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Before the New York City Charter Revision Commission

Good evening, Chair Buery, Vice Chair Greenberger, Executive Director Schierenbeck, members of the Commission. I am Louisa Chafee, Director of the City's Independent Budget Office (IBO), and I am glad to be here in the Bronx to speak with you.

I am also pleased that the Commission is considering several of IBO's ideas. This Commission has an ambitious agenda having to do with several policy areas of great importance to New Yorkers. City procurement is certainly one such area. IBO welcomed the Commission's very thorough and thoughtful Preliminary Staff Report on this topic.

***Elevating and Empowering the Mayor's Office of Contract Services (MOCS)***

One of the key reforms IBO has supported in previous testimony, both here and at two other Charter Revision Commissions, is the need to embed the role and responsibilities of the Mayor's Office of Contract Services into the City's governance system, in the Charter. We are pleased that you are now actively considering this idea, and we understand that you may be weighing the need for better procurement management against the need for structural change. But both are equally important.

Not only from my vantage point at IBO, but also from my prior leadership roles at MOCS and HHS Accelerator, and as Deputy Secretary for Human Services for New York State, I agree that procurement reform requires a commitment to careful management at every level.

Given the scale of City government, that alone is not enough. No matter who the Mayor is, the job of managing the City's contracts – even just in the human services arena, let alone the billions of dollars to support the purchase of goods or services such as construction – requires a combined effort of dozens of City agency heads (and their staff), along with several oversight agencies, in addition to MOCS.

With authority shared by so many policy makers, it is no wonder that procurement is seldom a priority. At its core, MOCS' role is to foster accountability. If there's one area where IBO has real expertise, it's that IBO understands that accountability is not achieved in the shadows. Accountability must be transparent to the public. Essentially, that's the reason to put MOCS into the City Charter.

Chapter 1 of the Charter establishes and defines in some detail the respective roles of no fewer than 25 separate Mayoral offices but leaves MOCS out of the equation.<sup>1</sup> The exclusion of MOCS from that list

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<sup>1</sup> § 13 - Criminal Justice; § 13-b - Civil Justice; § 13-c - Municipal Division of Transitional Services; § 13-d - Crime Victim Services; § 13-e - Street Vendor Enforcement; § 13-f - Neighborhood Safety and the Prevention of Gun Violence; § 15 -Operations; § 18 - Immigrant Affairs;

denotes, whether or not intended, a value judgment. MOCS' existence derives from a Mayoral Executive Order (EO), along with a hodgepodge of local laws assigning various tasks to its Director. Your report refers to the "flexibility that comes from [being] governed by executive order," but EOs are not well known or accessible to most agency staff, or to the public. The MOCS EO was last updated in 2008.<sup>2</sup> This opaque status of EOs exacerbates the tendency for agency heads, each of whom has their own Charter-specified mandate, to avoid focusing attention on MOCS' efforts to achieve compliance.

The most similar entity that is included in Chapter 1 is the Mayor's Office of Operations. Section 15 of the Charter details its duties, including two that emphasize citywide accountability. Operations is required to "plan, coordinate and oversee the management of city governmental operations to promote the efficient and effective delivery of agency services" and to "review and report on the city's management organization including productivity and performance functions and systems." The accountability mission for MOCS in the procurement arena should be defined very similarly.

### ***The Contract Payment Process***

I also welcome this Commission's efforts to address the City's devastating problem of lateness in paying nonprofit vendors that provide human services, especially services to children, older adults and other vulnerable New Yorkers. I would like to take this opportunity to clarify IBO's ideas in this area.

IBO did not propose a Charter mandate for across-the-board the payment of advances to human services vendors. While advances are useful, their issuance will not necessarily prompt more timely registration. Advances can provide some eventual relief to providers who have already endured having their contracts registered far too late. IBO welcomes the Adams administration's recent expansion of the use of advances, but IBO's testimony has focused on two *other* compliance problems:

- First, there is the problem of late registration. City agencies routinely expect human services vendors to continue to provide services for weeks (and sometimes months) during which there is no contract in place. Importantly, during that entire period of time the City is legally *barred* from paying that vendor. It cannot pay invoices and it cannot issue advances. Hundreds of human services providers will see their contracts end three weeks from today on July 1<sup>st</sup> and will not have new contracts in place for several months, during which time they cannot be paid.
- The second problem is late payment on invoices. Even vendors with multi-year contracts typically find that invoices languish at City agencies for long periods of time, often because an agency holds up the entire payment while it disputes a tiny percentage of the claimed costs.

