



11 Park Place, #701
New York, NY 10007
(212) 721-7996
www.goodjobsny.org

Testimony before the Report and Advisory Board Review Commission May 11, 2012



Bettina Damiani, Project Director, Good Jobs New York

Good afternoon members of the commission. Thank you for the opportunity to speak to you today regarding the proposal to discontinue the New York City Department of Finance's Annual Report on the Industrial & Commercial Incentive Program, or ICIP.

The Commission states that the ICIP program no longer exists and that the Department of Finance's (DOF) annual tax expenditure report makes the ICIP report redundant. While it is true that ICIP was reformed in 2008 and is now the Industrial & Commercial Abatement Program (ICAP), over 8,000 properties still receive this property tax break. DOF's annual tax expenditure report offers an overview of the ICIP program but no details of its beneficiaries, leaving New Yorkers in dark regarding this expansive and costly subsidy.

A review of the most recent Annual Report on ICIP from 2001 – the report this commission is considering to eliminate - makes it clear that the tax expenditure report offers less information. The 2001 ICIP report provided taxpayers a window of knowledge about this program by breaking it down by borough the number of applications over three years, jobs reported at application and the number of preliminary applications over a fifteen year period. The DOF tax expenditure report provides only a review of the requirements for the program, its costs, and number of exemptions that year.

We urge this commission not to waive the Department of Finance's Annual Report on ICIP for two reasons:

- At \$681.6 million in FY2012, ICIP is the most expensive economic development subsidy program in the city and it is growing rapidly¹. Between Fiscal Years 2001 and 2012 ICIP expenditures grew 284%. This, in comparison to an increase of 119% for total property taxes collected over that period. ²
- An annual ICIP report has not been released during the Bloomberg Administration. How can taxpayers and members of this commission be

asked to evaluate the usefulness of a report that has not been published for eleven years?

Suggestions to streamline and improve transparency of ICIP and ICAP programs:

We urge the Department of Finance to not only comply with the regulations by producing an annual report on the ICIP program, but that it include ICAP data and be distributed electronically on the agency's website. The DOF has made a commendable step in this direction by posting on its website an Excel file of properties participating in the ICIP program by borough.

A more useful report on ICIP and ICAP expenditures would build on DOF's existing Excel spreadsheets by including property specific data. On the following page is a sample of the Excel file from the DOF website which has bare bones information including location, square footage and number of units.

Simply expanding what is included in the excel spreadsheets with data the DOF presumably already has, would be an efficient way to dramatically increase transparency of these two subsidy programs. We suggest including columns with:

- Name of applicant
- Jobs at application
- Jobs that fiscal year
- Full market value
- Assessed value
- Billable assessed value
- Annual value of the property tax break allocated that fiscal year
- Cumulative value of tax break
- Enrollment date and end date

This commission is being conducted under a Mayor who made a fortune starting a company that makes intricate financial information widely accessible. New Yorkers deserve similar transparency efforts on these corporate subsidy programs.

Thank you for considering our testimony.

¹ Tax Expenditure Report FY2012, page 11

² Analysis by the Fiscal Policy Institute: in FY 2001 ICIP was valued at \$177.7 million and in FY2012 at \$681.6 million

Sample of 2012/2013 ICIP Exempt Properties in Manhattan

BOROUGH	NEIGHBORHOOD	BUILDING CLASS CATEGORY	TAX CLASS AT PRESENT		BUILDING CLASS AT PRESENT		ADDRESS	ZIP CODE	RESIDENTIAL UNITS	COMMERCIAL UNITS	TOTAL UNITS	LAND SQUARE FEET	GROSS SQUARE FEET	YEAR BUILT
1	ALPHABET CITY	22 STORE BUILDINGS	4	398	5	K9	34 AVENUE A	10009	1	2	3	1,672	6,248	1900
1	CHELSEA	21 OFFICE BUILDINGS	4	696	13	O9	533 WEST 24 STREET	10011	0	1	1	5,628	32,424	1926
1	CHELSEA	21 OFFICE BUILDINGS	4	701	22	O9	527 WEST 29 STREET	10001	0	4	4	2,468	9,472	1900
1	CHELSEA	21 OFFICE BUILDINGS	4	740	13	O9	335 WEST 16 STREET	10011	0	1	1	8,464	48,800	1920
1	CHELSEA	21 OFFICE BUILDINGS	4	801	1	O3	275 7 AVENUE	10001	0	50	50	22,732	548,680	1928
1	CHELSEA	22 STORE BUILDINGS	4	691	15	K9	527 WEST 19 STREET	10011	0	1	1	9,200	13,800	1919
1	CHELSEA	22 STORE BUILDINGS	4	696	1	K2	202 11 AVENUE	10001	0	1	1	21,527	26,000	1938

Sample of reporting in Excel spreadsheet format on the Department of Finance website of properties participating in the Industrial and Commercial Incentive Program (ICIP) FY 2012/2013 http://www.nyc.gov/html/dof/html/property/property_tax_reduc_incentive.shtml#faq



**Testimony of Brian Paul, Research and Policy Coordinator, Common Cause/NY
Before the Report and Advisory Board Review Commission
Friday, May 11th, 2012.**

Thank you for the opportunity to testify. My name is Brian Paul and I'm the Research and Policy Coordinator of Common Cause/New York, a nonpartisan advocacy organization founded as a vehicle for citizens to make their voices heard in the political process and to hold government accountable. For more than 30 years, dedicated to representing the public interest, Common Cause/NY has worked at the state, federal, and municipal level to bring about honest, open and accountable government.

When examining government reporting requirements, the key question is whether or not the reports provide useful information that allows the agency's managers and the public to effectively assess the agency's success in fulfilling its mission and meeting the needs of city residents.

Common Cause/NY supports the goal of reviewing and issuing waivers for outdated and redundant reporting requirements and advisory boards in City government. But we would also like to emphasize that the stated goal of this commission is not only to recommend reports and advisory boards for elimination, but also to issue recommendations to improve their effectiveness. We also believe that increased outreach in advance of at least one more public hearing would help the commission more fully understand and consider the impact of proposed changes in reporting and advisory boards.

Regarding the reports and boards that are being discussed today, we are specifically concerned with the proposed waiving of the Zoning and Planning Report, the November publication of the Class Size Report, the Temporary and Non-Standard Classroom Report, the ICIP Program Report, the Preliminary Mayor's Management Report, and the Consumers Council.

For the two reports from the Department of Education, we are concerned that their proposed elimination would reduce the transparency and quality of data available to the public. We have heard from education advocates that the class size report is a valuable indicator and one that it is important to be able to access early in the school year in November. If the DOE is engaged in continually tracking class size, it would be wrong to reduce the availability of this data to the public by eliminating the November report.

Reporting on Temporary and Non-Standard Classrooms was established by the City Council in 2005 in response to the need for improved monitoring of this important issue for the quality of our educational facilities. The DOE's Enrollment, Capacity, and Utilization Report does not provide the same level of detail on this issue. The problem of extensive use of temporary and non-standard classrooms has not abated in parts of the city and this is important data that should be tracked and provided to the public

For the Mayor's Preliminary Management Report, we understand that many aspects of the report may be redundant with the reporting and data currently made available by the Mayor's Office through the Citywide Performance Report. But we are troubled that a reporting requirement mandated by the charter may be waived due to redundancy with data and reporting that is not mandated by the charter. Change in Mayoral administration should not threaten a change in the baseline of important information provided to the public.

This issue of replacing charter required reporting with reliance on Mayoral initiatives that could be rolled back or eliminated by future administrations is also relevant to the Department of City Planning's Zoning and Planning Report. The Department of City Planning claims that this requirement is redundant with Mayor Bloomberg's PlaNYC 2030 initiative, but PlaNYC 2030 is not mandated by the charter and it's quite possible that the next administration could choose to reduce or withdraw support for it.

In any case, neither the PlaNYC 2030 sustainability framework nor any of the information available on DCP's website adequately substitutes for the charter requirement for DCP to release this report every four years in order to ensure long term strategic coordination of land use policy.

This commission is empowered not only to recommend reports and advisory boards for elimination but also to issue recommendations to improve reports and advisory boards and make them more effective. During the hearings of the Charter Review Commission in 2010, numerous planning experts testified that the DCP's failure to engage in long-term strategic planning is hurting the City's prospects for future sustainable growth.¹ Recent studies on the impact of rezonings by the Furman Center² also suggest that Department of City Planning practices could benefit from improved strategic coordination. Instead of excusing the DCP for failing to release the four year Zoning and Planning Report by issuing a waiver, it would be more consistent with the purpose and mission of this commission to instead recommend that this reporting requirement actually be fulfilled.

The case is the same for the Department of Finance's ICIP Program Report. If this report was compiled consistent to its description in Administrative Code Section 11-267, it would offer much more detailed information than is available in the annual tax expenditures report. Total expenditures on ICIP are available and a spreadsheet of affected properties is available on Department of Finance website but without the ICIP Program Report there is nothing that actually links the subsidized projects to their job creation goals and evaluates them.

¹ See the 2010 Charter Review Commission's findings on land use and testimony from the Pratt Center at <http://prattcenter.net/2010/06/28/city-charter-revision-commission-land-use-expert-forum> and from Hunter College Urban Planning Professor Professor Tom Angotti at <http://www.scribd.com/doc/33953358/Tom-Angotti-Charter-Revision-Commission-June-24-2010>

² Furman Center for Real Estate & Urban Policy. "How Have Recent Zonings Affected the City's Ability to Grow?" March 2010. http://furmancenter.org/files/publications/Rezonings_Furman_Center_Policy_Brief_March_2010.pdf

The Economic Development Corporation's 2008 analysis of the ICIP³ and Manhattan Borough President Stringer's report⁴ of the same year raise serious questions about the effectiveness of this subsidy. Common Cause/NY is always in favor of greater transparency, especially for government tax expenditure and subsidy programs. In the current national political and economic climate it is more important than ever to ensure that job creation policies like the ICIP are effective and of benefit to the public interest.

