

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON CONTRACTS

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May 21, 2012

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HELD AT: Council Chambers
City Hall

B E F O R E:
DARLENE MEALY
Chairperson

COUNCIL MEMBERS:
Letitia James
Melissa Mark-Viverito
Robert Jackson

A P P E A R A N C E S

Andrea Glick
City Chief Procurement Officer
Director of the Mayor's Office of Contract Services

Sergio Paneque
Chief Acquisition Officer
Diecast

Lisa Flores
Deputy Director
Mayor's Office of Contract Services

Brett Robinson
Department of Information Technology and
Telecommunications

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2 CHAIRPERSON MEALY: Hello everyone
3 my name is Darlene Mealy. I am the Chair of the
4 New York City Contract Committee. Today, I'm
5 joined well then my colleagues are here as of yet.
6 Today we will be holding a hearing on the City use
7 of its purchasing power when it comes to its
8 procurements. New York City Procurement spending
9 last year was almost 15 billion, making it one of
10 the largest purchasers in the country. This gives
11 the City significant power to negotiate prices
12 down for the goods and services that it needs,
13 ensuring that taxpayers' dollars are spent wisely
14 and efficiently. We've seen some examples of
15 this. Such as 2010 when the City entered into
16 agreement with Microsoft that consolidated agency
17 license agreements for a software saving the City
18 50 million over five years. However this has also
19 been criticized that the City does not do enough
20 to leverages buying power that procurement is too
21 fragmented across City agencies and that the City
22 is not getting the best deal for its dollar.
23 Today we will find out what the City is currently
24 doing to ensure that it is paying the lowest
25 prices possible for the goods and services that it

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2 buys and whether its procurement process can be
3 improved to achieve even greater cost savings.

4 I've been joined by colleague Letitia James, and I
5 want to thank everyone for coming here and we will
6 begin this meeting, but before we do that we will
7 like especially to welcome our new Director of the
8 Mayor's Office of Contract Services, Ms. Andrea
9 Glick. Welcome. And you may begin.

10 ANDREA GLICK: Good afternoon,
11 Chairperson Mealy and Members of the Contracts
12 Committee. My name is Andrea Glick and I am the
13 City Chief Procurement Officer and Director of the
14 Mayor's Office of Contract Services. On behalf of
15 the Administration, I would like to thank you for
16 this opportunity to testify about leveraging the
17 City's purchasing power and procurement. I am
18 joined today by Sergio Paneque from the Department
19 of City Wide Administrative Services, and Brett
20 Robinson from the Department of Information
21 Technology and Telecommunications, who at the end
22 of my testimony will be happy to answer any
23 questions you may have on their agencies'
24 respective cost saving initiatives. As you know,
25 MOCS as the City's compliance and oversight agency

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2 for procurement. Our core mission is to assist
3 agencies in complying with purchasing rules while
4 achieving their programmatic missions, improve
5 contract management practices and provide
6 technical assistance to agencies and vendors. In
7 addition to our core mission, MOCS both
8 independently and in conjunction with the mayoral
9 agencies works that's strategically transforms
10 citywide procurement in order to leverage the
11 City's buying power. Much of our efforts are
12 focused on, though not limited to, cost savings in
13 the area of goods and services, information
14 technology and human services to acquire necessary
15 goods and services quickly, efficiently and at the
16 lowest possible cost. Diecast the City's major
17 goods purchasing agency often enters into a single
18 contract for goods that are used by one or more
19 agencies on an as needed basis, also known as
20 requirements contracts. Through this vehicle, a
21 vendor contracts to supply the City's entire
22 requirement for a particular good or service.
23 When an item is available through a requirements
24 contract agencies used that contract rather than
25 procuring that item separately. In accordance

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2 with the Procurement Policy Board Rule, which
3 allows for price negotiation with the apparent
4 lowest responsive and responsible bidder, Diecast
5 has aggressively pursued price reductions with its
6 vendors. To date, these efforts have resulted in
7 approximately 36 million in savings over the
8 lifetime of the affected contracts including
9 nearly seven million in fiscal 2012.

10 Additionally, Diecast has been developing a
11 portfolio of citywide service contracts intending
12 to achieve economy of scale by consolidating
13 demand for certain services across agencies.
14 Examples of the shared service contracts include
15 maintenance, repair and operating supplies,
16 equipment maintenance management, integrated pest
17 management, water purification and off-site
18 records storage among others. The off-site
19 records storage contract combines excellent
20 storage and retrieval services with practical and
21 economical record relocation terms. The contract
22 offers approximately 66% annual savings for city
23 agencies with current commercial record contracts
24 and fiscal 2013 estimated savings are in excess of
25 one million dollars. Each of these shared service

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2 contracts will replace numerous individual agency
3 procurements and offer agencies an efficient means
4 to procure necessary resources and achieve
5 administrative savings. In the information
6 technology arena DoITT has worked to position the
7 City's IT Departments to better function as an
8 enterprise rather than as a collection of separate
9 entities to divide citywide efficiencies and
10 savings around technology investments. DoITT has
11 done so by streamlining the provision of services
12 and software through Key Enterprise contracts.
13 One of the most significant examples of cost
14 savings through this approach is the master
15 service agreements also known as MSAs. DoITT
16 finalized with AT&T and Verizon in 2006 in
17 citywide voice and data telecommunications
18 services. Recognizing the opportunity to leverage
19 the City size in purchasing power to achieve deep
20 discounts and beneficial terms and conditions.
21 DoITT aim to reduce cost, improve the resiliency
22 of the City's telecommunication networks,
23 streamline the administrative procedures for
24 ordering and billing and provide a premier support
25 level for the City's telecommunication services