IBO suggests that these two distinct problems require two different solutions. Beginning with late registration, the simple fact is that *something* must be registered or else the City cannot legally pay the vendor at all. The data is irrefutable that City agencies get their contract "extensions" registered on time

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§ 19 - Office to End Domestic and Gender-Based Violence; § 20 - Long-Term Planning and Sustainability; § 20-a - Urban Agriculture; § 20-b - Commission on Gender Equity; § 20-d - Nightlife; § 20-f - Data Analytics; § 20-g - Office for the Prevention Of Hate Crimes; § 20-h - Minority and Women-Owned Business Enterprises; § 20-i - Food Policy; § 20-j - Cyber Command; § 20-k - Center For Older Workforce Development; § 20-l - Sports, Wellness and Recreation; § 20-m - Community Mental Health and Mental Health Council; § 20-n - Utility Advocate; § 20-o - Not-For-Profit Organization Services; § 20-p - Marine Debris Disposal and Vessel Surrendering; § 20-q - Healthcare Accountability.

<sup>2</sup> [Executive Order 121 \(2008\)](#). Section 3-113.1 of the Administrative Code requires Executive Orders to be searchable on the City website. If such posting exists, it is well camouflaged. The Mayor's website includes only Executive Orders issued since January 2022. The Department of Records and Information Services posts Executive Orders but does not specify which ones remain in effect currently.

at *far* higher rates than other types of contract awards, particularly new RFP awards, which are registered especially late. There are many ways the Charter could direct the Procurement Policy Board (PPB) to force agencies to use a contract type that they can register on time. The Charter should compel agencies to process contract extensions for contracts that would otherwise expire, in any case where continued payment otherwise would be at risk. Virtually all City contracts are cancelable by the City at any time, so an extension can be terminated and the parties can transition to the new contract once it is registered.<sup>3</sup>

So now I will turn to the second problem, that of slow payment on invoices. As your report noted, IBO supports a Charter mandate for the sound fiscal management practice of requiring City agencies to pay the majority of every invoice submitted by a human services contractor in good standing, within a reasonable time frame from its receipt (such as 30 or 60 days).

It is important to reflect on why this is needed. The private sector business model offers options that are not available to nonprofits. If a City agency is too slow to pay bills, private sector vendors stop providing services – or they raise prices to compensate for the risk. Nonprofit contracts are usually structured on a fixed-price basis, based on the budget the City allocates to the program, with little to no variation based on individual provider costs. Providers have no other customers to whom they can sell services when the City stops paying. Most importantly, these are mission-driven organizations committed to serving New Yorkers. So they just keep trying to function, even when payments lag.

IBO took a look at a small slice of this problem at the end of May 2025, pulling the payment data for human services contracts that ended on June 30, 2024, nearly a year ago. IBO excluded discretionary contracts (City Council member items) from the analysis, since so many of those are registered so very late and the Administration appears to be moving most of those to a grants-based process. Yet, of the 1,138 garden-variety human services contracts in the sample, only 157 had been paid even 90% of their contract value as of last month.<sup>4</sup> For the 981 other contracts for which more than 10% of the contract value remained unpaid, all of which ended at least 11 months ago, the average unpaid balance is 35%. As bad as that seems, it should be noted that two-thirds of those contracts were multi-year contracts. Thus, if 35% of the total balance remains unpaid today, that is likely to mean that many payments are lagging for more than a year. That is indefensible.

Your report raised concerns over the potential administrative burden of a partial-payment policy and the potential disincentive for vendors to promptly and properly invoice. As an agency that uses the City's financial management and contract management data systems, IBO is confident the partial payment process could be automated, essentially triggering a set percentage to be paid to the vendor within a set time frame after submission and allowing a City agency to continue its vetting process before releasing the remainder. Also, since the majority of each human services program invoice covers just two sets of costs – payroll and rent – there is already a strong incentive for vendors to invoice on time and correctly.

