contracts in state law*, unless the chancellor finds that due to an emergency, it is necessary for "the preservation of student health, safety or general welfare" and provides a written justification. This was never done. Thus this contract with Verizon was likely illegal on the face of it. For yet more reasons this Verizon contract should have been rejected, see Leonie Haimson, "Five reasons to say NO! to the DOE's \$120 million contract with Verizon," NYC Public School Parents, August 12, 2011 <http://nycpublicschoolparents.blogspot.com/2011/08/five-reasons-to-say-no-to-does-120.html>

School budgets have been cut repeatedly to the bone over the last four years. Our schools have lost valuable programs and staff, and class sizes have risen to the highest level in over a decade. A quarter of our elementary schools are so overcrowded they had waiting lists for Kindergarten. And yet the private contracts have continued to mushroom under Chancellor Walcott's direction, as documented by a recent article in City Hall News:

"Spending on outside contracts at DOE has risen over the years, especially as the department ramps up its ambitious technology initiative, which aims to have 300,000 students at 75 schools using online learning tools within five years. The department's contract budget is \$4.5 billion this fiscal year, a 19 percent increase over the previous year. But as spending has increased, so have theft and waste."¹²

As Patrick Sullivan has stated, the situation has only gotten worse under Chancellor Walcott:

"The DOE now routinely asks for approval well before the contracts are even drafted making proper due diligence impossible. Mayoral bloc appointees rubber stamp the contracts regardless of issues uncovered. ... The measures taken by Walcott and Hernandez have dramatically undermined the approval authority provided to the PEP under state law."¹³

But none of these scandals compare to the potential for fraud, waste and abuse in the future, as the DOE plans to spend \$1 billion on new technological enhancements, including hi-definition video and high-speed internet, to facilitate the rapid expansion of online learning and testing to more than 400 schools. As the Center for Reinventing Education states, this expensive project represents a large scale experiment on our children, without backing in research:

"...NYC school district leaders are taking risks with the iZone, implementing new models, committing deeply to a defined set of principles that challenge core assumptions about what a school should look like, and moving to scale very quickly. How and when they will know if they got the big bet right is a question district leaders will have to ask so that students are not subjected for too long to programs and schools that don't work."¹⁴

And without proper oversight in place, there is also the potential that hundreds of millions of dollars stolen of taxpayer dollars in the years to come.

Mayoral control was widely justified as a result of a handful of Community School Boards that had embezzled funds or had hired relatives or friends to positions in schools. Never mind that years before the adoption of mayoral control in 2002, these boards had already lost any power

¹²Andrew Hawkins, "Contract Killer," City Hall News, October 17, 2011; <http://www.cityhallnews.com/2011/10/contract-killer/>

¹³ Patrick Sullivan, "Bloomberg Education Record Stained by More Corruption," NYC Public School Parents, September 29, 2011; <http://nycpublicschoolparents.blogspot.com/2011/09/bloomberg-education-record-stained-by.html>

¹⁴ Robin Lake, Betheny Gross, "New York City's iZone, Center for Reinventing Public Education, January 2011, http://www.crpe.org/cs/crpe/view/csr_pubs/382

to hire staff or spend funds.¹⁵ In any case, the profligacy, waste and fraud that has occurred in recent years under mayoral control have now far surpassed any two-bit corruption in past eras of NYC history.

Chancellors Klein, Walcott and other DOE officials have failed in their fiduciary responsibilities to taxpayers and our children; as have most of the members of the PEP. But in a system of mayoral control, Mayor Bloomberg is the one individual ultimately responsible, by hiring incompetent and heedless administrators, and failing to ensure that there are robust mechanisms in place to prevent the theft of millions of dollars from our children's schools, and from their futures.

¹⁵ In 1996, the NY State Legislature eliminated much of the power of Community School Boards to hire and fire school staff, and they remained primarily as policy-making bodies. See Derek Alger, "School Boards," Gotham Gazette, November 13, 2000; <http://www.gothamgazette.com/article/iotw/20001113/200/194>

Testimony of Chris Shelton, Vice President, CWA District 1
to the New York City Council's Contracting and Technology Committee's Joint
Hearing on NYC Contracting

My name is Chris Shelton and I am the Vice President for the Communications Workers of America – District 1. District 1 includes 150,000 union members in New York, New Jersey and New England.

Thank you for this opportunity to testify.

This past August 17th, the Panel for Educational Policy (PEP) rubber-stamped a \$120 million two year contract for Verizon Communications. They handed Verizon the contract even though Verizon was a participant in a fraud scheme that cost the city \$3.6 million.

Let me take you through the specifics.

The Department of Education – like many City Agencies under Mayor Bloomberg – is in love with consultants. DOE fell in love with a guy named Ross Lanham.

The subject of their romance was an IT project called “Project Connect”. “Project Connect” was meant to increase internet services for the schools. Ross Lanham’s firm was the prime contractor.

Before I go any further, I should tell you that our source for most of this story is the Special Schools Investigator’s report on the fraud. Here is a copy of his report¹.

Lanham organized a fraud that took \$3.6 million from the schools. Lanham made the money through fake billing for non-existent services, or through over-billing. Verizon was part of “Project Connect”.

Verizon worked with Lanham to create bills on its part of the project. Verizon knew they were inflating the bills or billing for non-existent services. Verizon took at least \$800,000 of the overbilling for its piece of the pie.