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2 weed of products. Today every city agency and
3 more than 30 additional related entities including
4 Health and Hospitals Corporation, the District
5 Attorney offices, libraries, the MTA and others
6 partake of the citywide voice and data contracts
7 allowing us to realize more than one hundred
8 million in telecommunications cost savings over
9 the past five years. In addition to
10 telecommunication services, DoITT has also
11 introduced several enterprise contracts that will
12 cut cost and provide more modern and streamline
13 services to city agencies. For example, the City
14 recently announced a wide ranging IT agreement
15 with Microsoft to consolidate dozens of desperate
16 licensee agreements across the City's into one and
17 provide more than one hundred thousand City
18 employees with state of art computing power. This
19 agreement is estimated to save New York City a
20 total of 50 million dollars over the next five
21 years. To achieve cost savings in procurement
22 among City human services agencies the Office of
23 Support Accountability and Value Enhancement
24 otherwise known as SAVE was created by the Office
25 of the Deputy Mayor for Health and Human Services

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2 in July 2011. SAVE allow the Health and Human
3 Services Agencies to share capacity in small
4 purchasing, financial auditing and claiming,
5 printing and other areas to reduce costs and
6 improve efficiencies by leveraging the knowledge
7 and purchasing power of multiple agencies. The
8 City hopes to improve services and increase
9 coordination of administrative functions in the
10 Health and Human Services Agencies. An example of
11 the City's combined efforts to achieve savings in
12 procurement is the citywide cost containment
13 initiative launched by MOCS in fiscal 2010. By
14 renegotiating existing agency contracts on a
15 voluntary basis with vendors the cost containment
16 initiative explored contract requirements and
17 aspects of the procurement process that resulted
18 in unnecessary cost to the City. One hundred of
19 the City's top vendors were targeted and 11
20 agencies DDC, DEP, DOHMH, DOT, DSNY, DPR, Diecast,
21 DoITT, FDNY, HPD and NYPD were identified as lead
22 agencies for these vendors. The contracts spend
23 multiple industries including technology, waste
24 management, architecture and engineering,
25 transportation, communication, energy and other

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2 goods. Some 89 of the hundred targeted vendors
3 actively participated in the program engaging in
4 the requested discussions. Subsequent to these
5 renegotiations 26 contractors signed contract
6 modifications which will result in a total max
7 savings to the City of nearly 15 million dollars
8 over the life of the vendor's contracts. These
9 cost saving proposals emerged from lengthy
10 negotiations and reflect cooperation between MOCS,
11 city agencies and their business partners to
12 achieve the same goal. MOCS and city agencies
13 will continue to work together to strategically
14 leverage our buying power and achieve cost savings
15 in City procurement. We are now available to
16 answer any questions you may have. Thanks.

17 CHAIRPERSON MEALY: I want to thank
18 you. Oh, I'm sorry. We've been joined by Mark-
19 Viverito. Out of all these agencies this was from
20 2010 the City only saved 15 million dollars.

21 ANDREA GLICK: In a renegotiation
22 of those 26 contracts.

23 CHAIRPERSON MEALY: 26.

24 ANDREA GLICK: 26 vendor contracts.
25 Yes.

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CHAIRPERSON MEALY: And we are the biggest purchasing in the country and we only could save 15 million from all these agencies.

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ANDREA GLICK: Well what we did is we took the top hundred vendors contracts in the City and they were already registered agreement and we invited the vendors in and we renegotiated whatever terms and conditions and pricing had already been developed and that was the 15 million dollars savings because--

CHAIRPERSON MEALY: [Interposing] How regular do all these agencies meet? Do you only do it once a year?

ANDREA GLICK: This was the first time we did that type of initiative but we meet all the time.

CHAIRPERSON MEALY: But since MOCS is set to really see how we can best serve the City shouldn't there be something in place that they can meet more frequent to see how we can do a cost analysis on all these agencies to make sure we are getting the bank for our buck? Taxpayers deserve it.

ANDREA GLICK: Right. But this was

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2 a special project that MOCS initiated. It wasn't
3 that--

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CHAIRPERSON MEALY: [Interposing]

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Which MOCS suppose to really be doing that anyway.

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ANDREA GLICK: So what you're

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saying is you would like to see us do that

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initiative periodically.

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CHAIRPERSON MEALY: Yes. The same

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we just had a hearing with NYPD and they have 975

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police officers doing clerical jobs. We should

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have them out in the street and have clerical

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people working instead of laying them off. We

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could put them in these positions and that's what

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something MOCS if they meet regularly they can

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find out what is needed for the City. So I'm just

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wondering is anything in place that you all would

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have a meeting like that continuously.

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ANDREA GLICK: We don't have a new

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initiative for that at this present time. No.

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CHAIRPERSON MEALY: What promote

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the cost estimate initiative anyway?