Our final specific concern is with the elimination of the Department of Consumer Affairs' Consumers Council. The DCA claims that the council is redundant to "industry association meetings, meetings of community boards, BIDs, Chambers of Commerce, and social media." But we believe that these ad-hoc consultations with local groups and interest groups are no replacement for an advisory council where representatives of the public interest can meet and discuss issues directly with DCA and industry representatives.

In closing, I'd like to reiterate that Common Cause/NY is fully in favor of efficiency and the elimination of redundant reporting requirements. But we are equally in favor of preserving and improving reports and advisory boards that facilitate the public's ability to evaluate government effectiveness. We urge the commission to reconsider recommending the elimination of the five reports and one advisory board detailed above and to hold at least one further public hearing. Thank you for your time.

³ Francesco Brindisi and David Ehrenberg, NY EDC. "The New York City Real Property Tax Industrial and Commercial Incentive Program (ICIP): Description and Analysis." September 16, 2008.

http://www.taxadmin.org/fta/meet/08rev_est/papers/brindisi2.pdf

⁴ Office of Manhattan Borough President Scott M. Stringer. "Senseless Subsidies: A Report on Tax Benefits Under the Industrial and Commercial Incentives Program." May 2008.

http://www.mbpo.org/uploads/policy_reports/Senseless%20Subsidies.pdf



class size matters

124 Waverly Place, NY, NY 10011

phone: 212-674-7320

www.classsizematters.org

email: leonie@att.net

***Testimony of Leonie Haimson, Executive Director of Class Size Matters
Before the Report & Advisory Board Review Commission
On why the DOE's should continue to be obligated to report on class size and
TCUs (temporary classroom units)***

May 11, 2012

I want to thank the members of the Commission for holding this hearing today, so that members of the public can give input about which reporting requirements currently required by law should or should not be eliminated.

The NYC DOE has proposed that they be allowed to eliminate their legal mandate to report class sizes in the public schools each November, as well as produce an annual report on TCUs, or temporary classroom units or trailers – both reports enacted into law in 2005.

Over the last few months, the Mayor has loudly proclaimed the parents' right to know when it comes to the Teacher Data reports.¹ These reports, based on flawed state exams, have shown to have as much as a 70% error rate in the middle range, and be especially unreliable for teachers with high and low-scoring students. Yet that when it comes to issues that parents care most about, class size and overcrowding, the NYC Department of Education are trying to deny them this critical information.

The number one priority for public school parents in NYC, year after year, according to the DOE's learning environment surveys, is class size.² And despite the Mayor's repeated promises, in 2001 when he first ran for office, and again in 2005, in his State of the City address, that he would reduce class sizes in grades K-3 to 20 or less, class sizes in these grades are now the largest in 13 years.³ In 2007, as part of its mandated Contracts for Excellence plan, the DOE also promised the state to reduce class sizes in all grades; but average class sizes have risen every year since then.⁴

¹ Dana Rubinstein, "Bloomberg on public teacher evaluations: Parents have the right to know," Capital, Feb. 28, 2012.

² NYC DOE, "School Survey Citywide Results," June 2011 at <http://goo.gl/H23f4>, accessed 5.11.12. See Appendix for chart.

³ See Appendix for more on Mayor's promises in this regard.

⁴ See Appendix for charts.

So what is the argument that the DOE is now making for their request to eliminate the November class size reports? Although I am unable to find an explanation in writing, during recent NYC Council hearings, Michael Tragale, Chief Financial Officer of DOE, claimed that the annual November class size report was unnecessary, since more "accurate" figures are available in the subsequent February report:

To me in terms of the class size report, I understand that the first report, the November report does not include audited information and that's why we felt that we would just utilize the one report, the February report, which basically has the audited information that's included so it's a more accurate report. So that we don't have to go with a preliminary information based un-audited, we just go out with one report based on the audited register information.⁵

Yet this statement is untrue.

- The November report is based on the **audited October 31 enrollment figures**, the same audited figures which determine the amount of school aid that the city receives from the state.
- The audited October 31 enrollment figures also provide the basis of the DOE's annual report on capacity and utilization, otherwise known as the "Blue Book," that analyzes the extent of overcrowding in our schools.⁶
- The city is already obligated to collect and report to the state class size figures in the fall, to show whether they have met or how far they have fallen short of their annual class size reduction targets, required through the Contracts for Excellence law, passed by the Legislature in 2007.
- Parents also deserve to know these figures as soon as possible at the beginning of the school year. Why should they have to wait until February to hear about class sizes in their children's public schools?
- The November reporting period provides an additional incentive to DOE to resolve class size violations earlier in the year – which even now, often drag onto Thanksgiving and beyond;
- The class size report released in February 15 is **actually less accurate** than November reports. Why? The February report, based on January 31 figures, shows significantly smaller class sizes, especially in high school, ***as a result of thousands of students who drop out or are discharged each year between October 31 and January 31.***

Approximately 4 percent of high school students in general education and inclusion classes and 11 percent of high school students in special education classes leave school each year between

⁵ See NYC Council, Transcript of the Minutes of the Committee on Education, Hearings on the Expense budget, March 27, 2012, p. 244.

⁶ NYC DOE, and School Construction Authority, "2010 – 2011 Enrollment, Capacity and Utilization Report," Sept. 2011; at <http://goo.gl/B19tP>, accessed 5.11.12.

Oct. 31, 2011 and January 31; causing average high school class sizes to drop between .5 to 1 students per class, depending on the school. .

Yet the class size report was advocated for by parents and education activists in 2004 to reveal the learning conditions that our students experience each fall when they enroll in school. These class sizes, in turn, help determine whether NYC children are provided with the opportunity for a quality education: and whether they will be engaged in their classes, receive an adequate opportunity to receive attention and support from their teachers, which in turn helps determine whether they will stay in school through graduation. While the DOE may prefer to only report the smaller classes that occur at the end of the semester, after high school students have become disengaged, discouraged and drop out, to allow this sort of subterfuge and revisionist history to occur would do a grave disservice to students and the transparency that the law was supposed to provide.

When City Council Education Chair Robert Jackson asked Ernest Logan, head of the principal's union, during the March 27, 2012 budget hearings on whether he believed the November class size report should be eliminated, Mr. Logan responded this way:

I believe that we should stick with the October 31st report. Historically, we know that we can identify students who are [Long term] absentees, that works well for us. I think that [after that] we started playing around with the numbers.⁷

Now there are important ways that class size reporting should be improved, rather than eliminated:

- The original intent of requiring a second round of class size reporting in February was so that the data on class sizes during the second semester of high school would be available, when students are re-scheduled into new courses. Yet the DOE has never complied with the intent of the law, and instead only provides data in the February report about class sizes at the end of the first semester.
- Even more importantly, the class size report has deep flaws and is inaccurate in many instances. In all-too many schools, it radically underestimates the size of classes by reporting ICT or inclusion classes as two separate classes, one containing special education students and the other with general education students, which halves the actual size. The same occurs in many cases with mixed grade classes. There are hundreds of schools in which class sizes are systematically underestimated in this way. Though we have pointed this out to DOE and complained about the miss-reporting for many years, so far they have refused to take action to correct these systematic flaws.

The TCU report

The mandate to continue the annual Report on Temporary and Non-Standardized Classrooms, or TCUs, is just as important. The issue of trailers and TCUs is a controversial matter that comes up frequently, because many of these structures are substandard and long past their lifetime: leaky, moldy and rotting away.

⁷ See NYC Council, see above; p. 295. See also NYC Public School Parents Blog, "City Council hearings: More cuts to schools and even larger classes next year as contracts grow fatter?" March 28, 2012; <http://goo.gl/UiUFt> accessed 5.11.12.

Just as on class size, this administration has failed to live up to their promises about trailers. In the same 2005 capital plan in which the mayor pledged to reduce class size in all schools in grades K-3 to twenty or less, he also pledged to eliminate trailers by 2009. Yet there are now nearly as many TCU units as there were in that year; 363 in 2010-11, compared to 368 in 2005-6, according to the latest TCU report.

Most recently, NYS Assembly Education Chair Cathy Nolan asked Chancellor Walcott about the continued existence of hundreds of trailers at the Assembly budget hearings in January, and Chancellor Walcott responded that the TCUs remained because principals “want them.”⁸

Subsequently, in March, when CSA president Ernie Logan was asked about this same issue at a City Council budget hearing, he responded this way:

*As it goes for the trailers, we've been at this now—this administration's been in here ten years, we still have trailers sitting in here. I also heard testimony yesterday that we created seats, but we haven't gotten rid of any trailers. And then there was a comment made in Albany when the Chancellor testified and he said my members liked the trailers. Well I have yet, I've been asking around, which one of my members like the trailers. They would like to have a permanent place for their students to be. The trailers have never been environmentally safe and sound, whether it's heating or air conditioning issues or air quality. Students deserve to be in a classroom setting. And if you want to use the trailer for administrative offices, fine, but you should not be trying to educate children in trailers. And especially when we have the wherewithal to build classrooms.*⁹

If, as I have heard, the DOE argues that the information in the TCU report merely replicates information included in the annual report on school utilization and capacity called the “Blue Book”, this is also untrue:

- There is **no data** in the Blue Book on how many high school trailers exist. According to the 2009-2010 TCU report, there are 125 classrooms in 73 TCU units in 17 high schools. There is also no data in the Blue Book on their official capacity. Only the TCU report contains this information.
- There is **no data** in the Blue Book on how many actual TCU classrooms there are in any of the schools, which can range from 1-5 classrooms per TCU unit. Only the TCU report reveals that there were 600 classrooms housed in TCUs in 2010-11.
- There is also **no data** in the Blue Book on the current use of any of the TCU units, and whether they contain general education classrooms, special education classrooms, art, science or drama rooms; only the TCU report contains this information.

