

Testimony of Deputy Mayor Edward Skyler before the U.S. Congress,
Committee on Oversight and Government Reform

(April 21, 2009)

Good morning Chairman Towns and other members of the committee. Thank you for the opportunity to appear before you today. My name is Edward Skyler, and I am the Deputy Mayor for Operations for the City of New York. On behalf of Mayor Bloomberg, I am here to testify on the measures that the City of New York has in place to ensure that all American Recovery and Reinvestment Act (ARRA) funds allocated to the City are spent appropriately and the steps the Federal government is taking to assist us in this endeavor.

The City of New York has been hard hit by the current economic crisis; our unemployment rate was 8.1% in March 2009, as compared to 7.6% in the rest of New York State. This has had a profound effect on the City's ability to provide services when they are most needed. Our non-property taxes are down \$6.77 billion from 2008-2010, and we are currently facing a \$4 billion budget gap. The Federal Stimulus funding will provide much needed temporary financial assistance to the City of New York and help jumpstart the local economy. While ARRA funding alone cannot prevent or postpone the difficult decisions required in light of our projected budget deficit, it will help us maintain critical services, and allow us to proceed with projects that we may not otherwise have been able to fund.

In total, the City of New York and City-related entities expect to receive at least \$4 billion in expense funding and nearly \$1 billion in capital funding over the next two years. We are still awaiting our final allocations for several programs and are in the process of applying for many competitive programs, but we have already announced \$261 million in transportation projects and \$25 million a month in increased food stamp allocations. We are eager to put these funds in place to help stimulate recovery from the current economic crisis, but potential misuse of these funds is not an issue to be taken lightly.

Mayor Bloomberg has a strong track record of increasing transparency in government to avoid fraud, waste, and error in the disbursement of funds. For the ARRA funds, we want the City of New York to be a national model of transparency and accountability. We intend to not only use our existing systems but also take additional steps to ensure that our share of funds is spent properly and that each expenditure is rigorously tracked. This increased transparency will enable you – and the public – to hold us accountable on many levels.

I will first describe for you the controls the City already has in place to prevent fraud and abuse and the new oversight structure and additional controls we have put in place for Stimulus funding. Then, I will discuss our interactions with the Federal government and areas where we anxiously await additional guidance from the Federal government.

Existing Fraud and Waste Prevention Measures

New York City already has robust fraud and waste prevention measures in place. The Mayor's Office of Contract Services (MOCS) oversees all procurements throughout the City. City agencies must conduct research on all potential vendors, including tax payments, outstanding judgments or liens; compliance with all required corporate filings and licensing rules, any history of debarments or for-cause terminations; past criminal conduct by the company or its principals, as well as past administrative sanctions, such as OSHA or Environmental Control Board violations, and then the agency must make a "responsibility determination" for every contract awarded.

In addition, vendors that receive contracts or subcontracts that are valued at \$100,000 or more, and/or sole source contracts valued at \$10,000 or more, and/or whose cumulative business with all City agencies during the immediately-preceding 12 months totals \$100,000 or more, must complete detailed questionnaires for the company itself and its top three principal officers, which are entered into MOCS' Vendor Information Exchange System (VENDEX) database to inform agency decisions regarding vendor responsibility. For awards greater than \$100,000, the City's Department of Investigation (DOI) also conducts a "Vendor Name Check," checking every entity and person named on the VENDEX questionnaire against DOI's databases, to see if they have been the subject of any investigations, and/or if there is any other relevant information that DOI can provide the contracting agency, to aid in making the responsibility determination.

All contracts must be certified at the highest levels, requiring specific point people to take responsibility for the integrity of our contracts including compliance with City and Federal minority and women owned business participation requirements. Every contract requires a certification by the agency's chief contracting officer as to the accuracy of all of the information upon which the award decision is made. For every contract, other than those obtained by competitive sealed bid, the Mayor or his designee must certify that the City has complied with all applicable laws and rules governing contracts, and the Corporation Counsel must certify the legal authority of the contracting agency to proceed with the award.

We expect at least \$500 million in capital funds to go to City agencies, and are paying especially close attention to the potential for corruption in the construction industry. The Vendor Responsibility and Compliance Unit at MOCS conducts detailed background investigations on specific vendors, particularly those not previously known to the City. All of our major construction agencies request DOI Vendor Name Checks not only for their prime contractors in construction, but also for their subcontractors. And, where the facts warrant, we work with DOI to assign monitors – called Independent Private Sector Inspectors General (IPSIGs) – to vendors with particularly troubled histories. IPSIGs have full access to such vendors' records and report directly to DOI on their activities on City contracts.

