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PROCUREMENT POLICY BOARD PUBLIC HEARING  
PROPOSED LENGTH OF TERMS AMENDMENT  
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June 24, 2009  
3:10 p.m.

A Public Hearing held on the above entitled matter  
on the above date and time held at the 156 Williams  
Street, 2nd floor, New York, New York before Marichal L.  
Harrison, a Notary Public of the State of New York.

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A P P E A R A N C E S :

JOSE MALDONADO

ANTHONY CROWELL

MARILYN GELBER Controller Appointee

ROSS SANDLER Mayoral Appointee

LOU FINKELMAN Controller's Designate

MARLA SIMPSON Director of Mayor's Office,  
Contract Service

JAHMELIAH NATHAN Mayor's Office of Contracts

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MR. MALDONADO: Good afternoon

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everyone and welcome to the June 24, 2009

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Procurement Policy Board Meeting. This

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afternoon we have a number of matters for

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consideration, and I would like for all of the

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members to note their presence by introducing

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themselves. I am Jose Maldonado.

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MR. CROWELL: I am Anthony Crowell.

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MS. GELBER: I am Marilyn Gelber,

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Controller Appointee.

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MR. SANDLER: I'm Ross Sandler, Mayoral

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Appointee.

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MR. FINKELMAN: Lou Finkelman,

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Controller's Designate.

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MS. SIMPSON: I am Marla Simpson,

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Director of Mayor's Office, Contract

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Service.

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MS. NATHAN: Jahmeliah Nathan, Mayor's

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Office of Contracts.

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MR. MALDONADO: The first matter for

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consideration is a proposed rule amendment.

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The procurement policy board intends to

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promulgate an Amendment - Section 1-01,

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Definitions of chapter 1 of Title 9 of the

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City of New York, pursuant to Sections 311

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and 1043 of the New York City Charter. Is

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there any discussion that relates to this

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matter; is there any comment? Mayor's Office,

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would you like to make a comment on this

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proposal?

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MS. SIMPSON: This proposal does not

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change from when everybody looked at in draft

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form prior to the institution of the CAPA.

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MR. MALDONADO: Is there any

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discussion; can we have a motion?

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MS. SIMPSON: Yes.

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MR. MALDONADO: Is there a second?

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All in favor?

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MR. FINKELMAN: Aye.

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MS. GELBER: Aye.

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MR. CROWELL: Aye.

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MS. SIMPSON: Aye.

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MS. NATHAN: Aye.

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MR. MALDONADO: The second proposed

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amendment is an Amendment - Section 2-04,

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Multi-Term Contracts (Client Services), of

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Chapter 3 of Title 9 of the Rules of the City

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of New York, pursuant to Sections 311 and

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1043 of the New York City Charter. Is there any commentary from the Mayor's Office of Contracts?

MS. SIMPSON: Yes, first item in your package of notes, we did receive supportive testimony from the Supportive Housing Network of New York that is included along with we received a significant amount of informal supportive comments from City agencies and human services provided on this change. In terms of the change in the CAPA process, there was only one change, and it is a typographical error. That was in sub-section E, and you see the replacement in front of you, the word is nine. We had discussed in our preliminary meeting that we thought there had been a typo in the way that the language was framed in sub-section - I guess it is two, or it will become three - little I. In fact, when we looked at the language in the PPB logbook, nothing in that section had been changed and there was no change and it went away. It was simply when we produced it for you we produced it incorrectly, so now we have

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produced it correctly and it doesn't require any further change. That's it for that.

MR. MALDONADO: Any discussion or commentary; is there a motion?

MS. GELBER: Yes.

MR. MALDONADO: Is there a second?

MR. SANDLER: Second.

MR. MALDONADO: All in favor, yes.

MR. SANDLER: Aye.

MR. FINKELMAN: Aye.

MS. GELBER: Aye.

MR. CROWELL: Aye.

MS. SIMPSON: Aye.

MS. NATHAN: Aye.

MR. MALDONADO: This amendment is Section 3-11, Demonstration Projects For Innovative Products, Approaches or Technologies, and to Section 4-02, Contract changes of Chapters 3 and 4 of the Title 9 of the Rules of the City of New York, pursuant to Sections 311 and 1043 of the New York City Charter. Any comment from the Mayor's Office?