At the same time, the TCU report – like the DOE’s class size reporting -- is extremely flawed and contains incomplete and contradictory data.

⁸ Zack Fink, “Albany Lawmakers Visit Stalemate Over State Teacher Evaluations,” NY1, Jan. 23, 2012.

⁹ See NYC Council, Transcript of the Minutes of the Committee on Education, Hearings on the Expense budget, March 27, 2012, pp. 295-6.

- Neither the Blue Book nor the TCU report has data on how many high school students are currently being educated in trailers.
- Neither report has data on how many elementary nor middle school students take art, science, drama, or other non-core classes in TCU classrooms.
- The capacity and enrollment of many District 75 special education classrooms is missing in both reports, as well as this data for many other classrooms.

There are also major inconsistencies between the two sources of data. In comparing the DOE's 2009-2010 Report on Temporary and Non-Standardized Classrooms, using Part I and Part II of the report, as well as with the information provided by the 2009-2010 Blue Book, we found:

- The total enrollment of TCU's and the enrollment and capacity of TCU's in specific schools often differs without explanation between the Blue Book and the TCU report.¹⁰
- Essential data is missing both in the TCU report and the 2009 Blue Book,¹¹ and data is inconsistent even between Parts I and II of the TCU report.¹²

¹⁰ The TCU Report lists an enrollment of 8,819 for PS/IS general education core classrooms, while the Blue Book total enrollment for these classrooms amounts to 8,691. There is no explanation for this discrepancy. An example is PS5 in District 6, listed in the Blue Book with a target capacity of 84 students for its two TCUs, while Part II of the TCU demonstrates that these two TCU's, each with one classroom, are used as an Art room and a Science lab, each with a capacity of 28 students for a total of 56 students. There is no explanation for the difference in capacity between the two reports, and both reports fail to provide enrollment data for these classrooms. Yet another example: P.S. 280 in Building x910 in District 10 according to the TCU report, has 4 TCUs with a total enrollment of 92 students. In Part 2 of the TCU report, more information about these TCU's demonstrates that they consist of 5 classrooms, one of which is a D75 Special Ed classroom. Each of the general classrooms has a capacity of 20 and the D75 classroom has a capacity of 12, producing a total capacity of 92. The enrollment and the capacity are identical in the TCU report, suggesting a utilization of 100%. However, the 2009 Blue Book, which does not specify capacity or enrollment by room or classify each TCU room, lists a target capacity of 129 students for the same four TCU's.

¹¹ For example: P.S. 40 in Building Q988 is listed as having 3 TCU's with an enrollment of 0 students in Part I of the TCU report, while Part II of the TCU report only lists one classroom for P.S. 40 (despite Part I data suggesting that at a minimum, Part II should provide data for three rooms), and categorizes it as a Theater arts/Drama room with a capacity of 28 students. The 2009 Blue Book, however, lists 2 TCU's (not 3 or 1, as Part I and Part II of the TCU report respectively suggest), one with a capacity of 0 students, and one with a capacity of 75 students. There is no explanation for the discrepancies.

¹² For example: P.S. 30 in Building Q962 in what district is listed in Part I of the TCU report as having two TCUs with an enrollment of 0 students (suggesting the rooms are used for a purpose other than general education classrooms.) This school is not mentioned at all in Part II of the report, which includes the number of classrooms per TCU, capacity, and function of each room. The 2009 Blue Bok lists, as expected, an enrollment of 0 for the TCU's but includes a target capacity of 112 students. There is no explanation as to why P.S. 30 is not included on the TCU Report Part II list.

But the most egregious flaw in the TCU report is that the report's summary chart produces the ***misleading impression*** that TCU's are underutilized. The DOE's summary chart, with TCU enrollment listed next to capacity, makes it appear that TCUs are only about 70 percent full, as follows:

	# of TCU Units	TCU Enrollment (Actual)	TCU Enrollment (Capacity)	Total Enrollment
2005-06	368 *	10,215	15,477	1,055,986
2006-07	399	11,004	16,077	1,042,078
2007-08	402 **	10,929	14,063	1,035,406
2008-09	387 **	10,115	13,293	1,029,459
2009-10	373 **	8,819	12,773	1,038,741

* TCU units used by elementary and middle school but with zero enrollment are excluded in the 2005-06 report. Without the exclusion, total number of TCU units is 385.

** Includes 5 TCU units placed at John Bowne high school as temporary swing space for a construction project in the main building.

Yet what this chart **does not reveal** is that the enrollment figure reported above contains data only for elementary and middle school general education core classes, with NO enrollment listed for the thousands of high school students housed in TCUS, and no enrollment for students in grades K-8th using TCUs for art, drama, science or special education.

At the same time, the capacity column includes ALL the TCUs, including the capacity of high school units and those used for art, drama, special education etc. in elementary and middle schools, where enrollment data is lacking. Thus, the chart that appears in the TCU report is not an apples to apples comparison, and is highly deceptive.¹³

If one analyzes only those TCUs that the DOE provides data for ***both capacity and enrollment***, one discovers that the TCU classrooms are very overcrowded, with an average utilization rate of 109 percent. See chart below:

P.S./I.S. TCUs with general education core classes in 2009-2010

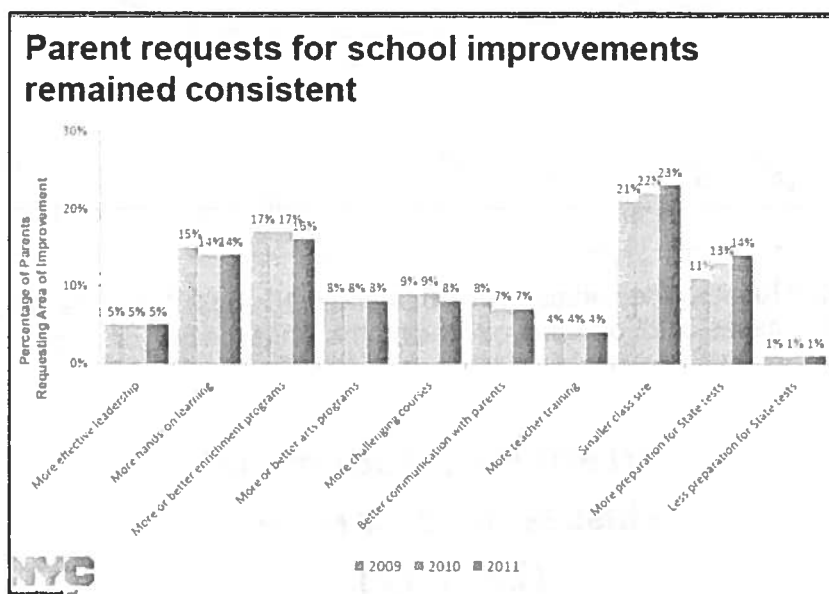
# of TCU Units	# of TCU PS/IS Gen Ed core Classrooms	TCU PS/IS Enrollment*	TCU PS/IS TCU Capacity*	Average Utilization of TCU's [Blue book enrollment/ blue book target capacity]
294 [TCU report]	487 [TCU report]	8,691 [Blue Book]	7,980 [Blue Book]	109%

To conclude, while the DOE might like to eliminate its mandated reporting on class size and TCUs, for the Commission to allow this to occur would significantly undermine the transparency and accountability that New Yorkers deserve from our government, not to mention the disservice it would do the children of this city.

Instead, these reports should be significantly enhanced and improved, to provide parents and other members of the public a more reliable and complete picture of the sorry and substandard conditions under which New York City children continue to encounter every day in their public schools.

Appendix: From NYC DOE, “School Survey Citywide Results,” June 2011

The Learning environment survey results, showing smaller class size the top priority of parents among ten options every year for the past three years, since the survey was instituted.