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ANDREA GLICK: The former Deputy

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Mayor had done it in his prior engagement and he

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suggested that we do it now and that's how we

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initiated it.

CHAIRPERSON MEALY: So wouldn't it be best that we continue that going? I really feel if they meet continuously we will save the City so much more money. It can get into the billions. So I think if we are really serious about saving taxpayers money we would do this more frequent. Is that initiative you all may look into?

ANDREA GLICK: We can. So what you're saying is you like that initiative.

CHAIRPERSON MEALY: Saving the City 10 million, 15 million so far. That's very small. I know we can do a whole lot more because only if we could sit down and renegotiate these contracts, I believe it can happen. We can get a better deal. And has MOCS and ONB ever intervene with an agency contract because they felt that the cost of the contract was too high?

ANDREA GLICK: Have we participated in specific negotiations you're talking about? Are you asking?

CHAIRPERSON MEALY: No. I'm talking about if MOCS looked over a contract or

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sporadically you look at contracts and you see that the pencil map no not this Board of Education.

ANDREA GLICK: Are you asking if we questioned the cost of a contract?

CHAIRPERSON MEALY: Yes.

ANDREA GLICK: Yes we have.

CHAIRPERSON MEALY: You have?

ANDREA GLICK: Yes.

CHAIRPERSON MEALY: What did you do with that if you saw that it was too high that every other agency is lower and that agency is the highest out of every City?

ANDREA GLICK: It's not looking at it in comparison to other agencies procurements necessarily. What we have done is we have participated in individual negotiations with specific agencies on specific procurements.

CHAIRPERSON MEALY: Excuse me.

ANDREA GLICK: With specific agencies on specific procurements.

CHAIRPERSON MEALY: So I'm asking have MOCS or ONB saw that and--

ANDREA GLICK: [Interposing] Yes.

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CHAIRPERSON MEALY: --what actions did you take or what actions--

ANDREA GLICK: [Interposing] They participated in the negotiation to reduce the cost if they could.

CHAIRPERSON MEALY: Can you give some examples?

ANDREA GLICK: I can't off on the top of my head. No.

CHAIRPERSON MEALY: So could you give me two contracts that you saw that was too high and you had brought down and you have that at cost savings?

ANDREA GLICK: I can't think of one of the top of my head but we've had done it.

CHAIRPERSON MEALY: Anyone from MOCS can? Because if MOCS is in charge of contracts and this cost savings we have to have some kind of way that we would know that were getting a cost savings. Because all these city contracts MOCS is in charge. So I would love to get that. Could you please describe the process where you noticed the high price?

ANDREA GLICK: If we look at the

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pricing let say of a staffing.

CHAIRPERSON MEALY: Staffing?

ANDREA GLICK: For example, on a consultant contract. This is a hypothetical.

CHAIRPERSON MEALY: Are you sure you want to say a consultant? Those contracts are way off. It's okay.

ANDREA GLICK: You asked me of the top of my head. But if there's an hourly rate that looks out of line that could be an instance.

CHAIRPERSON MEALY: Okay. That's very interesting. So do you regularly look at contracts their hourly rating?

ANDREA GLICK: We do look at that as a factor.

CHAIRPERSON MEALY: So as a factor but some of them, not all of them because City time would not have happened if we looked at that contract.

ANDREA GLICK: We didn't review that contract. That didn't come through MOCS.

CHAIRPERSON MEALY: Okay. But other than that you all do look at all of them or some of them.

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ANDREA GLICK: Not every contract but the ones that come through our office we would look at that. Yes.

CHAIRPERSON MEALY: Okay. Do you regularly and systematically try to analyze whether the agencies are indeed taking full advantage of the City's buying power?

ANDREA GLICK: We try to.

CHAIRPERSON MEALY: Would you tell an agency this agency prices lower than one that you're doing and you would give them that agency, well tell them to start negotiating?

ANDREA GLICK: If we had that information we would do that.

CHAIRPERSON MEALY: How would you do that?

ANDREA GLICK: I said if we had that information. If we had the historical information, we would give it to the other agency.

CHAIRPERSON MEALY: And then other agency would have an opportunity to change their price?

ANDREA GLICK: They probably could say to the vendor that their negotiating with you

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know the market rate is X and you're giving us Y
so give us Z.

CHAIRPERSON MEALY: How's there
track record? Do they changing?

ANDREA GLICK: The vendors.

CHAIRPERSON MEALY: Yes.

ANDREA GLICK: I guess sometimes.
I don't know. I don't have statistics.

CHAIRPERSON MEALY: So we will
start getting statistics. Will we not?

ANDREA GLICK: Will try.

CHAIRPERSON MEALY: Okay. Have you
compared how well New York City does in leveraging
its buying power with other jurisdictions
including other municipalities, government, State
and Federal relations and what about the private
sector?

ANDREA GLICK: We have looked at
pricing in comparison to the State contract and
the Federal if it is offered.

CHAIRPERSON MEALY: Excuse me. I'm
listening to me.

ANDREA GLICK: We have looked at
others the State and Federal pricing structure.

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CHAIRPERSON MEALY: You've compared them.

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ANDREA GLICK: Some of the agencies have. I'm not sure. Yeah. Go ahead.