The Investigator’s report alleges that Verizon “facilitated” the overall fraud (on page 26 of the report). In 28 pages of detail, the Investigator’s report alleges that Verizon’s managers on this project looked the other way and did not blow the whistle on the fraud. Verizon did not alert the DOE or anyone in City government of the fraud or overbilling until *after* the DOE contacted Verizon about the situation. At best, the

¹ <http://gothamschools.org/2011/04/29/report-on-thieving-doe-consultant-damning-for-ibm-and-verizon/>

company looked the other way. At worst, senior executives – and not just middle managers – knew they were stealing from the schools.

Over the past four years, Verizon made \$22.5 billion in profits and its top five executives took home \$258 million. A little slice of that money came out of the city's schools.

But back to the timeline: the School investigator's report was released on April 28th. The Feds, meanwhile, arrested Lanham on the same day, charging him with fraud and theft. As far as we can tell, nothing changed at the DOE since then.

In public, Verizon has said over and over again that it will return any of its ill-gotten gains. They said so most recently to both media and to the Manhattan Borough President in early September. Here is a copy of their letter to the Borough President. They say they are "working" on returning the funds.

But they have not paid any money back.

Meanwhile, back in August, the PEP handed away their leverage to get restitution from the company. Instead of holding up a big contract with a company accused of facilitating a fraud, the DOE rewarded Verizon with a big \$120 million two-year contract. They did that while 45,000 Verizon workers were on strike.

The DOE insinuates that they had no choice: that Verizon would have shut off telephone and internet services to the schools. We do not believe that claim. There is no way that if DOE had demanded that Verizon give its ill-gotten gains back before any new contracts were approved that the company would not have agreed to do so. This company cares about its image. It would not have turned off the schools' services had the DOE insisted on being made whole. That would have been a PR nightmare.

Here's the essence of the problem: DOE wasn't willing to delay approval of the \$120 million contract by even a few weeks to gain leverage against Verizon even as 45,000 Verizon workers were out on strike. And those are the people who maintain the network!

DOE's deal with Verizon is a good example, like CityTime, of the City's failure to exercise its authority responsibly. DOE wasn't willing to badger Verizon or make Verizon pay back any ill-gotten gains. Instead, they rewarded them.

What kind of a message does that send? We think it tells every contractor that it's open season on the taxpayers. Participate in a fraud, or fail to tell the City when you see one being committed, and there won't be any consequences.

We think this is pretty simple: Verizon should give back the money. The Investigator's report alleges that Verizon made at least \$800,000 in the scheme. That's a good start.

The main victims in the Lanham/Verizon fraud were the City's kids. Meanwhile, Verizon is still demanding that their workers give up their pensions, pay thousands of dollars more in health care costs, and lose all of their job security, among other demands.

It's time to send a message to Verizon and all of the city's contractors that fraud and arrogance won't be tolerated. The City should tell Verizon to give the money back.

With respect to the overall problem of contracting, we strongly believe that the City should rein in the use of outside contractors. The City should work in-house to save money and promote accountability. City workers get the job done – and thankfully, fraud is very rare among city workers.

Finally, we urge you to hold a separate hearing to examine this case study in more depth. A hearing could also make DOE re-consider its negotiating posture with its contractors and give Verizon some motivation to pay back any ill-gotten gains. Our city's schools need the help now more than ever.

Thank you for this opportunity to testify.

**Written Testimony Submitted by
Executive Director of Common Cause/New York
to the
Committee on Contracts and
Committee on Technology**

**RE: Oversight - Managing New York City Government IT Contracts
October 31, 2011**

Thank you, Chairpersons, Mealy and Cabrera, for allowing us to submit this written testimony. Common Cause/NY is a non-partisan, non-profit citizens' lobby and a leading force in the battle for honest and accountable government. Common Cause fights to strengthen public participation and faith in our institutions of self-government and to ensure that government and the political processes serve the general interest, and not simply the special interests.

We strongly support T2011-3824 and urge its passage. New Yorkers are all too familiar with the high profile cost overruns experienced by the City in its IT contracts which have been the subject of extensive press coverage. While the City Time scandal is the most familiar instance, it is a sad fact that large government contracts for computer systems have a tendency to spin out of control, resulting in what the blog TechDirt has termed "absolutely ridiculous over-budget computer systems for government agencies."¹ This is not a phenomenon limited to New York City's contracts. Tech Dirt references an FBI system built by the same company contracted to build City Time, SAIC, that ultimately was scrapped. The IRS, famously, has found it difficult to successfully upgrade its computer systems.² These instances suggest to us that government has not yet found the proper effective balance between developing or using inside expertise by government employees and hiring outside consultants to develop and maintain key software and computer systems at any level of government

Accordingly, it is appropriate, under our system of checks and balances to institute a back-up system of oversight. It is all too easy for executives managing these large projects to become mired in the details and so focused on the end goal of a working computer system with anticipated increased efficiency that they lose sight of the necessary management of outside consultants. The City Council is the appropriate body to exercise that oversight.

Common Cause/NY believes that the proposed law is properly calibrated to encourage increased vigilance and oversight by the executives who directly manage these contracts. Knowing that cost overruns must be reported to the Council may well have the salutary effect of more direct oversight and holding of outside contractors accountable. We will consider this law successful if, over time, there are fewer cost overruns to report because the agencies are doing a better job of managing their outside contractors. We commend Councilmember James for sponsoring this proposed law. Frankly, we regard it as an obvious step in achieving appropriate oversight and accountability for large City contracts.