Mayor’s promises to reduce class size and eliminate trailers: When he first ran for election in 2001, and then again in 2005, the Mayor promised to reduce class sizes in all schools in grades K-3, and to eliminate trailers or Temporary Classroom Units.¹⁴

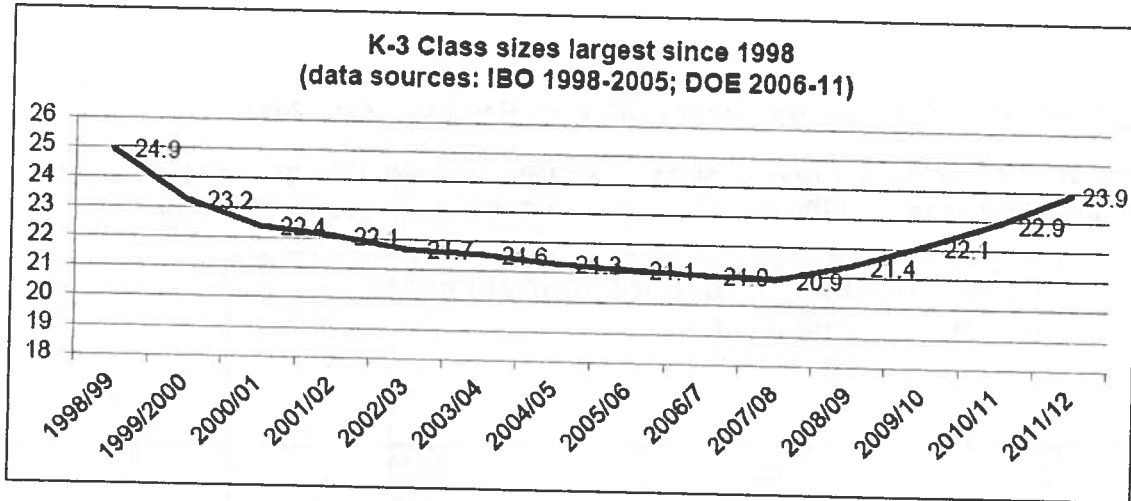
As late as in February 2008, in the amendment to the school capital plan, the administration still was claiming that the plan would achieve the following goals:

¹⁴ For an archived copy of campaign literature, see <http://web.archive.org/web/20011001055946/http://www.mikeformayor.org/downloads/edubk3a.pdf>. See also NYC Public School Parents, “Bloomberg’s original campaign promises: how’d he do?” October 22, 2009; and “Class sizes sharply rising & 7,000 violations this fall despite Bloomberg campaign promises,” September 24, 2011. See also Fernanda Santos, “Mayor Bloomberg’s Promises for Education: An Annotated Scorecard” NY Times, SchoolBook, Jan. 13, 2012; Juan Gonzalez, “Students lose out at crowded Bx. School,” March 2, 2012.

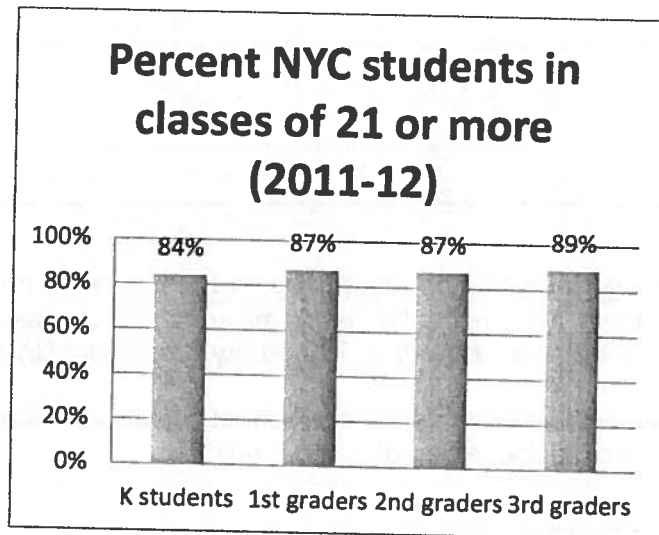
- Transition from the use of Transportable Classroom Units (TCUs), as well as mini-schools over 20 years old, throughout the system.

- Institute class size reduction for Grades K–3 at every elementary school throughout the City.¹⁵

Yet instead, of reducing class size in K-3, class sizes in these grades are now larger they have been at any time in the last 13 years.



Indeed, 84 percent of Kindergarten students, 87 percent of 1st and 2nd graders, and 89 percent of 3rd graders are in classes of 21 or more, exceeding the limits the Mayor pledged would be achieved by 2009.¹⁶



¹⁵ Michael R. Bloomberg, Joel I. Klein “Children First 2005 – 2009 Five-year Capital plan, Proposed 2008 Amendment”, Feb. 2008, p. 32, http://www.nycsca.org/Community/CapitalPlanManagementReportsData/CapPlan/200802_CapPlanAmendment.pdf

¹⁶ These figures are based on the Oct. 31, 2011 figures in the Nov. 15, 2011 class size report, posted at <http://schools.nyc.gov/AboutUs/data/classsize/classsize21512.htm>



CITIZENS UNION OF THE CITY OF NEW YORK
Testimony to the Reports & Advisory Board Review Commission
Regarding Proposed Waivers for Reporting Requirements and Task Forces
May 11, 2012

Good afternoon, Chair Weinstein and members of the Reports & Advisory Board Review Commission. My name is Rachael Fauss, and I am the Policy and Research Manager 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. We work to ensure fair and open elections, honest and efficient government, and a civically-engaged public. Thank you for the opportunity to present our thoughts on the proposed waivers for the commission-identified list of reports and advisory boards.

We are pleased that the Reports & Advisory Board Review Commission (“the Commission”) was formed earlier this year by the city pursuant to the ballot referenda passed by the voters in 2012. We supported the creation of the Commission, recommending its creation during the 2010 charter revision process, and believe that it has the potential to provide for greater efficiency in city government, as well as improve public access to city government information.

A. Public Engagement and Commission Evaluation

Before presenting our recommendations and research on specific reporting requirements, we would first like to commend the Commission for responding to many of Citizens Union’s recommendations regarding public engagement and transparency. The Commission’s work is important to the efficient functioning of city government, yet has the potential to affect various stakeholders and users of city government information; therefore, ensuring that public outreach is maximized is critical to the success of the Commission. We are pleased that the Commission has enhanced its public presence in the following ways:

1. adopting a public comment policy, and committing to post public comment on its website, such as the testimony received at today’s hearing;
2. posting information on its website regarding the Commissioners;
3. linking to the Commission’s website from the Department of Records website;
4. providing a link to the Commission from the main nyc.gov website drop-down menu; and
5. posting copies of reports and information regarding task forces on the Commission website.

Citizens Union recommends that the Commission build on this work to improve its website by:

1. providing on the Commission website the full, current list of all reporting requirements and advisory boards. We recognize that the Commission has linked to the 2010 report of the City Charter Revision Commission, which provides some information regarding reporting requirements, but believe that a more user-friendly listing would be more helpful for the public in making recommendations regarding other task forces and reports that should be altered or eliminated.
2. webcasting its meetings and posting video or transcripts of hearings and its public meetings; and
3. ensuring that the Commission website is linked to from other relevant city agency homepages such as the Mayor's Office of Operations website.

Citizens Union would also like to reiterate some additional suggestions that it has made to the Commission regarding public outreach and its process for vetting reporting requirements. In particular, we urge the Commission to hold additional public hearings beyond the one scheduled today. Given that this Commission was first formed this year, it is likely that the public is largely unaware of it, and additional hearings would allow additional members of the public the opportunity to provide feedback. One hearing is also likely inadequate to publicly vet all 14 reporting requirements and 7 advisory boards regarding their possible modification or elimination. At additional hearings, relevant city agencies could testify regarding their concerns and rationale for the waivers being sought so that concerns raised at today's hearing can be fully vetted.

Prior to holding further public hearings, Citizens Union believes that the Commission should release a preliminary report on the findings from this public hearing and its recommendations for the 14 reports and 7 advisory boards, similar to other city commissions such as the 2010 Charter Revision Commission and City Lobbying Commission. This report should contain further information such as:

1. the manner and scope of the Commission's public outreach;
2. the known usage of reports, such as number downloads of reports that are currently available online;
3. the current availability of reports and whether they are available online, as well as the current contents of the reports and whether they are consistent with what is required by law; and
4. the preliminary rationale regarding the Commission's proposed waivers, including specific reference to all criteria in the law and any additional criteria that were used. It may also be desirable to create a scoring system for evaluating reports and task forces or commissions into the evaluative process to ensure strict adherence to the criteria and reduce subjectivity in the evaluative process.

It is also worth emphasizing that the Commission has the ability to recommend modifying existing reports to make them *more* useful to the public. In vetting reports and advisory boards, particularly after receiving public input, the Commission may receive additional information regarding the utility of reports that points to the need for improving the reports rather than waiving them. In evaluating the usefulness of reports, Citizens Union believes that an additional criterion should be considered: current public availability. Reports may only be as useful to the public as they are aware of their existence.

B. Reporting Requirements

In preparing for today's testimony, Citizens Union spoke to various users of city government information, and reached out to our civic contacts regarding the reports proposed for elimination. During this vetting process, Citizens Union identified seven reports which are currently used or would be used (if published) by members of the public or the City Council.

In summary, Citizens Union recommends that the following reports not be eliminated:

1. Preliminary Mayor's Management Report
2. November Class Size Report
3. Temporary and Non-Standard Classrooms Report
4. Industrial Commercial Incentive Report

Regarding three additional reports, Citizens Union urges the Commission to undertake a more full vetting process, including at least one additional public hearing:

1. Permanent Housing Needs Report
2. Homeless Outreach Report
3. Storm Water Management Plan Report

Our detailed rationale for these reports is presented below.

Reporting Requirements Citizens Union Recommends Not be Waived

Citizens Union is particularly concerned about the elimination of four reports which relate to issues of importance to Citizens Union that we have actively monitored or taken positions on – performance measurement and education – and recommends that the Commission not eliminate the following reports:

1. Preliminary Mayor's Management Report (PMMR)

The Commission's documents indicate that this report is redundant to the Citywide Performance Report (CPR) and the Mayor's Management Report (MMR). The PMMR, however, unlike the Citywide Performance Report, includes narrative explanations for performance data and sets targets for the upcoming months. Additionally, the CPR does not have the same system in place for establishing performance targets as the PMMR does. The CPR is based on comparisons to previous performance, while the PMMR establishes targets for the next fiscal year while measuring agency performance against predetermined targets for the first four months of the current fiscal year. The PMMR is differs from the MMR in that the City Council has used the PMMR during past budget processes to hold agencies accountable for spending related to performance, particularly in budget hearings prior to the release of the Executive Budget. While Citizens Union is actively working with the Mayor's Office of Operations through a roundtable on improving the MMR that may reconcile some of the differences between these performance reports, we believe that the PMMR should not be considered for elimination until that process is completed.