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<sup>3</sup> IBO also agrees that “master contracts” could reduce the need for multiple registration processes. However, many of the vendors owed the largest amounts are managing multiple program contracts awarded by different agencies (via multiple budget codes in each of those agencies). Imposing a master contract requirement, while ideal, could prove operationally difficult for City agencies to navigate.

<sup>4</sup> The assumption is that if a vendor has been paid at least 90% of the contract value, the difference between that and the full value may reflect services or costs that did not actually materialize, rather than simply invoiced amounts that remain unpaid.

The Commission is also considering the use of stricter terms in the Charter to compel the payment of interest when invoices are paid late. However, it is important to note that the vendors most likely to be harmed by the City's slow payments are the smaller, community-based organizations that are also unlikely to be able to access commercial credit, at any price, much less the interest rate the City would eventually pay, making this type of relief less helpful to them.

### ***PPB Structural Changes***

The last point I would like to address has to do with the PPB's structure. IBO supports three changes.

First, the Charter should mandate that the PPB meet at least four times each year.

Two, this Commission should expand the PPB to at least 9 members. They should continue to be appointed by the two elected officials who are (together) responsible for procurement, i.e., the Mayor and the Comptroller. But they should each be limited to only one member of their staff as appointees to the PPB, and each should be required to appoint at least three members who bring experience and expertise in the vendor arena. Given the range and scale of City procurement, one idea would be to require at least one appointee from each appointing official to bring experience and expertise from the human services arena, one to be connected to the construction industry, and one to bring experience from another procurement area, such as IT, professional services or commodities. You need look no further than Section 259(d) of the Charter for a model. That section defines how the two appointing officials who oversee IBO's Charter-mandated Advisory Committee must select nominees.

Lastly, the PPB should have at least a small staff, including a director, to be appointed jointly by the Mayor and Comptroller, and should be mandated to produce an annual report describing its rulemaking actions and evaluating their effectiveness. In its early years, the PPB indeed had a staff, but it was eliminated administratively some years later, as it was not Charter-required. One key reason why it would be useful for the Charter to restore this capability is that if the PPB were seen to have a separate structure from the Mayoralty, it could invite and facilitate potential rulemaking petitions by the public. Under Chapter 45 of the Charter, the City Administrative Procedure Act provisions (§ 1043-g) enable members of the public, including for example, the human services vendor community, to petition the PPB for a specific rulemaking, and to require that body to act on the petition within sixty (60) days.

### ***Additional Considerations and Conclusion***

Before I conclude, I would like to reiterate two IBO recommendations that were not addressed in your recent report. One is that this Commission should more strictly limit the extended use of emergency contracting. Such contracts are often very expensive, and as we saw with some of the asylum seeker services, it is important to move to more fiscally responsible and programmatically appropriate service delivery approaches as soon as feasible. The Mayor and the Comptroller should be mandated to renew their joint decision to use emergency procurement at least once every two years.

Finally, I'd like to return to a budget recommendation, namely that the Charter definition of the scope of a "unit of appropriation" should be tightened. The significance of this issue is likely to grow as the City grapples with major, perhaps devastating, federal cuts. Under section 100 c of the Charter, each U/A is supposed to reflect "a particular program, purpose, activity or institution" in order to ensure that the public has clear information as to how the City allocates resources. That goal remains elusive today.

Many agencies lump unrelated programs, often with very different funding streams, into a single U/A. For example, the Department for the Aging (DTFA) lumps all spending on home-delivered meals, homecare, and older adult centers into a single U/A, and the Department of Youth and Community Development (DYCD) combines after-school, adult literacy, and assistance to immigrants in a single U/A.

The Department of Education (DOE) places almost \$8 billion—over 23% of its budget—in a single U/A covering a wide array of educational programs. The Police Department has a single U/A that includes the budgets for all 123 police precincts, all boroughwide offices, and various specialty units. That one U/A was budgeted at \$1.6 billion in FY 2025, fully a quarter of the entire NYPD budget. This process conveys no useful information to the public or to the Council.

Particularly since it is likely that the budget in all of these areas will be impacted by looming federal cuts, the absence of understandable U/A information will have real consequences for public accountability.

I welcome the opportunity to continue to work with you and your staff around these and other ideas. I'm available if you have any questions this evening, or in the weeks to come.