In addition to Mayoral oversight, the City has two additional layers of oversight, DOI and the Comptroller. The City's chief financial officer, the Comptroller, "registers" contracts once he has determined that there are available funds in the budget for the contract, and that he does not consider there to have been possible corruption in the letting of the contract, nor corrupt activity on the part of the potential vendor. Furthermore, DOI has a specific Inspector General assigned to each City agency; these senior investigative professionals monitor the contract portfolios closely.

New Efficiency and Transparency Measures

In addition to the checks we already have in place for our contract process, prior to the enactment of ARRA we created a governance structure through which all Stimulus funds are overseen by the Mayor's Office and oversight agencies. The Mayor's Office will review and sign-off on every contract and every funding decision, which will provide an unprecedented level of oversight. We have assigned every funding stream for which the city is eligible to a working group: Infrastructure & Energy Efficiency, Social Safety Net, Economic & Workforce Development, Public Safety, and Fiscal Assistance. Each working group, under the leadership of a staff member from the Mayor's Office, reviews allocations, applications and documentation for all funding streams. Allocations are judged by each working group against the following criteria: ability to deliver programmatic results, job creation and economic stimulative impact, speed at which spending can occur, long-term public benefit, and integrity and fraud prevention.

All working group recommendations are then presented to the ARRA Oversight Group, which consists of the Deputy Mayors; the Budget Director; the Directors of the Mayor's Offices of Contract Services and Operations; the Criminal Justice Coordinator; and the Corporation Counsel. Every funding decision requires sign-off from the relevant Deputy Mayors and the Director of the Office of Management & Budget. This level of involvement has brought an unparalleled level of scrutiny to each funding decision.

In addition to our Stimulus oversight structure and the robust controls that are already in place, we are implementing an additional layer of transparency for Stimulus funds. We are developing a new interactive website called NYC Stimulus Tracker. This website will track ARRA dollars all the way from the initial allocation to the City; to their distribution to City programs or capital projects; through the steps of contracting, financial processing, and payments for project work; to the ultimate impact of each funded project on the lives of New Yorkers. Currently, we have information available on the funding streams for which we believe New York City is eligible, in addition to detailed information about the projects that we have announced.

Within the next several days we will roll out our full system, which will include all the details of the process – such as the start and end dates of construction projects, the contract status for outsourced projects, and when payments are made to vendors. In addition, the public can track key performance measures – such as jobs created – showing how these projects and programs benefit the City. And lastly, the public will have an opportunity to get ARRA update emails and send direct feedback to Mayor Bloomberg

through this website. This additional layer of oversight and transparency will help hold City government accountable by easily identifying progress toward program goals. A preliminary version of NYC Stimulus Tracker is operational, and all of the features I just described are expected to be fully operational by the end of April.

An additional level of scrutiny will be provided by KPMG whose services we are retaining to help guide New York City's stimulus reporting process. By retaining experts in the field, we will strive to meet and exceed the federal and state reporting and compliance requirements for the use of stimulus funds.

Taken together, these measures will provide an unprecedented level of oversight over funding decisions and contracts, and they will allow the City to verify that we are spending our stimulus funds as efficiently and effectively as possible.

Federal and State Roles

As you may know, New York State is one of 16 states that will be audited by the Government Accountability Office (GAO) on behalf of Congress. To make sure that we are complying with all standards and regulations, our staff recently met with the GAO to brief them on the steps I have discussed today. We received positive feedback on the controls we have in place. However, we did indicate to the GAO that the key to complying with Federal reporting requirements is to know those requirements from the start. Without clear guidance on the specific information required by the federal government as we develop our systems, it will be a challenge to account for the impact of Recovery Act funds in a manner that is consistent with the Federal government's expectations. For example, we strongly recommend the creation of a standardized job creation methodology that adjusts for regional differences. If the new federal guidelines require additional monitoring and reporting, we would ask that local governments be allowed to use stimulus dollars to meet these enhanced reporting and compliance requirements. We encourage Congress and the Federal Agencies to issue additional guidance as soon as possible.

In conclusion, we are all walking in new territory as we work to distribute these Stimulus funds. The country has not seen such a rapid infusion of federal funds since the 1930s, and we are all trying to make sure that we put the best system in place to ensure accountability and transparency while creating jobs, repairing infrastructure and providing a safety net. New York City has the unique advantage of having such a large operating budget that many of the necessary accountability measures are already in place, but we welcome your suggestions as we strengthen our system.

Thank you very much for the opportunity to testify this morning, and I will be happy to take any questions.