2. November Class Size Report

Class sizes and school overcrowding are important issues for New York City's school children and parents. As highlighted by the Campaign for Fiscal Equity lawsuit, class size is an important indicator of the quality of education. Regarding the Commission's proposal to waive the requirement for November data to be published, the Commission documents have stated that the November report is less "refined" than the February report. Users of the class size reports, however, have argued that the November data is in fact a more accurate account of class sizes, and that the first two months of the year are particularly important months for student learning. By the time of the February count, some students will have either dropped out or been "discharged" to other programs, meaning that the class size measured in February will not give a full picture of class size during the school year.

It can also be argued that the semester-based school system in New York leads to a need for data on class sizes in both the fall and the spring, and that intent of the reporting requirement was to provide this information. Parents are particularly interested in this report, as the November report is an important factor in helping them decide where to send their children to school. The timing of school applications means that parents and students look at the November report for up to date information about the size of classes to inform their decision of where to make applications, which could include both public and private schools. The February report is out after these applications have been made. Given the importance of this report to New York's school children and parents, Citizens Union recommends that this report not be eliminated.

3. Temporary and Non-Standard Classrooms Report

The Commission has stated that the Temporary and Non-Standard Classrooms Report is redundant to the Enrollment, Capacity and Utilization report. The Temporary and Non-Standard Classrooms Report, however, is currently the only report that specifically reports the total number of Temporary Class Units (TCUs or trailers), their capacity, and how many students attend classes in these units or trailers. While the Enrollment, Capacity and Utilization report lists individual TCUs, it does not specifically tally them or provide additional data about classes and enrollment. Advocates have mentioned that this report is the only report that organizations can use to trace the progress in reducing the number of trailers used to educate students in place of regular classrooms. Information regarding the number of students placed in report can also use to measure the school space needed to eliminate these TCUs. The presence of TCUs also relates to the amount of playground space available for schools, as trailers often occupy a school's outdoor play space. A report from Senator Klein's office from 2008¹ revealed that 24% of schools randomly surveyed reported that Temporary Classroom Units occupied the outdoor play space. Given concerns that this report contains information not currently available in other city reports and the concerns of parents regarding this issue, Citizens Union recommends that this report not be eliminated.

¹ Available at: <http://www.nysenate.gov/news/work-hard-play-hardly>

4. Industrial Commercial Incentive Program (ICIP) Report

The ICIP is one of the most expensive economic development subsidy programs in New York City, costing \$623 million in 2011.² The Commission stated in its public documents that this report is not useful because ICIP expired and was replaced with the Industrial and Commercial Abatement Program (ICAP) in 2008. However, previously approved ICIP benefits were not affected by the switch and will still be allowed to run their course, so active ICIP exemptions could still be in place decades from now. Because of the ongoing nature of the program, it is important that the city monitor exactly what benefits the city is receiving.

While the ICIP report has not been published since 2001, it is not actually redundant to the Department of Finance's annual tax expenditure report. The annual tax expenditure report does not mention the number of jobs created through ICIP or the affect of the program on the city, two things that the ICIP report is, under city law, required to contain. Citizens Union has supported performance-based budgeting, and the information required under law for the ICIP would laudably attempt to measure the benefits of the program. This data is unfortunately now missing, because the ICIP has not been published. We therefore recommend that either the reporting requirement not be eliminated, or that the Commission recommend that the current tax expenditure report be modified to require publishing information regarding job creation and the affect of the program on the city.

Additional Reports for Further Consideration

Regarding three additional reports which Citizens Union spoke to users of, Citizens Union has not previously worked on these issues and is less familiar with the policy issues involved, but believe that the concerns of users of these reports should be fully explored by the Commission before it moves forward with recommending their elimination. In particular, we ask that the Commission to closely examine whether these reports are truly redundant, since after discussions with users of the reports, it appears that they are not actually redundant to other reports and that, in some cases, the reporting requirements are not fully being met.

1. Permanent Housing Needs Report

While the Commission is correct in stating that some of the numbers from the "average daily overnight census" online through NYCStat are more useful than the numbers in the report because they are updated more frequently, users of the reports which Citizens Union spoke to indicated that the Permanent Housing needs report is not actually redundant with the "average daily overnight census." The Permanent Housing Needs Report includes much more specific information, such as the exact type of housing needed, and specifically covers NYCHA and HPD housing. Advocates have also argued that the city does not comply with the requirements as required by law for this report, and that the report should be improved.

² <http://goodjobsny.org/resources-tools/industrial-commerical-incentive-program>

2. Homeless Outreach Report

Users of the Homeless Outreach Report which Citizens Union spoke with indicated that this report has been useful and not actually redundant to the Mayor's Management Report, as stated by the Commission. The Outreach Programs Report is published four times a year, and thus is published far more frequently than the MMR. The MMR also does not cover everything specified in the Outreach Programs Report – the number of contacts, placements, and referral made – and so is not as useful for groups concerned with homelessness. As with the Permanent Housing Needs Report, advocates have noted that the city does not comply with the legal requirements for this report, and that the reports as currently released could be improved.

3. Storm Water Management Plan Report

The Commission believes that this report should be eliminated because it is redundant to the NYC Green Infrastructure Plan, and that it is no longer useful because the Sustainable Water Management Plan only included milestones through 2010. However, users of the Sustainable Water Management Plan indicated to Citizens Union that it must be updated every four years and has set very broad goals, so reporting on the progress of the city in achieving these goals would still be useful. The current SWMP plan actually extends through to 2014, and in 2014, new milestones will be set to cover the next four years. Additionally, users of the report indicated to Citizens Union that the Green Infrastructure Plan only focuses on a certain type of sewage and thus only applies to about half of the city, whereas the Storm Water Management Report is much broader and applies to the entire city.

Need for Additional Public Vetting and Hearings

Given the concerns indicated to Citizens Union by users of the various reports, Citizens Union believes that at least one additional public hearing is necessary to ensure that the views of all stakeholders and users of city reports are heard and taken into consideration. Additionally, we believe the Commission should release a preliminary report, as described previously, listing more specifically the criteria that were used in making the determinations for waivers and providing more detailed information about the redundancies identified, particularly given the concerns of users that the information may not actually be redundant in some cases, or that the information is not currently provided as required by law.

Citizens Union would also like to request that the Commission make more information available regarding the procedural mechanism that will be used for waiving the reporting requirements. We are particularly interested in this aspect as we are concerned that the redundancies identified may not be in place in the future if data made available by agencies in other reports changes over time. The data included in the Citywide Performance Reporting and the Mayor's Management Report, for example, are not required by law, as they are the result of identification of metrics and goals by city agencies. The Commission identified several reports that were redundant to the CPR and MMR, such as the Outreach Programs Report. The Commission therefore may want

to examine ways that it can track the availability of information over time for reporting requirements that are waived because of redundancy to other reports to ensure that the information continues to be provided in the same form.

C. Advisory Boards

Stakeholders Citizens Union spoke to did not voice opposition to waivers for the seven task forces and advisory boards identified by the Commission for waivers, though it should be noted that Citizens Union did not do an exhaustive review. Given that these boards are interagency bodies without public representatives, they can be considered more the purview of the administration – with the involvement of the City Council – to determine whether they add value to agency operations. Citizens Union recommends, however, that additional hearings be held to ensure that the bodies proposed for elimination are not useful and are truly redundant.

Thank you for the opportunity to present Citizens Union's thoughts on these issues. I am available to answer any questions that you have at this time.

Testimony of
Coalition for the Homeless

on

**Department of Homeless Services
Reporting Requirements**

Presented before
The New York City Report and Advisory
Board Review Commission

Giselle Routhier, Policy Analyst
Coalition for the Homeless

May 11, 2012

Coalition for the Homeless welcomes this opportunity to testify before the Reports and Advisory Board Review Commission regarding whether the Commission should waive reporting requirements for two homeless-services related reports.

About the Coalition for the Homeless: Coalition for the Homeless, founded in 1981, is a not-for-profit advocacy and direct services organization that assists more than 3,000 homeless New Yorkers each day. The Coalition advocates for proven, cost-effective solutions to the crisis of modern homelessness, which now continues past its third decade. The Coalition also struggles to protect the rights of homeless people through litigation around the right to emergency shelter, the right to vote, and appropriate housing and services for homeless people living with mental illness and HIV/AIDS.

The Coalition operates twelve direct-services programs that both offer vital services to homeless, at-risk, and low-income New Yorkers, and demonstrate effective, long-term solutions. These programs include supportive housing for families and individuals living with AIDS, a job-training program for homeless and formerly-homeless women, a Rental Assistance Program which provides rent subsidies and support services to help working homeless individuals rent private-market apartments, and apartment buildings in Manhattan which provide permanent housing for formerly-homeless families and individuals. Our summer sleep-away camp and after-school program help hundreds of homeless children each year. The Coalition's mobile soup kitchen distributes 900 nutritious meals each night to street homeless and hungry New Yorkers. Finally, our Crisis Intervention Department assists more than 1,000 homeless and at-risk households each month with eviction prevention assistance, client advocacy, referrals for shelter and emergency food programs, and assistance with public benefits.

The Coalition also represents homeless men and women as plaintiffs in Callahan v. Carey and Eldredge v. Koch. In 1981 the City and State entered into a consent decree in Callahan in which it was agreed that, "The City defendants shall provide shelter and board to each homeless man who applies for it provided that (a) the man meets the need standard to qualify for the home relief program established in New York State; or (b) the man by reason to physical, mental or social dysfunction is in need of temporary shelter." The Callahan consent decree and Eldredge case also guarantee basic standards for shelters for homeless men and women. Pursuant to the decree, the Coalition serves as court-appointed monitor of municipal shelters for homeless adults.