MS. SIMPSON: There's no change for

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this proposal. The only thing that I will note

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is that after we finish the agenda item that

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is in CAPA, you do have in your packet a

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report on Innovative Procurement done by the

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Taxi and Limousine Commission, and I asked

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Howard Friedman from the Law Department to

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speak about that particular Innovative

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Procurement later on, but the proposal is in

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front of you.

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MR. MALDONADO: Will he speak now?

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MS. SIMPSON: At the conclusion of the

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agenda.

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MR. MALDONADO: Is there a motion?

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MR. SANDLER: Here.

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MS. SIMPSON: Motion.

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MR. MALDONADO: All in favor, yes.

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MR. SANDLER: Aye.

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MR. FINKELMAN: Aye.

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MS. GELBER: Aye.

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MR. CROWELL: Aye.

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MS. SIMPSON: Aye.

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MS. NATHAN: Aye.

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MR. MALDONADO: Section 4-04,

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Renewals, Chapter 4 of Title 9 of the

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Rules of the City of New York, pursuant to Sections 311 and 1043 of the New York City Charter. Any discussion or commentary?

MS. SIMPSON: In this case we have had dialog with the Office of Comptroller and there are proposed changes that are different than what went into the CAPA process. They are shown on the copy of the rules that is in front of you. It is in what used to be sub-section, this will be now C, and it is in number ten and twelve, deleting references to if applicable because it is believed that in this instance the provision will be or this particular practice will be on the table for a huge law and can be addressed.

MR. MALDONADO: Would anyone else like to comment; is there a motion?

MR. FINKELMAN: So moved.

MR. MALDONADO: Is there a second.

MS. SIMPSON: Second.

MR. MALDONADO: All in favor.

MR. SANDLER: Aye.

MR. FINKELMAN: Aye.

MS. GELBER: Aye.

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MR. MALDONADO: Aye.

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MR. CROWELL: Aye.

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MS. SIMPSON: Aye.

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MS. NATHAN: Aye.

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MR. MALDONADO: The PPB intends to promulgate amendments to Section 3-02, Competitive Sealed Bidding of Chapter 3 of Title 9 of the Rules of the City of New York; and to Section 4-02, Contract Changes, and Section 4-06 Prompt Payment of chapter 4 of Title 9 of the Rules of the City of New York, and to promulgate a new rule, Section 4-13, Sub-contracting of chapter 4 of Title 9 of the Rules of the City of New York, pursuant to Sections 311 and 1043 of the New York City Charter.

MS. SIMPSON: This package is largely related to changes in state law in the amendments at the state level, to what is referred to as the Wick Law, and then in the sub-contracting rule is mainly qualification of existence in practice on how sub-contractors are approved under City contract and are tracked, and it also

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includes language that comes from the Wick Law package. Again, it is unchanged proposals that are before you.

MR. MALDONADO: Any commentary?

MR. SANDLER: Can you summarize what the Sub-contractor Trade Association said about this, please?

MS. SIMPSON: We did receive comments from the Sub-contractor Trade Association and largely what they are talking about has to do with perceiving issues that we have in the language that came out of the state law, so for example, the state law requires that pre-qualifications would include an analysis of demonstrative commitment to working with minority and women owned businesses, and there is a question and that is by the Sub-contractor Trade Association as to how these provisions will be administered, which we agree is valid inquiries from the stand point of contract administration, but we did not feel required a change in that specific state law administrative was very specific on the language that they wanted in that we did

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not think that it was appropriate to edit the language, however, the City has every intention in that particular provision. We have a guidepost that we can look to that is quite obvious. We will track their contractor's history in complying with local law 129, which is minority and women owned business programs, and for those contracts under the PPB rules that are also governed by federal and state rules, we will track the contractor's compliance as we do today with applicable federal and state programs that are designed for minority and women owned businesses, so those were those types of comments. Again, we think that it is primarily a question of how this provision is administered, and we are committed to making certain that the agencies do administer in a consistent and fair manner. We looked at some of the questions that were raised about the appeal and the rules provided for appeals of denial that we discovered the rules provided in the PPB rule is mandated by the City Charter, so we didn't have flexibility

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there, because it is in the City Charter, but basically we feel the comments that were made primarily go to the question fair administration, which is the goal we share with the Sub-contractors Trade Association.

MR. SANDLER: Who is the Sub-contractor Trade Association; who are they? I don't remember them appearing before us.