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SERGIO PANEQUE: Council Member what we do within Diecast especially on the citywide contracts before we both go out to bid and then through the negotiations process. We do look at other jurisdictions and their contracts and exactly what they received in the way of pricing and use that as a barometer when we come forward and make that the City is getting the best value for its purchasing power like you're saying.

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CHAIRPERSON MEALY: If you don't what is the process?

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SERGIO PANEQUE: If a particular solicitation did not result with a jurisdiction as large as New York City getting the best price with the exception of the Federal government then we really do need to look at the specifications and determine what exactly it is that is driving a higher price. There's instances where New York because of its specific needs the mission requirements and the complexity of the City

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2 sometimes things cost us a little bit more than
3 they do in other jurisdictions but generally
4 speaking we do use other jurisdiction contracts as
5 a barometer for realizing and we've realized
6 opportunities where other jurisdictions have a
7 better price and then we go back and we do
8 negotiate discounts with those vendors.

9 CHAIRPERSON MEALY: Thank you and
10 we've been joined by Robert Jackson. Do you have
11 any questions?

12 COUNCIL MEMBER JACKSON: Well good
13 afternoon everyone. I apologize I'm juggling
14 between two hearings. I'm upstairs on the 16th
15 Floor with Housing and Building so I was there and
16 now I'm down here and I may leave in order to go
17 back upstairs. But obviously this is an extremely
18 important issue as far as this oversight hearing
19 on leveraging the City's purchasing power in
20 procurement. But first Ms. Glick let me just
21 congratulate you as the point person for the
22 Mayor's Office of Contract. This is the first
23 time that I've had the opportunity to sit across
24 from you in this respect. So congratulations and
25 I wish you all the best. But let me express to

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2 you that I am concerned overall as far as how we
3 the City of New York leverage our situations as
4 far as procurement when it comes to the Department
5 of Education and I say that because some people
6 would think that the Mayor's Office of Contract
7 that you have control over all contracts in the
8 City of New York. So my question is what leverage
9 if any at all do you have over the Department of
10 Education?

11 ANDREA GLICK: We don't have any
12 leverage over the Department of Education.

13 COUNCIL MEMBER JACKSON: None
14 whatsoever.

15 ANDREA GLICK: No we do not review
16 their contracts.

17 COUNCIL MEMBER JACKSON: That's a
18 shame. You know that right. Are you aware that's
19 a shame?

20 ANDREA GLICK: It depends on your
21 opinion.

22 COUNCIL MEMBER JACKSON: Okay. The
23 opinion that I have as a Chair of the Education
24 Committee because the busing contracts for 25
25 years has never been let out to on a request for

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2 proposal. It's been renewed five years after five
3 years with some changes and that's a problem in my
4 opinion because then we're not getting you know
5 putting things out. I've also said before. Lets
6 take one aspect of it. Lets take the Pre-K busing
7 of children with special needs. That used to be
8 in the Department of Transportation. Did you have
9 control over that when that was in DOT and that's
10 the question that I have?

11 ANDREA GLICK: I wasn't there then
12 so perhaps the office did but not me.

13 COUNCIL MEMBER JACKSON: Okay.
14 Well you have some deputies in staff there.
15 Shouldn't somebody know that answer? I mean you
16 have staff there. No one said that you know but
17 you're in charge and so I'm asking a question.

18 ANDREA GLICK: Will have to get
19 back to you on that. I don't know.

20 COUNCIL MEMBER JACKSON: You don't
21 know.

22 ANDREA GLICK: No.

23 COUNCIL MEMBER JACKSON: If you
24 could communicate about MWBE and what is the
25 Mayor's Office of Contract doing with respect to

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2 MWBE as far as leveraging the City's purchasing
3 power and because I raise that as an issue overall
4 because what's going on with the City of New York
5 as far as MWBE and the Deputy Mayor of Operations
6 is communicating with all parties relating to that
7 and also I raised that because majority of MWBEs
8 are small businesses and Mayor Bloomberg and
9 everyone else says that small businesses are the
10 backbone of our City and so I raised that with
11 respects to wanting to know or what if anything
12 from the leveraging point of view are we doing
13 about MWBEs to increase that purchasing power?

14 ANDREA GLICK: I believe SBS is
15 working with MWBE and holding seminars and other
16 sessions to educate them and increase their
17 capacity to be able to provide the services that
18 are being asked for.

19 COUNCIL MEMBER JACKSON: So and
20 what is the Mayor's Office of Contract doing with
21 respect to that? Are you doing anything else
22 other than saying that the Mayor's Office of Small
23 Business Services are doing stuff?

24 ANDREA GLICK: We attend those
25 seminars with them so we can help in the training

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and the education.

COUNCIL MEMBER JACKSON: It seems though that every time you're responding you're reaching up. You can pull the mic down.

ANDREA GLICK: Oh it's just like that.

COUNCIL MEMBER JACKSON: So you don't have to strain your, I don't want you to strain your neck and have a worker's compensation case. I'm joking of course.

ANDREA GLICK: All right.

COUNCIL MEMBER JACKSON: Is there a regular and systematic coordination of purchasing that takes place across agencies and if so can you please describe the process if there is?

ANDREA GLICK: I'm not sure I know what you mean by regular and systematic.