Reports to be Waived

The Report and Advisory Board Review Commission has recommended that two citywide reports on homelessness be waived. These reports were established by Local Law 19 of 1999 to provide valuable data on homeless services, including projected permanent housing needs and homeless outreach monitoring. The data provided in these reports are an important tool in analyzing and evaluating how New York City is providing services to its homeless population.

For both reports, a number of indicators are required to be published. Under the Permanent Housing Needs Report, the Commissioner of the Department of Homeless Services must

report to the speaker of the council in writing on the permanent housing and the transitional housing and services, respectively, projected to be needed to house homeless families and individuals Such annual report shall include... the sources, including... the department of housing preservation and development and the New York City housing authority, from which the commissioner of homeless services projects to meet the permanent housing [need] during such fiscal year and the number of permanent housing to be provided by each source.

This data gets at the heart of how the Department is addressing homelessness by identifying the projected shelter and permanent housing needs for each coming year. Indeed, such numbers would be helpful as a projection tool looking forward, but also, looking back on past reports, as a way to evaluate performance and adjust future projections.

The second report recommended for waiver, the Outreach Programs Report, requires the Department of Homeless Services to:

report to the speaker of the council in writing on the outreach programs operated by the department, by other city agencies or by entities contracting with the department. Such report shall include, but not be limited to, the number of contacts during the reporting period, the number of placements in transitional housing resulting from such contacts during the reporting period and the number of referrals of persons so contacted to programs or services during the reporting period.

The indicators in this report are highly valuable in assessing how the Department of Homeless Services is addressing street homelessness. Contracted providers are indeed currently required to keep track of this information, but providing it in a publicly accessible and unified format is what makes it useful for analysis and comparisons over time.

Valuable Indicators and Current DHS Reporting

The continued existence of these reports is important for several reasons. First, nowhere else are these specific indicators required by law to be reported. They are not included in DHS's most comprehensive public database, the Critical Activities Reports, or in the recently passed Local Law 37 Reports on NYCStat. Allowing the reports to lapse would risk DHS no longer tracking and reporting the data anywhere else.

Secondly, DHS has a shoddy record of providing data in a timely fashion without deadlines set by law. In May 2012, the latest Critical Activities data to be found on DHS's website was from June 2011—nearly a year out of date. At the same time, Local Law 37 Reports, which provide a narrower set of census-only data, are updated on a monthly basis.

Current State of Reports

Rather than discontinuing these reports, the Commission should require DHS to actually comply with the letter of the law within these reports. As they stand, the current reports gloss over or omit entirely some of the most important required information.

Compared to a comprehensive 10 pages documenting shelter capacity, the Permanent Housing Needs report utilizes just two paragraphs to report actual permanent housing needs. Moreover, this section entirely ignores permanent housing projections for families, offering no numbers for projected placements and no numbers for utilization of HPD and NYCHA units.

Likewise, the Outreach Programs Report omits nearly all of the indicators required by the law, reporting only on the number of chronically homeless individuals placed into permanent or temporary housing. The report omits the total number of outreach contacts, the breakdown between permanent and temporary housing placements, and the number of referrals to programs or services.

Recommendations

The goal of this commission is to waive reports that are considered redundant or no longer useful. However, neither of these DHS reports falls under this categorization. The data they are required to report are valuable for analyzing how New York City addresses homelessness. Moreover, the data cannot be found publicly anywhere else, including in the Critical Activities Reports, the Mayor's Management Reports, or the Local Law 37 Reports.

The real problem lies in the actual substance of the reports, which omits a substantial portion of required data. We therefore urge the Commission not to waive reporting requirements for either the Permanent Housing Needs Report or the Outreach Programs Report. Instead, we recommend that the Commission make sure the Department of Homeless Services actually complies with the letter of the law when creating and disseminating these particular reports.

Thank you for the opportunity to share this testimony. We look forward to working with the Committee on efforts to better report data on New York City homelessness.

Submitted by,

Giselle Routhier
Policy Analyst
Coalition for the Homeless
129 Fulton Street
New York, NY 10038
Tel: 212-776-2004
grouthier@cfthomeless.org

DISTRICT OFFICES

- 751 W 183RD STREET
NEW YORK, NY 10033
212.928.1322
FAX 212.928.4177
- 425 W 144TH STREET
NEW YORK, NY 10031
212.234.0551
FAX 212.234.0552

CITY HALL OFFICE

- 250 BROADWAY, ROOM 1747
NEW YORK, NY 10007
212.788.7007
FAX 212.788.9190
- rjackson@council.nyc.gov
www.council.nyc.gov

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**Testimony before the Report and Advisory Board Review Commission
May 11, 2012**

Good afternoon, distinguished members of the Commission. I am Robert Jackson, Council Member for the 7th District in Manhattan and Chair of the City Council's Education Committee. Today you are considering the elimination of two reports required by City law that the Department of Education (DOE) finds unnecessary and burdensome to produce: the Class Size Report and the Temporary and Non-Standard Classroom Report. I want to thank you for this opportunity to share my serious concerns about the proposed elimination of these two reports.

As Chair of the Council's Education Committee, I know first-hand how difficult it can be to get basic information and data from the DOE. Often, the Committee has had to wait weeks or months for responses to requests for information. Timely responses to information requests are even harder to come by for advocates, researchers, parents and other members of the public. In many cases, advocates and even the Council have had to file FOIL requests to get information that should be publicly available.

Both of the DOE reports being considered today provide information on topics that are of great concern to parents and the public, and both are the result of laws that were passed at the behest of parents and advocates. In fact, class size has consistently ranked as the #1 parental concern in the DOE's own annual parent survey.

The Class Size Report is required pursuant to Local Law 125 of 2005, which requires the DOE to report average class sizes for each grade level citywide, as well as for every school, district and borough. The reports are required twice annually, on or before November fifteenth and February fifteenth of each year. Prior to enactment of Local Law 125 the public and policymakers did not have access to accurate and timely class size data, information which is critical in determining whether funding earmarked for class size reduction is being used appropriately. In fact, a 2006 audit by the State Comptroller found that DOE had not used Early Grade Class Size Reduction funding effectively to reduce class sizes, a problem that continues to this day.

Accurate and timely class size data is just as essential now as it was then, and there are important reasons why reporting is requested two times per year. The November report contains class size data

based on the October 31st register, more than a month and a half into the school year, and the date when enrollment numbers are considered official by DOE. This provides an important view of class sizes fairly early in the school year, when it is of greatest interest to parents and advocates, so that they can push to have large classes reduced. The February report is based on enrollment information as of January 30th, reflecting changes due to students being discharged, dropping out, graduating or moving from one school to another. It was particularly intended to reflect class sizes in high schools which change from the fall semester to the spring. Some of NYC's high schools are severely overcrowded and when selecting a high school for their child, parents have the right to know which schools can comfortably accommodate their children - they shouldn't have to guess. The average class sizes reported in February are generally smaller than those in the November report, sometimes lower by as much as 1 to 2 students per class, especially at the high school level. These mid-year enrollment changes in high schools result in some teachers being excessed and cause principals to make mid-year budget adjustments. Some advocates contend that the primary reason DOE wants to eliminate the November report is to make only the lower, February class sizes public, but that would not provide a true picture of classroom conditions throughout the school year.

The Temporary and Non-Standard Classroom Report is required pursuant to Local Law 122 of 2005, which requires the DOE to report to the City Council annually the number of "non-standard" classrooms in the system, disaggregated by school, district, council district and borough, and the number of students receiving instruction in these spaces. Used as a means to help deal with overcrowding, non-standard classrooms include temporary, "transportable classroom units," as well as classrooms located in a space that was not designed for academic instruction when built. Since DOE found it too difficult to provide information about classrooms located in spaces that were not originally designed for instructional use, the report only contains information on transportable classroom units, known as TCUs. DOE is claiming that this report is redundant because information about TCUs is contained in its Enrollment, Capacity and Utilization Report, also known as the Blue Book. However, the information on TCUs in the Blue Book is difficult to find, hard to understand and much more limited in scope than what is provided in the Temporary and Non-Standard Classroom (TCU) Report. The Blue Book does not reveal how many classrooms are contained in transportable units, nor what grade or type of instruction they are used for – only the TCU Report provides that data. Moreover, the Blue Book contains hundreds of pages that you would need to search through to find far less information than is provided in the concise, 20 or so pages of the Temporary and Non-Standard Classroom Report.

The DOE also says that the Temporary and Non-Standard Classroom Report is not "useful" as it does not help DOE assess resource management. I don't know how useful it is to DOE, but I can tell you that it is very useful to parents, advocates and especially the City Council in allocating funds to address the capital needs of schools and in monitoring DOE's efforts to address overcrowding. One of DOE's goals in the 2005-2009 Five Year Capital Plan was to eliminate use of TCUs altogether. Because of this report, we can see that the number of TCUs has fluctuated only slightly over the years – from 368 TCUs in 2005-06 to 363 TCUs in 2010-11 – showing that DOE remains very far from reaching that goal!

The bottom line is that both reports are essential to shaping policy, budget and capital decisions and both are of enormous interest to the public. In fact, according to information posted on the Commission's website, the only public comments you received between April 20th and May 3rd dealt with these two reports. There may, indeed, be some agency reports that are redundant, non-useful or unnecessary, but these two reports are still very necessary! I ask you to reject the request for waivers for both the Class Size Report and the Temporary and Non-Standard Classroom Report. Thank you for your consideration.