¹ <http://www.techdirt.com/articles/20110630/17425614926/mayor-bloomberg-demands-saic-pay-back-600-million-cost-overruns-nyc-computer-system.shtml>

² <http://www.informationweek.com/news/192501822>

Testimony of Thad Calabrese at the Joint Oversight Hearing of the New York City Council's Committees on Contracts and Technology

Good morning, and thank you for allowing me this opportunity to testify. My name is Thad Calabrese, and I am an Assistant Professor at Baruch College's School of Public Affairs. My research and teaching focus on public and nonprofit financial management, which includes the management of public contracts.

City Council concerns about IT contract costs and, specifically, cost overruns are valid, as is the desire to reign in costs. This is a critical public need identified, and the Council is right to seek increased oversight of this process. The bill introduced is a good start, and I wish to make several points that might better achieve this goal.

Cost overruns on large public contracts are commonplace and persistent across the US, and are certainly not unique to New York City. Technology and IT contracts are among those most commonly subject to cost overruns. For example, the FBI went \$123 million over budget on a \$600 million contract to update its computer system (2000-2004), the Federal Aviation Administration spent nearly \$15 billion on more than a dozen projects originally expected to cost only \$9 billion (1998-2005), and NASA administrators have commented publicly that cost performance is not sufficiently analyzed by the agency, leading to chronic overruns.

One study by the National Bureau of Economic Research found that most of the iconic public works projects undertaken in our nation have suffered from cost overruns, including the Erie Canal, the Panama Canal, and the Hoover Dam.

What are the causes of these cost overruns? Frankly, most of the causes are common and predictable.

- 1) Estimates are low-balled initially to get public approval for a project; once it is started, a project is difficult to de-fund. These low-ball estimates are not usually "good-faith" efforts that simply forecast future costs with great error; rather, they are done to hide the true costs of the proposed project. This was supported by a 2002 academic article (by Flyvbjerg, Holm, and Buhl 2002) that examined underestimated costs in federal public work projects, in which the authors found that "project promoters routinely ignore, hide, or otherwise leave out important project costs and risks" to lower the total costs and gain project approval.
- 2) Requirements change. When government changes the terms of the contract mid-stream, contractors may need to re-estimate and increase what they charge the government. Usually governments expand the scope of the project that leads to increased costs.

they relate to planned spending patterns. Again, this requires the City to spend some money upfront to build this system. To keep costs to the City to a minimum, the City could require contractors to report to the City through a system with common cost accounting standards and categories used. Oversight by the City would be easier because all contractors would be reporting similarly.

The overall approach, therefore, is to proactively improve and monitor the contracting process rather than reacting to cost overruns. This approach will probably marginally increase costs – but these costs are intended to avoid even larger costs down the road. Reacting only though (as is the current public practice) is costing us even more. The current proposal includes some similar efforts at monitoring budget variances; however, without increased attention to the process prior to spending – especially on better cost estimates – the proposed legislation may not be as proactive and effective as it could be.

Thank you for your time and allowing me to testify.

**Testimony of
Henry A. Garrido, Associate Director, District Council 37
Before Joint Hearing of the
New York City Council's Contract and Technology Committees
Monday, October 31, 2011**

Good Morning. My name is Henry Garrido. I am Associate Director of District Council 37 representing 121,000 employees and 50,000 retirees. Let me start by thanking Chairperson Mealy and Chairman Cabrera and the members of both committees for holding this important hearing today and for allowing me to testify.

Perhaps it's appropriate that we are holding this hearing on Halloween since what has happened to the city's procurement of Information Technology (IT) contracts over the last eight years has been nothing less than scary. We have seen time and again, the squandering of our taxpayers' hard earned money in project after project without any accountability by the contractors or by those city officials supervising the projects. We have watched in horror more than a billion dollars in IT contracts riddled with waste and fraud at a time when shrinking resources have forced city agencies to damage public services by laying off personnel and increasing fees.

Now, it's not my intention today to go over the long litany of IT projects riddled with corruption and massive cost overruns. The newspapers have been awash with stories about the \$780 million wasted on CityTime, the \$380 million spent on NYCAPS, and the more than \$100 million squandered on the Department of Education's Future Technology Associates' contract. And I don't have to point out the dangers posed to everyone when the City spent over \$600 million in the Hewlett-Packard contract (more than twice as much as the original contract) to deliver a state-of-the-art 911 system that is still not operational. Those stories are scary enough to give us all nightmares. But as the ultimate optimist, I would rather not dwell on city officials' dismal failure in

supervising these IT projects but concentrate on the problems as we see them and make recommendations we feel would provide solutions to the pervasive problems in the procurement of technology projects.

As some of you may know, over the last eight years, DC 37 has conducted extensive research on the contract budget with a particular emphasis on the IT contracts. Based on those experiences, we believe there are **three fundamental problems** with the way the city continues to procure these contracts:

(1) Lack of Competition

In 2005, The Department of Information Technology and Telecommunications (DoITT) established a system involving five pre-qualified pools of IT consultants in five different areas of consultant contracts. This system was a simple set-up. Vendors would be pre-qualified for a set of contracts with a set range of prices for specific types of services. The City would use contractors already doing business with New York State as a “backdrop” in an effort to expedite procurement and save the City money. The reality is that this system has created a monopoly among certain contractors who continue to bill at the highest rates without any regard for the economic reality of the City.

Here’s what former Deputy Comptroller John Graham wrote in response to the request of former DoITT Commissioner Paul Cosgrave, about the system of pre-qualified contractors (enclosed):

“The contracts are being returned to DoITT because our review of the past history of the prior pool of contractors has found a disturbing pattern of overly expensive task orders, which is apparently caused by a process that does not ensure that the City receives the best prices for technology contracts.”