MS. SIMPSON: It is one of the many construction industry, both trades and lobbying groups. They have a pretty extensive history in lobbying in Albany. I don't know that if at various times in the past they have been strong supporters of the Wick Law. I don't think that they took a progressive position about the amendments that were made the last time, but they certainly would have been at least skeptical of those amendments. Some of the comments that we see may relate to, in general, the discussion that went in opening up or freeing the City from some of the Wick Law.

MR. MALDONADO: Can you briefly indicate how these changes affected payment?

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MS. SIMPSON: There are, and I may need some help on this from the law department on details, I do know that in most cases what the state law did in these provisions is that they mirrored some things the City was already doing, so for example when Wicks restrictions were lifted and it became possible to the municipality to do a general contractor umbrella bid instead of having to pass four primes for a separate trade, one of the things that the state wanted to do was to make sure that those sub-contractors who used to be prime, because there was a requirement you never because they were prime and we let them go and permanent and what not that they will be able to go and get promptly paid on their contract and also not have themselves squeezed in the process of bidding, so the language that was included at the state level imposed time constraints. They are very similar to but not identical to what PPB Rules were.

MR. HOWARD FRIEDMAN: If you look at page 3 of the change, you will see from the

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bottom they imposed the seven things from requirements from primes to subs, and that was actually the amount of time that was already in the PPB rules, the thing at the state level that required the change to the PPB Rule was a requirement for the payment of proper payment interest from the prime to the sub in the event that they didn't pay the assessment.

MS. SIMPSON: I see, so it is on this page 3.

MR. MALDONADO: Anyone open for discussion? Can I have a motion?

MR. SANDLER: So moved.

MR. MALDONADO: All in favor?

MR. SANDLER: Aye.

MR. FINKELMAN: Aye.

MS. GELBER: Aye.

MR. MALDONADO: Aye.

MR. CROWELL: Aye.

MS. SIMPSON: Aye.

MS. NATHAN: Aye.

MR. MALDONADO: Next we have Section 208, Vendor Responsibility and Appeal of

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Determination of Non-Responsibility; Section 3-02, Competitive Sealed Bidding; Section 4-06, Prompt Payment and Section 4-09, Resolution of Disputes Arising out of Contract Administration, of chapter 3 of Title 9 of the Rules of the City of New York, pursuant to Sections 311 and 1043 of the New York City Charter.

MS. SIMPSON: Again, this proposal is unchanged. It is the version before CAPA as initiated.

MR. MALDONADO: Any further discussion or comment?

MR. SANDLER: Proper Payment Report; where do we publish that?

MS. SIMPSON: It is now incorporated in the Annual Report that is published by our office, and it is on the web and distributed in that way. It has been in recent years.

MR. SANDLER: It is not a separate report that's incorporated but a general report?

MS. SIMPSON: Right, we are talking about a dollar figure that's maybe in the

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\$20,000 range.

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MR. SANDLER: \$20,000 of interest?

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MS. SIMPSON: Yes.

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MR. MALDONADO: Any further commentary

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or discussion; is there a motion?

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MR. SANDLER: So moved.

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MR. MALDONADO: Is there a second?

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MR. FINKELMAN: Second.

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MR. SANDLER: When is the next report?

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MS. SIMPSON: It is done for the

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fiscal year, and the day it is published is

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about the third week of September.

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MR. SANDLER: It is published in hard

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copy?

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MS. SIMPSON: Yes.

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MR. SANDLER: I don't think that I

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have seen a hard copy.

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MS. SIMPSON: You and I have had

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discussions.

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MR. SANDLER: I have seen the report.

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MS. SIMPSON: I will be happy to send

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you another one.

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MR. SANDLER: When can I expect to

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receive this report?

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MS. SIMPSON: The third week of  
September.

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MR. SANDLER: I think that the report  
is really super. Now, it comes out in  
September?

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MS. SIMPSON: Yes.

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MR. MALDONADO: Now, the last set of  
amendments they are to Section 3-01 and  
Section 3-10, Pre-qualification of chapter 3  
of Title 9 of the Rules of the City of New  
York, pursuant to Sections 311 and 1043 of  
the New York City Charter.

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MS. SIMPSON: Now that, okay, this is  
unchanged since the CAPA process, and if I  
can amend my prior comments - you've got me  
confused. I was actually answering that  
question. The Subcontractor's Trade  
Association had no comment on the  
subcontracting rule. What they were  
commenting on was this rule, and the answer I  
gave --

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MR. SANDLER: That is why they are  
sub-contractors, they will never make prime  
time.