Elizabeth Weinstein
Chair
Report & Advisory Board Review Commission
Mayor's Office of Operations
253 Broadway, 10th Floor
New York, NY 10007

Dear Chair Weinstein,

Thank you for the opportunity to comment, on behalf of the Stormwater Infrastructure Matters Coalition (S.W.I.M.), on the proposal to waive the requirements that the City update once every four-years (including by December 1 of this year), and bi-annually report progress to the City Council on, the city's Sustainable Stormwater Management Plan ("SSMP"). We urge the Commission to reject this proposal.

S.W.I.M. is a coalition of over 70 organizations dedicated to ensuring swimmable and fishable waters around New York City through natural, sustainable stormwater management practices – called Green Infrastructure – in our neighborhoods. (See www.swimmablenyc.info for more information about SWIM and green infrastructure.) S.W.I.M. was instrumental in passing Local Law 5 of 2008 ("LL5," codified at NYC Admin. Code § 24-526.1), which required development of the SSMP and established the ongoing requirements to report progress on, and update the contents of, the plan. Members of the S.W.I.M. Coalition worked with Councilman Gennaro, the lead sponsor, in drafting the language of the bill and the Coalition's wide membership advocated for the bill. (See <http://swimmablenyc.info/?p=135>.)

The Coalition is incredibly proud that LL5 and the SSMP, which was first issued in Dec. 2008, laid the essential groundwork for the Department of Environmental Protection's 2010 Green Infrastructure Plan (GI Plan), which has helped make New York City a national leader in using green infrastructure to cost-effectively reduce sewage overflows while improving community health and neighborhood livability.

While the GI Plan now provides a blueprint for much of the effort necessary to fulfill the vision of sustainable stormwater management in New York City through green infrastructure, the SSMP is broader in many important respects than the GI Plan, as detailed below. We fully support efforts to eliminate redundancy in reporting and to improve efficiency within the City agencies. However, the broader elements of LL5 and the SSMP, which are not duplicated elsewhere, would be lost if the requirements to update and report progress on the SSMP is eliminated. Instead, without the need for any action by this Commission, the City can readily adjust its reporting practices to avoid duplicative efforts and comply with all existing requirements.

According to the minutes of the Commission's February 28, 2012 meeting (http://www.nyc.gov/html/rabrc/downloads/pdf/draft_public_meeting_minutes_and_presentation_28_2012_v2.pdf), the proposal to eliminate the reporting requirements associated with the SSMP was based on the premise that such reporting only involves bi-annual status reports; that such reporting is "redundant" to the GI Plan; that the SSMP "only included milestones through 2010". None of these is correct.

In fact:

- LL5 requires not only a biennial status report on implementation of the SSMP, but also a once-every-four-year update to the plan;
- The existing version of the SSMP includes initiatives on which progress is not required to be reported publicly under the GI Plan or any other plans;
- The existing version of the SSMP includes initiatives with milestone dates beyond 2010, as well as many initiatives that warrant updated milestones; and
- The SSMP overlaps with, but is broader than, the GI Plan in important ways, not the least of which is that the SSMP covers the entire city, whereas the GI Plan covers only the approximately 50% of the city that is served by a “combined sewer system.”

There is no dispute that the underlying goals of LL5 remain as valid today as they were when City Council passed the law and Mayor Bloomberg signed it. Likewise, everyone can agree that no City staff or official should spend his or her time preparing duplicative reports. Indeed, S.W.I.M. fully support this Commission’s charge to eliminate such duplication, so that taxpayer resources can be deployed efficiently to the hard work of improving the performance of City programs. Just as firmly, however, we believe it is clear that no existing requirement of LL5 needs to be “waived” to avoid such duplicative efforts and, conversely, that waiving those requirements would undermine the goals of LL5 itself.

To the extent that LL5’s requirements overlap with the content of reports and plans the City (or DEP) will be preparing independently – e.g., in connection with the GI Plan, PlaNYC, or any other relevant reporting – the requirements of LL5 can be partially satisfied by including cross-references to such other reports and plans in the LL5-mandated reports and plan updates that are submitted to City Council. Where LL5’s requirements go beyond the scope of such other reports and plans, it is essential that the City does continue to expend additional effort tracking and reporting (a laudable hallmark of the Bloomberg Administration), and updating the SSMP itself, as provided by LL5.

For all of these reasons we urge the Commission to reject the proposal to eliminate reporting requirements associated with the SSMP. Our further detailed comments follow below:

Difference in the geographic coverage of the SSMP and the GI Plan

It is true that large portions of the SSMP are now duplicative of the GI Plan and the annual reports under the GI Plan. For example, many of the initiatives in the SSMP, particularly those led by the NYC Department of Environmental Protection, are reported in the GI Plan 2011 Update. For these initiatives, we believe there is no need for a separate report under the SSMP. However the two plans do not completely overlap. The SSMP is a comprehensive citywide plan for managing stormwater. As such it covers the areas of the City that are served by separate storm sewers or that are unsewered (see http://www.nyc.gov/html/dep/html/stormwater/sewer_system_types.shtml) as well as the areas served by the combined sewers. Apart from the SSMP, there is no other public reporting or planning process that is required to comprehensively address the non-combined sewer portions of the city. (We note that, for several years, DEP and the NYS Dept of Environmental Conservation have purportedly been discussing a new Clean Water Act permit to address the separately-sewered areas of the city. Requirements in the current permits are decades out of date. After a new permit is adopted, cross-references to the compliance and progress reports developed pursuant to that permit’s requirements

will, undoubtedly, provide an efficient means of meeting much of the City's reporting obligations to the City Council under LL5 that are would not be met via the contents of reporting on the GI Plan. However, given the years of delay so far in developing the new permit, it is unknown when this will occur.)

Milestones and the SSMP timeframe beyond 2010

The SSMP Progress Report 2010 lists the status of the milestones for completion by October 1, 2010. While many initiatives in the SSMP2008 were to be completed by October 1, 2010, some initiatives have a longer time horizon and are not included in the GI Plan. These include, for example:

- NYC Plaza Program is slated to create six new plazas every year.
- Various road reconstruction projects (Albert, East Houston, Aster Place, and Atlantic Avenue) have milestone dates in 2012.
- Belt Parkway Bridges are planned for completion in 2014.
- Ballfield source control pilot is planned for completion in 2014.
- Analysis of stormwater capture in separate sewer areas missed its milestone date of July 1, 2009.

Status of these projects are reported in the SSMP Progress Report 2010 but it is not clear that they would be included for future reporting under the GI Plan alone, since these are projects led (and, it appears, funded) by agencies other than the DEP.

LL5 requirement for review and revision

Local Law 5 2008 specifically calls for a review and revision of the SSMP every four years. This requirement was included because Green Infrastructure was a relatively new concept at the time and allowing for revisions along the way would be most prudent. For instance, monitoring demonstration projects is an important SSMP component that provides a feedback loop to other initiatives in the plan. Moreover, in the GI Plan, the City has re-affirmed that long-term, continuous "adaptive management" must be a cornerstone of a green infrastructure approach to stormwater management. Although many of the SSMP initiatives that had October 1, 2010 milestones were met, some of these initiatives warrant revisions or updates. After all, milestones are metrics for measuring progress towards a goal, they not, themselves, the ultimate goals of a plan or program.

Some of the SSMP milestones that need revisions/updates include:

- Sidewalk standards, road reconstruction, and explore maintenance options whose 2010 milestone was to convene an interagency working group;
- Low- and medium-density residential, whose 2010 milestone was to "collect knowledge from building industry experts and manufacturers and continue researching solutions to technical and funding challenges";
- Green sector employment, whose 2010 milestone was to "release final report."

These are initiatives that will not necessarily be integrated into the GI Plan, because they are not solely CSO related, and clearly need to move to the next phase beyond the original milestones. The activities of the interagency working group must continue with perhaps new set of objectives that are aligned with the current state of Green Infrastructure implementation. Technical and funding challenges continue to remain challenges that require research and consultation with appropriate sectors. Finally, a

final report on the green sector employment must be followed up by an action plan or an implementation plan.

Coordination by the Office of Long Term Planning and Sustainability

Sustainable stormwater management is a multi-agency effort that requires participation of the private sector. The Mayor was wise in designating the Office of Long Term Planning and Sustainability (OLTPS) to develop the SSMP rather than the NYC Dept of Environmental Protection. In the SSMP there are many initiatives under the leadership of the OLTPS, which is best suited to coordinate multiple city agencies. Eliminating the SSMP may be seen as diminishing the role of the OLTPS, which may adversely impact the interagency cooperation required to implement many of the plan initiatives. We believe the OLTPS serves a critical function in coordinating a myriad of sustainability initiatives implemented by multiple agencies around the City. We are wary of proposals that potentially diminish the role of the OLTPS in such an important facet of PlaNYC as sustainable stormwater management.

Furthermore, accountability, data driven policies, and information dissemination are the hallmarks of the Bloomberg Administration. Reporting on the initiatives of the SSMP should remain a commitment until or unless every initiative in the SSMP is incorporated into other plans that require frequent reporting and updating.

* * * * *

We commend the Bloomberg Administration and City Council for having taken on the important work of making our City sustainable using innovative and comprehensive approaches such as green infrastructure. We are here to assist the City in ensuring that this legacy lives on – and that long-term (i.e., decades-long) programs achieve ultimate success – beyond the terms of Mayor Bloomberg and current Members of the Council. We, therefore, urge the Commission to reject the proposal to eliminate requirements concerning the SSMP.

Please feel free to contact us if you have any questions at swimmablynyc@gmail.com.