Despite the fair warning by Deputy Comptroller Graham, the city insisted in registering over \$250 million in contracts for system integration with the same pool of contractors.

Our research has found that the City achieved better cost and service when allowing a competitive procurement process to go forward. Our research also found that the current monopoly of the system has deprived minority and women-owned enterprises the possibility of competing for city contracts in IT services.

In 2010, New York State stopped using the pool of contracts and opted to work with the labor unions to create a pool of qualified civil servants instead to provide the services throughout the State agencies. I am enclosing a copy of that plan. The backdrop contract with the State will expire on December 31st of this year and the pre-qualified pool will end in June of 2012, which provides us with ample time and opportunity to devise a plan consistent with the State's approach.

(2) Lack of Oversight and Accountability

One of the most basic problems we encountered with the IT contracts was the lack of oversight. We have layers of consultants supervising consultants who are then supervised by other consultants – each one generating more profits from change orders when the contractor fails to deliver on the scope of service. To have accountability, it is imperative that we assign the complete supervision of the project to city workers and not relegate this authority to quality assurance experts whose profits depend on the amount of work generated by the cost overruns of the contracts they supervise.

It is also imperative that we hold contractors accountable when they fail to deliver. To our knowledge, the City has never sued any contractor to recoup any monies for lack of performance or cost overrun, even when this has involved fraud and corruption, as in the case with CityTime. The City has not triggered the liquidated

damages provisions that are standard in City contracts and that allow the city to hold the contractor accountable for failing to fulfill the contractual obligation.

(3) Lack of Workforce Development

In 2004, District Council 37 and former Commissioner Gino Manchini, now a high-tech consultant with DoITT, outlined a plan to reduce the reliance on outside consultants. The plan involved the creation of highly specialized, skilled titles certified under civil service law. These titles were well paid and would allow for the conversion of the consultant positions to City workers. Commissioner James Hanley worked with District Council 37 to create a process for hiring and establishing these titles and the union agreed to ease contractual requirements and work rules to allow the creation of the titles. The plan called for the hiring of 250 positions to start. The union also worked with DoITT in the creation of a traveling team that would allow agencies to use these highly specialized titles for short term projects and charge DoITT for the services under an inter-agency agreement. However, both of these plans have been abandoned by the City without any regard to the great success of both programs.

City agencies are rife with talented people, but the morale of the workers is stifled when they see consultants less qualified who have not passed civil service tests and are assigned to project after project and who receive considerably more compensation for work that city workers have been doing for years. To add insult to injury, these workers see the Department of Administrative Services (DCAS) sending consultants to be trained for programs which city workers have not been allowed to participate in. The City needs to create a **Workforce Development Program** to build capacity within its workforce to reduce its over-reliance on outside contractors. We have enough talent in the current workforce to perform the jobs that have become available through technology.

In conclusion, District Council 37 has never advocated for the total elimination of consultants. We recognize that there are innovations in the private sector that can be used and developed in city government. We also recognize the existence of proprietary software which would necessitate the city's use of some private vendors. What we have advocated is the creation of a healthy balance between the innovations of the private sector and the dedication of the city's workforce. We are at a defining moment with the impending passage of Intro 624A. The New York City Council has taken a big step towards creating transparency and accountability in the city's contracting rules. But we also recognize that many of the Information Technology contracts will not be covered under Local Law 35. It is therefore, our request that the City Council work with the City's administration, Comptroller John Liu and the various labor representatives to craft a plan to reign in the cost of the Information Technology contracts.

In these times of fiscal austerity, the City Council needs to look out for every dollar spent. Our union is more than willing to work with the members of the City Council to craft procedures and oversight regulations to help eliminate the type of waste we have seen over the past eight years.

Thank you for your time and I will be more than willing to answer any questions.



THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
EXECUTIVE OFFICES
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JOHN GRAHAM
DEPUTY COMPTROLLER
AUDITS, ACCOUNTANCY & CONTRACTS

WILLIAM C. THOMPSON, JR.
COMPTROLLER

June 15, 2009

Honorable Paul Cosgrave
Commissioner
Department of Information Technology & Telecommunications
City of New York
75 Park Place
New York, NY 10007

RE: CGI Technologies, Inc., Contract No. 20090030541
International Business Machines, No. 20090030541
Keane, Incorporated, No. 20090030586
Science Applications International Corporation, No. 20090030543
Accenture, Inc., No. 20090036441

Dear Commissioner Cosgrave:

I am writing to advise you of our analysis of the use of the previous systems integration pool contracts. As set forth in more detail below, the analysis has raised concerns regarding the wisdom of the use of this methodology of contracting.

As you are aware, the Department of Information Technology & Telecommunications (DoITT) has requested registration of the above referenced contracts in order to replace the existing pool of three contracts. DoITT awarded the contracts using the information technology procurement provisions of the New York State Office of General Services (OGS). The contracts follow a multiple award protocol by creating a pool of winning consultants, i.e., the Tier 1 process. Thereafter, only these consultants are allowed to submit proposals on specific solicitations sought for systems integration projects by various City agencies. Consultants in the pool would be given a task order to perform work if they win the second round, or Tier 2 competition. We are being asked to register each of the five contracts with a limit of \$50 million in task orders per vendor. The term of the Tier 1 contracts is May 1, 2009 through May 1, 2012.

The contracts are being returned to DoITT because our review of the past history of the prior pool contracts has found a disturbing pattern of overly expensive task orders, which is apparently caused by a process that does not ensure that the City receives the best prices for technology contracts. Our analysis, in fact, shows that the multiple award methodology has resulted in

severely limited competition, which in turn, may have cost the City millions of dollars in inflated consultant costs.