COUNCIL MEMBER JACKSON: Okay. So well may be you can explain to me is there a coordinated approach to procurement across agencies that have been set by the Mayor's Office of Contract and if so somebody explain to me what is the coordinated approach or you allow every agencies to do whatever they want to do?

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2 ANDREA GLICK: Every agencies is
3 suppose to follow the PPB Rules as well as the
4 requirements of the City Charter and General
5 Municipal Law 103 and when the procurements come
6 to our office where the oversight to ensure that
7 they follow the requisite rules and procedures.

8 COUNCIL MEMBER JACKSON: Okay. And
9 so within this fiscal year is almost over. The
10 fiscal year 2012 and has everyone followed those
11 or has there been some rejections with regard to
12 that from your office and if so what percentage
13 has followed everything in accordance to all of
14 the rules and regulations and which ones have you
15 rejected and send back for additional
16 consideration?

17 ANDREA GLICK: I don't have
18 specific facts or figures but I know that there
19 have been several instances where we've asked the
20 agencies to re-procure it using a procurement
21 using a different rule or a different methodology
22 but I don't have any specific data.

23 COUNCIL MEMBER JACKSON: Okay. Do
24 you keep statistics? Does your office keep
25 statistics as to you know the submissions by the

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2 various agencies and departments and which ones
3 for example lets assume that a thousand comes
4 forward in the fiscal year and I'm just giving
5 this as an example but you didn't send back one
6 hundred for reconsideration because you feel and
7 when I say you the Mayor's Office of Contract
8 feels it doesn't meet the requirements or that
9 other aspects of it and so if 10% is thrown back a
10 hundred that's 10%. I'm just trying to get a
11 figure whether or not 100% are sent in and there
12 correct or 95% or 80% I'm trying to understand
13 from a statistical point of view what is with
14 respect to oversight by the Mayor's Office of
15 Contract you know what is the percentage of
16 agencies submitting that are sent back.

17 ANDREA GLICK: What we strive to do
18 is when we send it back we work with the agencies
19 to correct the matter so that they can proceed.

20 COUNCIL MEMBER JACKSON: Okay.
21 What is the total number of requests per year as
22 far as that comes in front of the Mayor's Office
23 of Contract regarding procurement? Are there
24 10,000 requests, 20,000, 5,000, 500 how many give
25 or take?

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ANDREA GLICK: I don't have that figure with me but it's in our agency indicator report but I can get that for you.

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COUNCIL MEMBER JACKSON: May I ask how long have you've been as the City Chief Procurement Officer?

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ANDREA GLICK: Four and half weeks.

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COUNCIL MEMBER JACKSON: Okay. I hear you. You know and I smile and laugh because you're four and half weeks is four and half weeks. I'm talking to you like you have a lot more experience where you should know a lot more answers but I guess if I was in your position for four and half weeks I wouldn't have that many responses to the questions also I guess. So you know with my staff when people are relatively new I give them the label newbies and I said don't take it negative, take it positive because that means that you're new and that you're you know you're not suppose to know everything but after a year that label goes away. So I just give that jokingly because you are like you said four and half weeks and so I guess I would not really expect for you to know all of the questions that

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I'm asking. But besides in ensuring that the agencies is following rules and procedures what affirmative steps does MOCS take to identify areas of cost savings if any? In essence do you allow people to put forward any contract that they want or you know do you tell them that there's different methodologies in order to save money or what if anything do you do? Just identify yourself before you respond please.

ANDREA GLICK: That's Lisa Flores.

LISA FLORES: Sorry. Lisa Flores, Deputy Director at MOCS. So to your question as it relates to leveraging where we can have some cost savings we work really closely with the other agencies specifically when Diecast and DoITT and some of the things that we do we will run data on contracts for all of the agencies that fall under our oversights, all the mayoral agencies. Will look at a year or two of contracts, what type of contracts, how much the contracts are registered for, how much has been used or how much had been spent on those contracts and work closely with the appropriate agencies. For example with Diecast and say we see X number of contracts across in

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2 agencies for HVAC and these are one of the areas
3 where Diecast and their new expanded role of
4 consolidating contracts for services then we would
5 work with Diecast and say these are all the
6 specifications that we were able to find in terms
7 of bid specs. This is what the buy has been of on
8 these contracts in other agencies and this is
9 where we think Diecast consolidating a contract
10 for services for HVAC when actually probably
11 benefit and result in savings. So we look at the
12 data that's available to us in FMS and we try to
13 see where there are some similarities and the
14 types of services that Diecast would be
15 appropriate to purchase across the City and
16 leverage savings.