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MS. SIMPSON: They were commenting on the pre-qualification rule, and my comments were in response to explaining their comments and how we felt about the issue was large and we wanted to bring attention.

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MR. MALDONADO: Any other comments or questions?

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MR. FINKELMAN: On the behalf of the Comptroller's Office, we have previously objected to the change of rule in the CAPA process. We voted no for several reasons, which is Comptroller's Office believes that Public Sealed Bidding should be preferred as for a solicitation and not pre-qualification and should remain a special case under the PPB Rule as it is in the Charter. We also view further that this board certainly has discretion to keep pre-qualification in a special case, and it should do so. In light of the fact that is not public solicitation, as sealed bidding, that will also leave PPB in the position of having the rules inconsistent with the Charter, which still has pre-qualification for special cases, so for

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those reasons we continue to object to the amendment and vote no.

MR. HOWARD FRIEDMAN: To address those illegal objections if not the policy objections. The reason the PPB is proposing those changes is because there is a new state law that allows for pre-qualification and public work contractors, regardless of local law and local rules. The provision of state law starts with the phrase notwithstanding any general, special or local law or rule or regulation to the contrary, and it goes on, so the position of the law department that has been conveyed to the Comptroller's Office that in fact to adopt the rule is inconsistent with state law would be preempted. That the state law in this situation preempts inconsistent adoption to the PPB. Notwithstanding but it says in the Charter because the state law says not only notwithstanding any local law. Is it a good policy or bad policy, not for me to say. It is a policy decision that has been at the state level.

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MS. SIMPSON: On the policies ground, again, and I noted and shared the comment, we had some concerns from the Subcontractor's Trade Association's overwhelming support for this rule change, which again only affects construction, any other type of service will remain under both the Charter and PPB rule, but there is strong support in the construction industry for this change, and for the City to move into more of a prequalification environment, which will not affect all of us in the construction project but will be done on more construction in the 21st century. A highly developed and technical industry. As we have seen in the recent years for the standpoint of safety in other policy concerns, an ability to have a detail of front of who our contractors are and what level of qualification are, what type of a project is a policy tool that quite frankly belongs in our tool box and belongs in a more readily used form, and that is the basis which again fell under state law.

MS. GELBER: When this was proposed,

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this was supported by the Mayor's Office?

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MS. SIMPSON: Strongly, as well as a number of us, as I said I don't actually believe that at the time that the Subcontractor's Trade Association was acting one way or the other on that provision. Several other contractors - many supported that change at the state law vigorously.

MR. FINKELMAN: I just wanted to add one more comment. The use of sealed bidding certainly permits the City agency to take into account the qualifications of the local bidder, in the context of passing the responsibility of the vendor, so quite frankly we don't see why there is necessarily a need to have pre-qualification on a policy bidding for the purposes of hearing contracts and limiting competition. I also take it, Howard, you don't contest to know the policy matter that this board would have discretion in keeping qualifications will have as a special case, do you?

MR. FRIEDMAN: Yes.

MR. FINKELMAN: We definitely disagree

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with that legal proposition.

MR. FRIEDMAN: I understand. You can't do much. You can't write something much more broader than what I just read at a state level when the intent is to say this is the law and no local rules or local law can deviate from that. To impose an extra requirement on whether you could use a pre-qualified list for construction, a stricter law like that is at state law. We are saying yes, they are preempted.

MR. SANDLER: Let me say there is very low threshold. A very high threshold for non-responsibility, and that is not anywhere close to pre-qualification, so the idea that you can bounce a contractor for a lack of responsibility is just not equivalent. Besides that, any time that you bounce a contractor you take time and sometimes you lose your bidder and your cost goes up, so the whole idea is to avoid the non-responsibility and instead deal who can bid and who can get the job done before you bid it out and get right to work. In many many

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cases of delay and even with lost bidders, non-responsibility can be avoided with state qualifications. It is a much better policy.

MR. FINKELMAN: Well, we think the issue of responsibility along with threshold is something that the agency will address, and they are the ones that were told that nobody thinks that the threshold of responsibility determines the agency and the agency and the other parties involved in appeals are not responsible. Certainly they can control the timing of addressing the issue, and they can also go forward if certain circumstances dictate that, so we vote, no.

MR. MALDONADO: Is there a motion?

MR. FINKELMAN: Moved.

MR. MALDONADO: Is there a second?