The analysis of the original systems integration pool of contracts, which were awarded in 2004, found that the three members of the pool received nearly \$100 million in task orders. In thirteen of the sixteen Tier 2 solicitations, however, only two vendors responded. That response rate illustrates a disturbing lack of competition for the Tier 2 process. One of the three vendors in the original pool, Accenture, bid on only 56% of the Tier 2 solicitations, nevertheless, it is still being proposed as a consultant in the new pool.

The DoITT contracts presently before us state that the consultants in the pool must respond to 75% of Tier 2 solicitations, or face termination of their contracts. Nevertheless, consultants who are not interested in performing certain work could simply submit a poor proposal and still meet the 75% requirement. Moreover, termination might not be a real sanction for vendors who have, for whatever reason, no interest in bidding. Neither does it resolve the root problem of the absence of meaningful and robust competition that would be further exacerbated by the termination of any of the consultants' contracts.

DoITT argues that there would be real price competition in the award of Tier 2 task orders, and that the City would benefit from the expedited process resulting from the limited number of bidders. However, of the sixteen task orders awarded under the original multiple award contracts, thirteen were priced based upon hourly consultant rates that were equal to or higher than the vendor's Tier 1 prices. In effect, there was no price competition for these thirteen task orders. In the remaining three task orders, either some discount was given from the Tier 1 prices, or our examination of the documents could not determine the hourly rates.

DoITT also argues that the contracts are reasonably priced because they are lower than the consultants' OGS hourly rates. However, as you are aware, OGS clearly states on its website that the rates are not competitive. Instead, hourly rates are characterized as "Not-To-Exceed Rates" in reference to prices offered by vendors on the OGS website. OGS states:

These rates are to be used by Authorized Users only for verification that prices quoted in response to an agency project bid do not exceed these rates.

Consequently, it is these non-competitive, maximum rates that DoITT is comparing favorably to rates offered for the multiple award contracts.

An estimate of how much the City overpaid over the life of the original multiple award contracts and how much the City might overpay over the life of the proposed contracts can be estimated by comparing the Tier 1 labor rates with a recent procurement done via the City's normal, competitive sealed proposal methodology.

Earlier this year, the Police Department (NYPD) solicited an open, competitive Request for Proposals for a systems integration contract for the purpose of creating a property and evidence tracking system. This is the same type of work that DoITT envisions will be awarded through

Hon. Paul Cosgrave

June 15, 2009

Page 3

the Tier 2 process. The NYPD received a robust and very competitive reply to the solicitation. There were 91 expressions of interest and eight proposals resulting in a fixed price contract.

The results of the NYPD's solicitation, versus DoITT's, are obvious. The average hourly cost for the job titles in the NYPD property and evidence tracking system is \$110 per hour. However, for the DoITT solicitation, the rates of the 12 labor titles, e.g., Project Manager I, Project Analyst III, Specialist I, etc., among the five proposed vendors ranged from \$132.52 to \$277.97. Overall, the average proposal from the pool contractors offered a Tier 1 rate of \$194.91 per hour for the 12 OGS standardized consultant labor classifications.

The mix of the actual type of computer consultants will vary depending upon the expertise needed for each task order. Nevertheless, Tier 1 labor rates in the current contracts are 44% higher than the rates charged for the recent, competitively solicited NYPD contract.

The effect of the 44% higher cost of labor for the proposed \$250 million pool of contracts can be approximated by taking into account the use of Tier 1 prices for task orders and by estimating the relative amount of labor costs versus hardware and software in the systems integration task orders. Based on this calculation, the estimated cost to the City for using the proposed DoITT contracts will be \$71 million over the life of the contracts. Likewise, if the 44% labor differential is historically true, then the money lost in the original \$100 million in task orders is roughly \$28 million.

Therefore, before additional City funds are put at risk, it would be in the City's best interests for DoITT to revisit its assumptions about this contracting methodology. Two hundred and fifty million dollars is a lot to put at stake on a contracting process that has clearly resulted in little to no price competition.

Should DoITT intend to return these contracts for registration, please indicate the measures that the agency will take to address this situation. Also, please be advised that in addition to the above, the contracts are also returned because they are presently entered in the City's Financial Management System (FMS) as expense funded contracts, but they are 90% capital funded. Additionally, the insurance certificates for three of the five vendors have expired and four of the agreements are not dated and/or otherwise have blank spaces on the first page of the agreement.

In the event that you have any questions, please feel free to contact me or Jean Goddard at (212) 659-4956.

Sincerely,



John Graham

cc: Maria Simpson

CONSULTING SERVICE CONTRACTS

The 2011-12 Executive Budget begins the process of transforming government into an organization that functions more efficiently and provides services to taxpayers at the lowest possible cost. Toward that end, the Executive Budget makes strategic choices regarding the use of consulting services.

The proposed budget reductions will require State agencies to continue to reduce non-personal service costs. This will include efforts to ensure the cost effectiveness of consulting services, including elimination of consulting contracts where these services no longer support core programs, and in-sourcing consulting positions where State staff can provide more cost-efficient services. To support this effort, the Division of the Budget (DOB) will implement several of the recommendations of the 2009 Report of the Governor's Task Force on Personal Services Contracting, including:

- Using a quantitative decision model to assist agencies in evaluating the costs and benefits of utilizing State staff rather than contracting out;
- Improving data collection and analysis of consulting costs; and
- Issue guidance to agencies to increase the justification for and transparency of consultant service contracts.