17 COUNCIL MEMBER JACKSON: Okay.

18 That's good. That's clearly appropriate and
19 believe me the City from a legislative point of
20 view we appreciate that. But I tell you know I'm
21 curious as to whether or not contracts that are
22 let and then the process is that you go with the
23 contractor who has the least cost factor that is
24 approved and as we all know what happens a lot of
25 times is that you agreed to a contract and then

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2 they come back and say oh we have to amend the
3 contract so a contract that may have cost five
4 million now is going to cost seven million and
5 what it intends to me from my perspective is that
6 tends to be a lot where agencies may let a
7 contract and then it has to be amended by millions
8 of dollars more. Okay. And which basically it
9 seems as though that's a game that is played in
10 order to get the contract and then amend it and
11 somehow I get the impression that people go along
12 with that and so I want to ask you or your staff
13 or the appropriate agencies. We have Diecast and
14 DoITT here. Do you see that happening? And if so
15 what do you do about it? And I'm asking all of
16 you. And then I'm curious as to how many
17 contracts in the City of New York this fiscal year
18 have been let and then amended in order to
19 increase the cost by more than 5% like 10%, 20%,
20 30%, 40%, 50%, 100% and I think of as a legislator
21 and as a taxpayer in the City of New York I think
22 about City time and I think about other contracts
23 like that you know and I think about the one, the
24 settlement that was just reached at the federal
25 government with I think Bovis Lend Lease where

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2 they had to pay a fifty six million dollars
3 settlement because they fail falsified information
4 about MWBE. Falsified information about MWBE. So
5 I'm curious as to one about the issue of amending
6 the contract that was approve where the cost
7 factors are going up. If you all can comment on
8 that from your agency perspective and then I would
9 love to hear from the Mayor's Office of Contract
10 on how you are stopping that from occurring? Or
11 do you have the authority to stop it in the first
12 place? And if not, what are you doing to make
13 sure that does not continue because it's a bad
14 situation? It seem as though that you know people
15 that are under bidding knowing that they can then
16 amend it in order to gain more money from the City
17 of New York. I'm sorry sir I wasn't here when the
18 introductions because I was upstairs. So if you
19 don't mind just identifying yourself and your
20 position.

21 SERGIO PANEQUE: No problem.

22 Sergio Paneque. I'm the Chief Acquisition Officer
23 with Diecast.

24 COUNCIL MEMBER JACKSON: Okay.

25 SERGIO PANEQUE: I've been there

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2 for 18 months so I'm no longer a newbie so. But
3 with respect to a contract amendments obviously
4 that's something that we take very, very
5 seriously.

6 COUNCIL MEMBER JACKSON: Okay.

7 SERGIO PANEQUE: You know value for
8 money is very, very important. I think from you
9 know Council standpoint and your oversight role I
10 can understand you know your concerns there. With
11 respect to our team at Diecast whether it's a
12 construction contract or a goods contract or a
13 general services contract that value for money is
14 obviously a critical nature and whether or not
15 it's appropriate and whether or not it's something
16 that we will put forward to MOCS and Comptroller's
17 Office to effectuate. Instances in business
18 change over the period of time. There is no
19 doubt. When you have a two-year contract, a
20 three-year contract or like circumstances can
21 change whether it's on a construction site or
22 whether its particulars that you need in a way of
23 a good that's being delivered that perhaps we're
24 not figured into the actual contract terms. So at
25 that point you do have to have a subsequent

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2 negotiation with the vendor that is fair is
3 reasonable and that meets the value that vendor is
4 now going to be conveying back to the City. The
5 other elements in our contracts that sometimes can
6 be figure as contract amendments that perhaps need
7 a little bit of explanation. There are contracts
8 that lend themselves to be solicited in a shorter
9 time frame. Foods, fuels, things of that nature
10 where obviously cost and inflation are going up
11 and if we were not to figure in a provision for
12 the vendor to come back to the City and get a
13 modification given the economic circumstances we
14 would be paying a lot more money. A five-year
15 contract has a lot of risk that a vendor has to
16 incorporate into a given cost. If you allow for
17 contract modifications during that period of an
18 extended three, five-year contract period then you
19 can mitigate that risk and it gives you a lower
20 cost over that period of that contract's life.

21 COUNCIL MEMBER JACKSON: I can
22 appreciate the explanation but as a legislative
23 for example you represent Diecast right?

24 SERGIO PANEQUE: I do sir.

25 COUNCIL MEMBER JACKSON: Okay. So

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approximately how many contracts are let by Diecast every year? Approximately.

SERGIO PANEQUE: Our portfolio on the citywide side is about a thousand contracts.

COUNCIL MEMBER JACKSON: Okay. Per year so--

SERGIO PANEQUE: [Interposing] No. As a portfolio as a whole we probably let 250 to 300 contracts a year.

COUNCIL MEMBER JACKSON: Okay. So I would be curious as a legislative as far as oversight is concerned to know for example okay lets look at the 250 contracts that you let this year or last year. How many of those have been amended you know based on the fact that let say for example, certain things were not considered in the original request for proposal? And in my opinion lets assume let say 10%. I would say wait a minute. I mean come on your suppose to know this information when letting a contract and I just think that in my opinion from a layperson point of view and I'm not a contracting officer. It appears that there's too many times where contracts are amended where the amount of money

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2 for amendment is just too high and in essence
3 contractors come in and have a low bid in order to
4 get the contract and then amend it and then get
5 the goodies that they wanted in the first place if
6 they would have put it in they would have never
7 got the contract. That's my opinion and I may be
8 wrong but that's the way I feel. And I used to
9 Chair the Contracts Committee.

10 LISA FLORES: Well can I say from
11 an oversight perspective.

12 COUNCIL MEMBER JACKSON: Go ahead.

13 LISA FLORES: Previously MOCS did
14 not see the awards for bids and really what your
15 sort of what addressing it happens more in the bid
16 war the way the examples are given. Over a year
17 or may be a year and half ago may be even two
18 years, we change our policy to look at all bids.
19 So we look at awards from bid contracts.