MR. CROWELL: Yes.

MR. MALDONADO: All in favor?

MR. SANDLER: Aye.

MR. FINKELMAN: Aye.

MS. GELBER: Aye.

MR. MALDONADO: Aye.

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MR. CROWELL: Aye.

MS. SIMPSON: Aye.

MS. NATHAN: Aye.

MR. MALDONADO: Is there anything  
Howard needs to address?

MS. SIMPSON: Yes, we had asked Howard  
to just explain, it has been such a long time,  
the PPB has changed. We did have an  
Innovative Procurement by the Taxi and  
Limousine Commission. At the time that the  
rules specify for a report to be made, their  
procurement, which involves technology and  
complicated processes has not been  
completed, so we gave you the required report  
under the PPB rules, but we promised to come  
back with a more detailed report when their  
procurement was completed, and that is the  
report that you have today, and thought  
Howard could summarize a little bit about  
what that procurement involves, and how we  
would need to modify the PPB Rule and if the  
PPB was going to qualify this experience.

MR. FRIEDMAN: This procurement is  
all about the TV screens that are in the

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back of taxis and those are there as a result of the procurement by the Taxi and Limousine Commission, and they put out an RFP. It was an RFP that was in a sense a multiple award, tax order under 303J. First, part of the solicitation is that the Taxi and Limousine Commission itself did a competition, did an RFP and came up with almost - at least four companies that would be able to provide this technology. One of the companies went bankrupt. Really they ended up with three companies. The second part of the solicitation is to get one of the TV screens into the back of the taxis involved, not a choice by the Taxi and Limousine Commission, but instead involved the Medallion owners. This is what TLC wanted to do because back then, based under the experience that they learned from Chicago, where in Chicago they tried to do a similar thing, but just that regulatory standards say any company that meets the standards can put equipment in the back, and what the TLC felt that they could learn from the Chicago

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2 experience was a lack of accountability to  
3 many companies, no central place to complain  
4 about defects. That interested - what the  
5 TLC wanted to do was to have choices made  
6 initially by them to narrow it down, and we  
7 said well that makes it a procurement, so they  
8 closed the RFP process. The part that was  
9 innovated from the PPB Rule point is that  
10 last choice at the second level of  
11 competition. Once you had three companies  
12 with a contract with the City, that last  
13 choice by the Medallion owners, we didn't think  
14 that the PPB Rule that is worded that  
15 interpretation but we thought it could be  
16 done under the innovative procurement rule.  
17 That is what the TLC did with their initial  
18 report and their final report, because the  
19 system was so complicated, as Marla said they  
20 didn't have enough information yet to really  
21 report back. What they reported back today in  
22 the letter basically they are happy with the  
23 experience. They think there are things that  
24 they want to change on a personal matter  
25 level. They were happy with the experience

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in getting only a few number of companies after the competition to be responsible. They thought having more than one company created a little free market, so that the three companies could compete for the Medallion owner's business. I think that their letter says that assumption was more than they had in the experience. The contracts are going to be up sometime in the next year or two, so they need to do another RFP, because the way Innovative Procurement - they can't do the same thing that they did unless the PPB adopts a rule amendment allowing for innovation of this case, that being the choice by the regulated community, by the Medallion owners.

MS. SIMPSON: It is not just a choice made by Medallion, but they don't follow the protocols that are spelled out in 303J?

MR. FRIEDMAN: Correct, they didn't do rotation. They made a business decision.

MR. SANDLER: How is this different from the meter decision?

MR. FRIEDMAN: When the TLC approves a meter, they approve more than one provider of

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meters, or indeed the cars in Albany.

MR. HOWARD: Right, the exact difference as a regulatory matter they will approve and are required to approve any meter to meet their promulgated standard. Here they didn't want to take any package of technologies that meet their standards. They wanted to say even if that five or six or seven companies meet the standards, we don't want the sixth or seventh best that are determined by procurement competition. Then differences pulls it out of the regulatory world and into the procurement world.

MR. SANDLER: What is the contract; is there a signed contract?

MR. FRIEDMAN: There are basically two sets of contracts. There is a contract between TLC and each of the three companies and then there is a contract between whichever company wins the little second competition and gets the Medallion owner's business, and the Medallion owner. It is a contract that we dictated the terms of. At the time that we negotiated the contract

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between the City and technology company, we said and here is the form of sub-contracting that you will enter into with the Medallion owners.