The Executive has had some recent success with IT in-sourcing efforts, and recognizes that it may be beneficial to expand in-sourcing in order to save jobs while realizing budget savings.

INFORMATION TECHNOLOGY IN-SOURCING

Chapter 500 of the Laws of 2009 was enacted to establish a pilot program for reducing the State's reliance on private IT consultant services. This legislation represented the first significant step in addressing long-standing challenges to the hiring and promotion of quality IT staff with the requisite skills and training to meet agency needs. Chapter 500 provided the authorization to hire up to 500 individuals into term IT positions across New York State with job appointments of up to 60 months. These appointments are temporary positions requiring special expertise or qualifications in IT services, and can be made without civil service examination where an agency certifies that holding such an examination is not practicable. The law also directs the Department of Civil Service to complete a skills inventory for promotion eligible lists to ensure that existing State employees could compete for these positions.

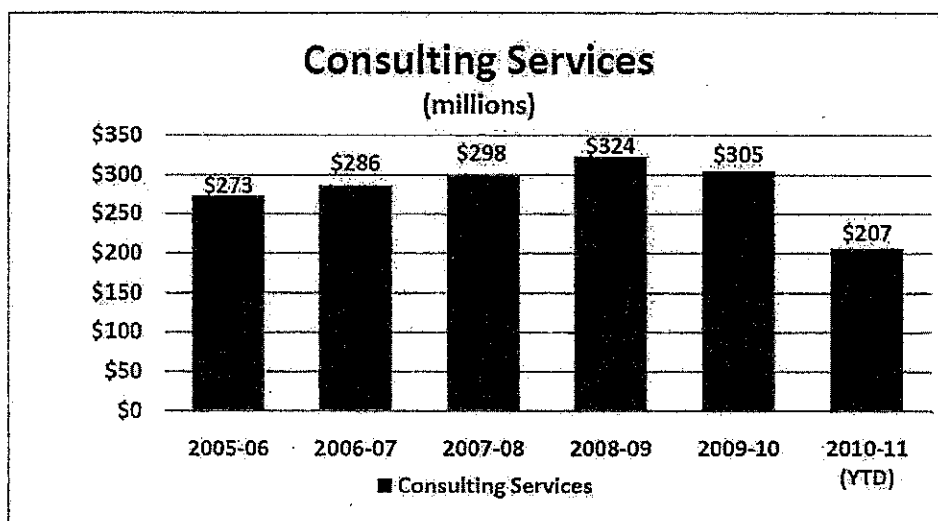
As of December 2010, 247 positions have been approved. Of this number, 94 actual hires have occurred and the hiring process for 153 positions is underway. Nearly 20 percent of those hired were existing State employees, and 25 percent of those hired entered into civil service titles. The projected 2011-12 savings for the initial 94 positions is \$4.3 million, with 25 percent of the savings realized in the General Fund.

The ability to hire State staff for positions requiring key technology skills has indeed proved cost-effective for the State, with savings ranging from approximately \$25,000 to \$50,000 per position, after accounting for a period of transition for the employees involved. Efforts to identify more opportunities both within IT and in other technically skilled positions, e.g., nursing, are ongoing. However, the State has also found that in cases where the positions do not require highly technical skills, the optimal solution is to contract for the services. In keeping with the recommendations of the 2009 Report of the Governor's Task Force on Personal Services Contracting, agencies will follow a consistent set of principles in identifying which method of service delivery is most appropriate.

CONSULTING SERVICE CONTRACTS

STATUS OF CONSULTING SERVICES

By several measures, New York is having success in reducing its dependence on consultant services. For example, using the State Comptroller's Central Accounting System data, consulting costs across All Governmental Funds decreased by nearly six percent in SFY 2009-10, and are on track to decrease again in 2010-11, as shown in the following chart:



Due to limitations with the current accounting system, this information represents only a subset of consulting service expenditures. Nonetheless, the trend is consistent with self-reported agency data presented at the end of this section, which shows a similar decrease in projected spending and numbers of consultants. The following table summarizes the self-reported data, which has been compiled from agency budget requests, and does not yet reflect the ten percent State Operations reduction proposed by the Governor.

Consulting Services Contracts
All Funds

	Estimated 2010-11	Estimated 2011-12	\$ Change	% Change
Estimated Disbursements (\$ thousands)	\$821,335	\$791,194	-\$30,141	-3.7
Number of Contract Employees	20,519	19,580	-939	-4.6

State law mandates four annual reports that attempt to provide a comprehensive overview of the use of consulting contracts in State agencies: the OSC Consulting Report (May 1), the OSC Procurement Stewardship Act Report (July 1), the Civil Service Report (September 30), and the Executive Budget Report, which is presented below.

As stipulated by statute, these tables show contract employee counts that represent estimates of the number of individuals employed or projected to be employed for any amount of time during any portion of the year. This concept is different from the full-time equivalent (FTE) concept used elsewhere in the Executive Budget documents. That standard measure converts part-time and part-year workers into the equivalent number of

CONSULTING SERVICE CONTRACTS

full-time positions over the course of a year. As a result, the employee count (regardless of the percentage of time worked) reported in the tables overstates the number of full-time equivalent positions associated with consulting contracts.

Reported spending figures include labor-related contract costs such as overhead, travel and fringe benefits, and in some cases, other non-personal service expenses. Accordingly, contract costs cannot be interpreted as representing only the compensation paid to contract employees.