20 COUNCIL MEMBER JACKSON: Okay.

21 LISA FLORES: And we do look at for
22 instance if we see an award for a bid that there
23 was not a lot of competition and the pricing is
24 off skew we have in the past told the agency rasp
25 [phonetic] for information. Perhaps their specs

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2 weren't written correctly. May be they should
3 rebid so that they get sort of more you know
4 prices that are more in line of what market rates
5 are. But it also happens many times that an
6 agency even before we see the award they won't get
7 the lowest bidder and they might bring in the
8 lowest bidder to make sure that they actually have
9 the capacity or ask them questions as to how
10 they're going to perform the work and the specs
11 based on the low price that they proposed or that
12 they bid and there have been many times when an
13 agency will deem the lowest bidder non-responsive
14 or non-responsible because they don't believe that
15 the vendor can actually do the work appropriately
16 with that low bid or the bidder after meeting with
17 the agency may actually withdraw. So what you're
18 talking about is sort of a major difference in the
19 low bid compared to the next bidders. There's
20 always going to be a slight difference between the
21 lowest bidder and the other bidders and that's
22 normal and that's to be expected but if there's a
23 huge difference most agencies will either do it
24 themselves or if we see we would suggest that they
25 do that analysis and they meet the vendor and they

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2 ask those questions because it doesn't make sense
3 if the vendor bids so low compared to the
4 competition. It's expected as you insinuate that
5 perhaps the work can be done properly which would
6 result in amendments later.

7 COUNCIL MEMBER JACKSON: Okay. I
8 met with a when I say I, I'm sorry is that okay.
9 There's a group call the May 12 Coalition out
10 there and this coalition is made up of New York
11 communities for change, UFT, DC37 and other groups
12 that have put forward proposals in order to raise
13 money and so that they meet the needs of our City
14 with respect to daycare, childcare, after school
15 programs and many other things that are needed as
16 far as for the people of New York City. And they
17 talked about you know cutting contracts by 10%
18 overall. Can you tell me what is the total
19 numbers, like 10 million, 15, 20 billion? How
20 much do we contract out every single year in
21 contracts? I guess this is more to the Mayor's
22 Office of Contract for all of the agencies and
23 departments either including or excluding DOE.
24 Give or take.

25 LISA FLORES: Well last year as you

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noted it was 15 billion dollars.

COUNCIL MEMBER JACKSON: Okay.

LISA FLORES: And our indicator report which we can provide specific data to you afterwards breaks it down not only by procurement method whether it was a bid or an RFP but it also breaks it down by industry so you will be able to see X percent was for Human Client Services where you'll see the OST Programs and daycare programs and X percent was for construction or professional service.

COUNCIL MEMBER JACKSON: And so does it include or does not include the Department of Education?

ANDREA GLICK: It does not. No.

COUNCIL MEMBER JACKSON: So that number 15 billion does not include DOE. Is that correct?

ANDREA GLICK: That's correct.

COUNCIL MEMBER JACKSON: Okay. And I ask that question because if you consider the May 12 Coalition you know 10% of 15 billion I think is, how much is that? 150 million. Is that what it is? That's a lot of money. And I know

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2 that the Mayor in his executive budget is cutting
3 back on a lot of stuff I mean daycare people are
4 screaming and upset with ACS, DYCD with respect to
5 after school programs so forth and so on. And I
6 guess there's a call for communicating with
7 vendors, contractors. Hey, the City is in tough
8 times so everybody needs to cut back five percent
9 or 10% so we can save some money. I do remember
10 very clearly. It may have been at the last
11 executive budget hearing of last year or the year
12 before. For example, the Department of Finance
13 had said that they were eliminating on contract
14 and they were going to hire employees internally,
15 City employees and as a result of that they were
16 going to save I think it was one or two million
17 dollars as a result of this and I said gee whiz
18 that's very good. Because that's what we want to
19 see over thousands of times and I remember even
20 Dennis Walcott last year, which is separate in
21 part from the 15 billion but he said they were
22 eliminating a contract and they were going to hire
23 people internally and they were going to save I
24 forgot it was at least a million or two million
25 dollars and may be even more than that. And I'm

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2 just saying that from a Mayor's Office of Contract
3 I think that's a type of thing that I want to see
4 happen even more because we save money overall by
5 hiring employees internally those employees report
6 directly to us. All of the information is within
7 our system and we're saving millions of dollars
8 and that's just one example of one contract and I
9 know that there are thousands of contracts over
10 all. So I'm curious as to does the Mayor's Office
11 of Contract sort of communicate to try to tell
12 agencies not renew contracts and hire employees
13 internally in order to save money? Or you just
14 review the contracts. It doesn't matter what it's
15 for.

16 ANDREA GLICK: We don't look at
17 that. No. That's up to the agency to make the
18 determination whether they should contract it out
19 or whether they should hire. We just look at how
20 the procurement was done.

21 COUNCIL MEMBER JACKSON: Because is
22 that only your role and responsibilities as the
23 Mayor's Office of Contract?

24 ANDREA GLICK: The personnel issue
25 is not ours.

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COUNCIL MEMBER JACKSON: Oh boy.