MS. SIMPSON: The contract with the companies are registered with the dollar. They are not dollar value contracts?

MR. FRIEDMAN: Correct, for certain purposes we treated them as they are multi million dollar contracts. For example, we had public hearings.

MS. SIMPSON: For index.

MR. FRIEDMAN: Index for further purposes.

MR. SANDLER: What are we supposed to do with this now?

MR. FRIEDMAN: Nothing. I think that the intent is that Marla and I are going to come back in the fall with proposed language.

MS. SIMPSON: The idea is to alert you that this is a fair and unique procurement. In order to allow them to do an advance, we will have to carve out an exception from 303J

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that will allow at least in the circumstance

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where the private party was making the

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choice, we would have to allow them to make

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a choice and then allow, first of all, we would

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have to allow the private party to make a

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choice and then we will have to allow the

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private party to make their own business

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reference.

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MR. SANDLER: Everything that you said

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makes sense. The world has certainly advanced

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that you can see television as you ride in a

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cab.

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MR. FRIEDMAN: I work in the law

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department.

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MR. SANDLER: As you do your work, why

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is this so different when DOT does

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procurements, I think, for streetlights. They

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decide that they are going to have one in

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each borough or two in each borough when

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they do so.

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MR. FRIEDMAN: I don't understand how

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this is.

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MR. SANDLER: Back to my question; I

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want to know how it is different?

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MR. MALDONADO: I will say that is the other field.

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MR. FRIEDMAN: But the answer is basically the one that I gave. This is a question that comes up back in the office occasionally. The City does all sort of things. As a regulatory matter where they set standards and say anybody who meets the standards you are in. A member of the public can go and by your this or your taxi meter, as an example, and the question for us when does it fall into the narrow circumstances where you say that we can't just treat it as a regulatory matter. As a matter of fact, under case law we have to treat it as a procurement. In essence, the distinction is when we are making a choice despite the fact that a company meets the minimal qualifications.

MR. SANDLER: There are lot of issues about taxis where the industry is at odds with TLC, such as the vehicles that handle people with disabilities, hybrid vehicles, all sorts of things and the notations that

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the TLC could dictate a lot of this. It just doesn't sound - it sounds like the temptation is very very great to dictate a lot of these things about taxis when the market will be much better, so certainly without these various items, I'm happy to have an innovative procurement that will work well. This one seems to be one. I'm struck how unique.

MS. SIMPSON: I think based on this discussion we would like to invite the TLC down with any members of the board that are interested in learning about what they did or why they have this interest, and let them have a dialogue.

MR. SANDLER: They approved the whole car, and then they specified the television inside the car. Anybody with a car can show up when you jump into a cab, no. If you are six feet tall, your knees are in your chin, because you are in the back of a small car.

MS. SIMPSON: Somebody has had some personal experiences bearing on this, but I think one of the reasons why we did not come

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here armed with language was we felt that this probably would require a broader discussion. We wanted to initiate that today, and we will look for a time when we can have that discussion so that if and when we bring language to this body to implement there will be an understanding where the agency is coming from and why they feel that they need to.

MR. FINKELMAN: They did this solicitation a number of years ago. How do you know that there are not any other entities out there that might be interested --

MR. FRIEDMAND: Well, the whole reason the TLC would like to modify the invasion is because they are gathering up to do a new RFP. I think this is five or six.

MS. SIMPSON: But they followed the rule in terms of the length of the contract, right?

MR. FRIEDMAN: Yes, so there may be other people.

MS. SIMPSON: The idea is that they

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want to refresh that composition and they

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want to do the same form because those two

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elements were done as innovations. They need a

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rule in order to allow a requisition of that

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competition.

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MR. SANDLER: We can easily try to

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slide it in whether or not. The issue is,

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are there other companies out there, and why

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can't it not occupy and be done by regulation;

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why do they need an innovative procurement

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again when they can do it another way, so we

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can easily slide it into the policy. I would

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like to do so but I don't think we are

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authorized to do so.

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MS. SIMPSON: Well, it is the

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procurement board, and we should bring the

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agency in and have that discussion.

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MR. MALDONADO: Our meeting is

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concluded.

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(Whereupon, at 3:55 p.m., the above

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matter was concluded.)

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I, MARICHAL L. HARRISON, a Notary Public  
for and within the State of New York, do  
hereby certify that the above is a correct  
transcription of my stenographic notes.

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MARICHAL L.HARRISON