THE CITY OF NEW YORK
OFFICE OF LABOR RELATIONS
40 Rector Street, New York, NY 10006-1705
<http://nyc.gov/html/olr>

JAMES F. HANLEY
Commissioner
PAMELA S. SILVERBLATT
First Deputy Commissioner

February 9, 2004

Dennis Sullivan
Director of Research and Negotiations
District Council 37, AFSCME, AFL-CIO
125 Barclay Street
New York, New York 10007

Re: Non-Competitive Class Positions – Certified Information Technology Titles

Dear Mr. Sullivan:

This is to confirm our mutual understanding and agreement regarding the City's proposal to establish the following titles in the non-competitive class: Certified Local Area Network Administrator; Certified Wide Area Network Administrator; Certified Applications Developer; and Certified Database Administrator. Upon the Board of Collective Bargaining's decision amending the bargaining certificate to reflect the City's voluntary recognition of these titles, the following shall apply:

1. Pending completion of the non-competitive classification procedure, the City of New York has authorized four (4) temporary title codes for the above titles. In accordance with the civil service law, these temporary titles will be filled on a provisional basis. Employees appointed to these temporary titles on a provisional basis will be covered by all contractual provisions applicable to provisional employees, including the contractual disciplinary due process procedures.
2. Once the above referenced titles are approved in the Non-Competitive Class, they will be filled by non-competitive appointment and employees shall be covered by the non-competitive class disciplinary due process procedure set forth in Paragraph 3, below subject to the following provisions:
 - a. Employees who are appointed to one of the titles on a non-competitive basis and who have served continuously in the same agency on a provisional basis in the corresponding predecessor temporary title of Certified Local Area Network Administrator (TTC#06746); Certified

Wide Area Network Administrator (TTC#06747); Certified Applications Developer (TTC#06748); or Certified Database Administrator (TTC#06749) for at least eighteen (18) months immediately preceding the date of their non-competitive appointment shall have full contractual disciplinary rights after they have served a minimum of three (3) months in their new non-competitive class position. In any case, an employee who has served fewer than eighteen (18) months on a provisional basis shall not be required to serve more than twenty-four (24) months of combined continuous provisional and non-competitive service as long as at least three (3) months are served in the non-competitive position. This provision is predicated exclusively on the special circumstances of this matter and shall not be construed to represent any policy or procedure of the City of New York.

- b. All other employees who are appointed on a non-competitive basis to Certified Local Area Network Administrator; Certified Wide Area Network Administrator; Certified Applications Developer; or Certified Database Administrator must complete one year of service as specified below in Paragraph 3 to be eligible for contractual disciplinary rights.
3. Article VI, Section 1.(h) of the 2000-2002 Accounting/EDP Agreement shall be amended to read as follows:

1. (h) A claimed wrongful disciplinary action taken against a full-time non-competitive employee with one year of service in title, except for employees during the period of a mutually agreed upon extension of probation.

In any case involving a grievance under Section 1 (h) of this Article, the following procedures shall apply upon service of charges of incompetence or misconduct:

STEP A Following the service of written charges upon an employee a conference with such employee shall be held with respect to such charges by the person designated by the agency head to review a grievance at STEP I of the Grievance Procedure set forth in this Agreement. The employee may be represented at such conference by a representative of the Union. At the conference the person designated by the agency head to review the charges shall: (1) verbally communicate to the employee any information reasonably necessary for the employee to understand the nature of the charges; (2) furnish to the employee copies of documentary evidence necessary to support the charges; and (3) furnish to the employee the names of potential witnesses except under unusual circumstances. The person designated by the agency head to review the charges shall take any steps necessary to a proper disposition of the charges and shall issue a determination in writing by the end of the fifth day following the date of the conference.

STEP B If the employee is dissatisfied with the determination in STEP A above, he or she may appeal such determination. The appeal must be made within five (5)

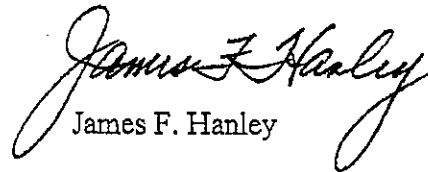
working days of the receipt of such determination. Such appeal shall be treated as a grievance appeal beginning with STEP II of the Grievance Procedure set forth herein.

4. Employees in the non-competitive titles of Certified Local Area Network Administrator; Certified Wide Area Network Administrator; Certified Applications Developer; and Certified Database Administrator shall be covered by the non-competitive/labor class layoff procedures set forth in the 1995-2001 Citywide Agreement, or any successor agreement thereto.
5. The titles of Certified Local Area Network Administrator; Certified Wide Area Network Administrator; Certified Applications Developer; and Certified Database Administrator shall be deemed "hard-to-recruit" and shall be granted a residency waiver.
6. The City of New York shall inform the Board of Certification of the Board of Collective Bargaining of its voluntary recognition of District Council 37 as the bargaining agent for employees in the titles of Certified Local Area Network Administrator; Certified Wide Area Network Administrator; Certified Applications Developer; and Certified Database Administrator.
7. The Union agrees not to oppose the establishment of the titles of Certified Local Area Network Administrator; Certified Wide Area Network Administrator; Certified Applications Developer; and Certified Database Administrator in the non-competitive class of the City of New York. The City agrees to schedule the required public hearing as soon as practicable.
8. The various additions-to-gross applicable to the current competitive title of Computer Specialist (Software) (TC#13632) shall apply to the temporary titles of Certified Local Area Network Administrator; Certified Wide Area Network Administrator; Certified Applications Developer; and Certified Database Administrator and shall continue to apply to these titles upon their establishment in the non-competitive class.
9. For the purposes of implementing the provisions of Labor Relations Order No. 84/1, Section IX (Assignment Level Procedures), continuous service in the temporary title code positions of Certified Local Area Network Administrator; Certified Wide Area Network Administrator; Certified Applications Developer; and Certified Database Administrator shall count towards meeting the continuous service requirement for the respective position in the non-competitive class.
10. If any of the provisions of this letter agreement are found to be in conflict with the civil service law, or any other applicable rules and regulations, it is understood by the parties that civil service law, or the applicable rules and regulations, shall govern. Such conflict shall not impair the validity and enforceability of the remaining provisions of this letter agreement.

