



CITIZENS UNION OF THE CITY OF NEW YORK
Testimony to the NYC Council Contracts,
Oversight & Investigations and Technology Committees
On the City's Technology Contracts and Conflicts of Interest (Intro. 498)
December 15, 2014

Good morning Chairs Rosenthal, Gentile and Vacca, and other members of the Council Contracts, Oversight & Investigations, and Technology Committees. My name is Rachael Fauss, and I am the Director for Public Policy for Citizens Union of the City of New York. Citizens Union is a nonpartisan good government group dedicated to making democracy work for all New Yorkers. Citizens Union serves as a civic watchdog, combating corruption and fighting for political reform.

Thank you for holding this hearing today. We applaud the Council for exercising its important oversight role to ensure that protocols are in place to protect taxpayers and ensure public trust in city government. While the city has put in place some reforms after the CityTime scandal, continued diligence on contracts – particularly large technology projects – is essential. Technology is the backbone of how government operates in the 21st century; its potential to reduce costs, improve service delivery and open up government to the public should not be underestimated, or squandered in contracts that do not deliver as promised.

In addition to management issues regarding contracts, the Department of Investigations (DOI) report on CityTime¹ made it clear that conflicts are not appropriately vetted in the contracting process, particularly for subcontractors. Under the kick-back scheme utilized in the CityTime scandal, subcontractors were used which were controlled by family members of the main project consultant, pointing to the need for greater vetting of such conflicts.

Specifically regarding Intro 498, we support its intent to vet contacts for conflicts of interest.

The city has already made some progress in shedding light on subcontractors; in 2013, the City Comptroller's Checkbook web platform began listing payments to subcontractors.² Intro 498 would continue this important progress in ensuring the accountability of subcontractors. In reviewing the legislation, we have some comments for the committee to consider:

- The legislation as drafted refers to Chapter 68 of the City Charter, which establishes the conflicts of interest law for city employees. While much will be applicable to contractors, it may be preferable to enumerate the conflicts that will be vetted or to be considered by the city's chief procurement officer in establishing standards and procedures, as there may be elements that do not apply in Chapter 68, or additional areas that should be covered unique to contractors and subcontractors. Chapter 68

¹ New York City Department of Investigation CityTime Investigation: Lessons Learned & Recommendations to Improve New York City's Management of Large Information Technology Contracts. July 25, 2014.

http://www.nyc.gov/html/doi/downloads/pdf/2014/July-2014/pr13citytime_72514.pdf

² Office of the NYC Comptroller. "Comptroller Liu And Mayor Bloomberg Announce Sweeping Reforms To City Subcontracting Requirements," March 19, 2013. Available at: <https://comptroller.nyc.gov/wp-content/uploads/2013/07/PR13-03-044.pdf>

- does not specifically address the conflict risks that arise in contractor-subcontractor transactions. In formulating standards and procedures, the chief procurement officer should perhaps be directed to be sure to address those risks. Citizens Union is in the process of consulting with experts in this area, and will provide more specific feedback on how to implement this recommendation in the coming days.
- Second, the Conflicts of Interest Board and the City Comptroller could play an advisory role to the city chief procurement officer in the development of the regulations to implement the law, given their respective areas of expertise.
 - We would also like to note that DOI cautions that the conflicts of interest background checks “should be carefully crafted to avoid creating undue delays and costs to the process.” We agree with this sentiment, knowing that regulatory checks should be balanced with the desire to ensure that more vendors, particularly smaller minority and women-owned businesses, are able to compete for contracts and not be held up due to overly burdensome reporting requirements.

Regarding the other findings of the DOI report, we encourage the Council to probe deeply and determine what other steps should be taken – legislatively and administratively – to ensure that we learn from the mistakes of the past.

Citizens Union has not fully vetted the proposals, but supports their intent to ensure that conflicts of interest are addressed, and that the city is utilizing proper financial controls and cross-agency coordination. The assignment of an outside integrity monitor to monitor large information technology (IT) contracts in particular should be thoughtfully examined further given the past pattern of abuses, and continued problems.

For example, a similar pattern of cost overruns occurred with the 911 contract, which is currently under investigation by the DOI and was audited by the City Comptroller’s Office earlier this year. We are encouraged by the City Comptroller’s Directive 31³, which addresses some of the issues highlighted by the CityTime scandal and 911 contract, particularly regarding controls regarding consultants authorizing payments on timesheets rather than city personnel, but agree that more needs to be done.

Lastly, Citizens Union would encourage the council committees to examine the potential role for city’s Technology Development Corporation⁴ in overseeing technology projects, which was newly formed in 2013 in recognition of the city’s lack of expertise in managing IT projects. Some of its current projects include developing a system to intake, validate and issue Municipal IDs, and developing an outreach system for enrollment in Pre-K, including quality control and project monitoring.

Thank you again for providing the opportunity for Citizens Union to provide its thoughts on the city’s contracting process. I am happy to answer any questions you might have.

³ <http://comptroller.nyc.gov/wp-content/uploads/2014/05/Directive31.pdf>

⁴ <http://www.nyctdc.org/html/about/about.shtml>