ANDREA GLICK: If we were looking at Local Law 63 they would have to tell us whether or not they've made that determination or not.

COUNCIL MEMBER JACKSON: I guess I understand this is oversight leveraging the City's purchasing power and procurement. I understand that but I just think that in my opinion the Mayor's Office of Contract should have a little bit more muscle in order to make some of the agencies look at getting rid of some of these outside contractor and saving money in the long run. I just wished that you had more muscle in that respect. So Madam Chair let me thank you. I know I took a lot of time but it seems as though that you know it's from a leveraging the City's purchasing power if the Mayor's Office of Contract had more authority over insisting that certain things were done in order to save money that may be we would be better off. Thank you.

CHAIRPERSON MEALY: You're correct and thank you. I have one last question and I want to see what my colleague was saying what percentage of the 250 contracts that could you

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give us an estimate of how many go low bid and then come back later on or at least low bid, so low that you have to say no, something is wrong with your contract?

LISA FLORES: Looking at a low bid or pricing.

CHAIRPERSON MEALY: What kind of percentage? Is it high? Is it low out of 250 contracts?

LISA FLORES: 250 I think that's the number that Sergio was referring to from Diecast. But in terms of numbers that we return to an agency for changes or modifications or instance where an agency has gone to the second lowest bidder we review thousands of contracts and as Andrea mentioned we often ask for changes and may be contract has rebid and may be--

CHAIRPERSON MEALY: [Interposing]
Are there a lot of them or may be once a month?

LISA FLORES: I don't have that particular number because it would be a very specific statistic where there's really changes on a large spectrum. All of the contracts that we see a majority of them there may be a slight

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2 change. So we don't really track every single
3 permutation of a change that we may request from
4 an agency but ultimately gets to a register
5 contract. It may be that we ask them to rebid and
6 may be something as simple as perhaps something in
7 their responsibility needs to be rechecked for the
8 final registration package so there's a large
9 spectrum on what kind of changes we request.

10 CHAIRPERSON MEALY: Okay. That's
11 just like agencies who have disincentive to find
12 cost savings. This almost compares to the same
13 thing what my colleague Jackson was saying. Since
14 unspent money goes back into the general fund and
15 agency risk receiving less funding the next year.
16 How do you deal with this problem?

17 ANDREA GLICK: The agencies budget
18 is not under our jurisdiction. That's probably a
19 question better asked to someone from ONB.

20 CHAIRPERSON MEALY: So I should ask
21 that to ONB.

22 ANDREA GLICK: Perhaps.

23 CHAIRPERSON MEALY: Okay. How does
24 you ensure that City pays the lowest amount
25 possible when it buys goods and services from sole

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source vendors? Or when it buys from specialized vendors, specialized products. And that's my last question.

ANDREA GLICK: Okay. Before we approve a contract action the agency--

CHAIRPERSON MEALY: [Interposing] Sole sourcing.

ANDREA GLICK: It doesn't matter sole source or otherwise. Part of the analysis includes a fair and reasonable determination and part of that analysis has to include some sort of market research that the agencies done for similar goods and services to ensure that they're getting the best price.

CHAIRPERSON MEALY: This has been an interesting hearing. I have no other further questions really. But I just really want to find out. New York City is so big and we're not really getting a lot 15 million that was since 2010.

COUNCIL MEMBER JACKSON: Billion.

CHAIRPERSON MEALY: No.

COUNCIL MEMBER JACKSON: Oh.

CHAIRPERSON MEALY: 10 million.

ANDREA GLICK: The cost containment

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study was for a 15 million.

CHAIRPERSON MEALY: 15 million.

ANDREA GLICK: It was 15 million for a finite group of vendors that we looked at the top 100 vendors.

CHAIRPERSON MEALY: Yes please. My colleague has another question.

COUNCIL MEMBER JACKSON: I was reading a document this morning and it talked about Niture [phonetic] and this contract that they signed with some company and it was a five million dollar contract and then the contract wind of being 10 million and there's a clause in there that they did not have to share any of the information whatsoever with the public. Was that contract approved by MOCS?

ANDREA GLICK: No. We don't oversee Niture's contract.

COUNCIL MEMBER JACKSON: So you don't oversee it.

ANDREA GLICK: So I can't speak to that.

COUNCIL MEMBER JACKSON: So I have to go directly to I guess Niture. Is that

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correct?

ANDREA GLICK: Yeah. I don't know anything about it.

COUNCIL MEMBER JACKSON: So Niture you don't oversee. You don't oversee the Department of Education?

ANDREA GLICK: No.

COUNCIL MEMBER JACKSON: Is there any other agencies and departments you don't oversee?

ANDREA GLICK: SCA, HHC and CUNY.

COUNCIL MEMBER JACKSON: Okay.
Thank you.

CHAIRPERSON MEALY: Thank you. We have no other questions. Thank you. I look forward to having more meetings with you and I know within six months you should be up and running not a year. So thank you so much and welcome.

ANDREA GLICK: Thanks.

CHAIRPERSON MEALY: Anyone else?
This contract hearing is now over.

C E R T I F I C A T E

I, Maria Eglund certify that the foregoing transcript is a true and accurate record of the proceedings. I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

Maria Eglund

Date June 2, 2012