11. Nothing contained herein shall limit or diminish the Employer's or the Union's rights pursuant to §12-307(b) of the New York City Collective Bargaining Law, except as specifically provided herein.
12. The provisions of this letter agreement may be modified by the mutual written consent of the parties.
13. This letter agreement shall be deemed to be an appendix to the 2000-2002 Accounting/EDP Agreement pursuant to the terms set forth in Article XIII thereof and shall be coterminous with said agreement.

If the above accords with your understanding, please sign in the space provided below.

Sincerely,


James F. Hanley

Agreed:

By: 
Dennis Sullivan

Dated: 2/9 2004

To tighten belts, let's insource

Usually, when government officials talk about spending less money, they talk about outsourcing services to the private sector. And in many cases, that can be very effective. But union leaders often argue that it would be more cost-effective to give the work to city employees — and sometimes, they are right.

When Mayor Bloomberg asked me to review the problems with the CityTime timekeeping project, he also requested that I review all information technology, or IT, contracting. After conducting a thorough review, I have concluded that much of the solution lies not in more outsourcing to the private sector, but rather in employing city workers to perform more of our IT work. So in the weeks and months ahead, we will decisively shift more work from consultants outside government to our talented public employees. This will save taxpayers millions of dollars a year.

Here is one example: This month, the mayor opened the city's first consolidated data center. Instead of 40 separate data server rooms, we will now have only a few centralized ones. Sounds simple — but it took a lot of hard work to get done: It's part of our citywide technology consolidation plan, which will save taxpayers \$100 million over the next five years.

To build our new data center, instead of hiring an outside vendor for project management and quality assurance as we would have done in the past, we insourced the work to the Department of Information Technology and Telecommunications' project management team. They supervised the successful construction of the facility. Using the know-how of city staff to oversee these projects will save an additional \$25 million over and above the \$100 million we will save from having fewer server rooms and other efficiencies.

That center where the mayor stood was built in record time, from start to finish in only six months.

BE OUR GUEST

BY STEPHEN GOLDSMITH

Also, when we recently renewed the contract with the company that successfully built our state-of-the-art wireless network, we moved much of the day-to-day management and servicing to our technology agency, where it belongs. Insourcing this work alone is expected to save \$16 million. There are other examples. Our Business Express tool — which helps businesses get permits faster — and our expanded 311 online program are both now led by insourced city employees, not consultants. The Finance Department is hiring 45 city employees to replace outside consultants, almost entirely in its technology department. That will save millions more.

At the same time as we intelligently insource, we need to tighten our oversight over outside contractors. Competent and honest vendors respond best when they

are well-managed by able city officials. We are proposing, therefore, to expand a high-level city vendor management office — and, in the

process, reduce the cost of outside projects and test whether certain projects are even necessary.

And we are going to start challenging all components of technology contracts, and ensure that the city does not pay a markup to a consultant for work we could just as well do internally.

We must also focus on subcontractors — companies hired by our own vendors to help them complete their assignments. Insufficient subcontractor oversight can lead to mismanagement or worse. Subcontractors working on the CityTime project have been charged with stealing \$80 million from taxpayers.

Insourcing the management of projects and important decisions about scope and cost will allow us to save taxpayer dollars, enhance service delivery and ensure that IT vendor resources throughout the city are delivering on time and on budget for New Yorkers.

Goldsmith is New York City's deputy mayor for operations.

Contract out less, have city workers do more

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

in favor in opposition

Date: 10/31/11

(PLEASE PRINT)

Name: Thud Calabrese

Address: _____

I represent: Baruch College - CUNY

Address: 2 BBW, NY, NY 10010

**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: Chris Shelton

Address: C/O CWA 80 Pine St NY, NY

I represent: CWA

Address: 80 Pine St NY, NY

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

in favor in opposition

Date: 10/31/11

(PLEASE PRINT)

Name: LEONIE HAIMSON

Address: 124 Waverly Place

I represent: _____

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

in favor in opposition

Date: 10/31/11

(PLEASE PRINT)

Name: Jim Johnson, Chairman

Address: _____

I represent: The Standish Group

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: CAS HOLLOWAY, Deputy Mayor for

Address: OPERATIONS

I represent: _____

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: CAFOLE POST, Commissioner

Address: _____

I represent: DOT

Address: _____

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

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: MARLA SIMPSON, DIRECTOR

Address: _____

I represent: MOCS

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: 10/31/11

(PLEASE PRINT)

Name: Robert Ajaye

Address: 125 Barclay St NY NY 10007

I represent: President, L2627 DE37

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: 10/31/11

(PLEASE PRINT)

Name: Henry Canido

Address: 128 Barclay St NY 10007

I represent: Associate Director, DC37

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: 10/31/11

(PLEASE PRINT)

Name: ARTHUR COENBERG

Address: 2741 ARLEINGTON AVE

I represent: SELF BRONX 10465

Address: _____

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