Sincerely,



Jaime Stein
Director, M.Sc. Urban Environmental Systems Management
Pratt Institute

One behalf of:
S.W.I.M. Coalition Steering Committee

Shino Tanikawa
New York City Soil & Water Conservation District
Rob Crauderueff
S.W.I.M. Coalition
Kate Zidar
Newtown Creek Alliance

Lawrence Levine

Natural Resources Defense Council

Phillip Musegaas

River Keeper

Dawn Henning

Rocking the Boat

Tatiana Morin

New York City Soil & Water Conservation District

Robin Kriesberg

Bronx River Alliance

Paul Mankiewicz

The Gaia Institute

cc: D. Bragdon, Director, OLTPS
C. Strickland, Commissioner, NYCDEP
J. Gennaro, Chair, NYC Council Committee on Environmental Protection
Members of the NYC DEP Green Infrastructure Steering Committee¹

¹ Members listed at http://www.nyc.gov/html/dep/html/stormwater/nyc_green_infrastructure_outreach.shtml

COMMUNITY BOARD 7 Manhattan

May 10, 2012

Hon. Elizabeth Weinstein
Chair, Report and Advisory Board Review Commission
Director Mayor's Office of Operations
City Hall
New York, NY 10007

Re: Potential Waiver of Reports Nos. 2 and 11

Dear Commission Members:

Thank you for the opportunity to follow-up on the voter's choice to review and assess the usefulness of certain agency reports.

On behalf of Community Board 7/Manhattan, we ask that you please reconsider the recommendation to waive or partially waive the Class Size Report (item 2) and the Temporary and Non-Standard Classroom Report (item 11). Both Reports speak to the growing and consistent overcrowding of schools in our District (Community District 7/School District 3) over the past five or more years and the capacity issues we anticipate in the future. Obtaining timely and accurate information of the type contained in these Reports is already difficult. Eliminating them would make it even more difficult to obtain information needed for review, proper accountability and planning.

The Class Size Report (item 2) is needed twice a year for accuracy for our Board, the Community Education Councils, and for parents to be able to make informed decisions for their children. Class sizes change throughout the year due to family shifts, transfers and discharges. A Report both at the beginning and middle of the school year is an important tool to keep track of those changes and address potential problems with enrollment and school population shifts.

The Temporary and Non-Standard Classroom Report (item 11) is another tool to let the public know how capacity issues are addressed City-wide. It has been our experience in CB7/CSD3 that "Temporary" classrooms have been anything but -- with one school in our District having temporary trailers in service for more than 10 years beyond their useful life. As far as we have been able to determine, this Report is the only reliable source data available on the number and use of trailers as classrooms.

As overcrowding issues grow throughout districts in the city, these sources of information are essential to ensure that those seeking consistent and rigorous accountability from the Department of Education have the best information possible. Even a partial waiver of either of these Reports will result in less accessibility to this critical information.

250 West 87th Street New York, NY 10024-2706
Phone: (212) 362-4008 *Fax:*(212) 595-9317
Web site: nyc.gov/mcb7 e-mail address: office@cb7.org

We respectfully urge you to reject any waivers of these Reports and allow parents and the public continued access to information needed as they work to insure the proper use of our facilities and the quality education all NYC public school children deserve.

Sincerely,

Handwritten signature of Mark N. Diller in black ink, featuring a stylized 'M' and 'D'.

Mark N. Diller
Chair, CB7

Handwritten signature of Marisa Maack in black ink, written in a cursive style.

Marisa Maack
Chair, CB7 Youth, Education & Libraries Committee



50 Broadway, 29th Floor
New York, NY 10004

T 212 631 0886
F 888 370 3085

www.ALIGNny.org

Thank you for giving me the opportunity to speak today on the discontinuation of certain reports and advisory boards created through the City Charter and administrative code. My name is Josh Kellermann and I work at ALIGN: The Alliance for a Greater New York. We are a nonprofit labor-community coalition that works to create good jobs, vibrant communities and an accountable democracy for all New Yorkers.

The Report and Advisory Board Review Commission has an important job to do: reduce redundant reporting and advisory boards. This goal, however, must be balanced against the need to have an open government that citizens and citizen groups can participate in and influence in a meaningful way. Some of the reports that today are threatened with being cut are key to transparent government and citizen participation and the Commission should not only retain these reports, but advocate to strengthen and deepen the information provided.

I will focus today on reporting on the Industrial and Commercial Abatement Program (ICAP), formerly known as the Industrial and Commercial Incentives Program (ICIP), which is one of the largest economic development programs in New York City, yet receives very little attention, in part because of opaque reporting.

ICIP ended in 2008 and was replaced with ICAP. Previously approved ICIP benefits were not affected by ICAP and hundreds of businesses continue to receive ICIP benefits and will continue to do so for up to two decades in the future. The property tax abatements can last up to 25 years for these as-of-right programs. In addition, ICAP is now up and running and the total cost of these programs combined approaches \$700 million annually.

The City is mandated to produce a detailed report on the ICIP and ICAP programs. It currently does not do this and has not since 2001. The NYC Department of Finance (DOF) reports on ICAP, but its report is entirely inadequate. The DOF report fails to provide adequate information in the following ways:

- It does not provide the name of the recipient of the tax abatement, only the address and the block and lot.
- It does not provide the amount of the exemption for each property.
- It does not indicate the eligibility factors and whether the property remains in compliance with those factors.
- It does not provide data over the life of the program, but only a yearly snapshot. Also, prior years' data is unavailable.
- It does not track job creation or retention.
- The DOF is not required to produce this report, and therefore there is no assurance that the reporting will continue in the future.

The taxpayers of New York City deserve a detailed accounting of nearly \$700 million in foregone tax revenue. This is \$700 million in tax revenue that does not go into the City's general fund to pay for the services and programs on which we all depend. We, as taxpayers, have the right to know exactly how this money is spent.

The Commission should strongly recommend that the mandated City report be continued and strengthened. Given the technology we have available, and given that the information we are requesting is already collected by the City, it should be easy to report it in an accessible database. The NYC Industrial Development Agency (IDA) provides detailed reporting on its tax expenditures based on Local Law 62 of 2011. The NYC IDA provides this data despite spending only \$72 million in net tax exemptions in 2011, which is just 10% of ICIP spending.

City reporting on ICIP and ICAP needs to move into the 21st century in relation to transparency and accountability. Data should be annually reported in a non-proprietary database and reporting should include, at a minimum, the name of the recipient, the address of the site, the eligibility requirements that the recipient has to meet to receive the subsidy and whether it continues to comply with such requirements, the amount of subsidy received, the schedule for receipt of that subsidy, and the jobs created on the site.

Combined, ICIP and ICAP represent the largest economic development programs in NYC. As such, ICIP and ICAP should be fully transparent to all New Yorkers.

Thank you for your consideration.

Testimony of Henry Garrido
Associate Director, District Council 37, AFSCME, AFL-CIO
Submitted to the Report and Advisory Review Board Commission
May 11, 2012

Good afternoon. My name is Henry Garrido. I am the Associate Director of District Council 37, New York City's largest municipal union, representing 120,000 public employees and over 55,000 retirees.

I am submitting these comments today to register District Council 37's strong opposition to a proposal by the Report and Advisory Board Review Commission ("the Commission") to waive 21 reporting requirements and advisory boards.

District Council 37 is a longtime, unwavering advocate and supporter of openness and transparency in government, especially as it relates to how government spends our money. We have always supported strong reporting requirements, particularly when they involve awarding tax benefits to private entities.

This Commission proposes to waive the reporting by the Industrial and Commercial Incentive Program (renamed since 2008 as the Industrial and Commercial Abatement Program or ICAP). This program, in the description contained in its last annual report dated May 30, 2001 "...is designed to stimulate economic development through new construction, modernization, rehabilitation or expansion of industrial and commercial structures by offering property tax exemptions and, for industrial projects only, tax abatements." The program was created in 1984.

The ICAP and its predecessor ICIP, which has awarded many millions, perhaps hundreds of millions of dollars worth of tax exemptions and tax abatements since its founding, is operating right now, as it has been for many years, with little or no oversight and accountability. The most recent annual report for the program is dated May 30, 2001!

That's over a decade of giving public tax benefits to private entities, with little or no oversight.

How can a program that annually awards millions of our hard-earned taxpayer dollars go over a decade with no public, formal accounting of what it has done? What were the goals of the program? How many jobs were created? Where? How much public money has been given to the program's beneficiaries? What is the value of the tax benefits these entities have received? We cannot answer those questions today and will not be able to do so in the future because right now we have no public accounting or oversight of the program.

What the ICAP program needs is not a waiver from reporting requirements but strong, statutorily mandated oversight, including publicly released annual reports. We are adamantly opposed to waiving reporting requirements for ICAP. The City has been shamefully irresponsible in not reporting to the public how this program and others like it spends our tax dollars and awards tax breaks, and it has got to stop.

In addition to proposing the elimination of reporting requirements for ICAP, the Commission also proposes the elimination of many other reports. For example, the Commission proposes the discontinuance of the Preliminary Mayor's Management Report (issued annually). This report provides a mid-year snapshot of agency performance across all Mayoral agencies. This is an important document. It helps the City Council, public employee unions, the public, the press, and other stakeholders determine how well Mayoral agencies are doing their jobs providing the services the public needs and expects.

There is an enormous amount of useful data contained in this report. How many children's needs are being met by the Administration for Children's Services agency? How many ambulance tours are being provided to meet public needs? How safe are our streets? These are just a few of the questions that this report helps to answer. How are we to know how well line agencies are doing their job in the absence of formal, mandated reports?

Eliminating, or weakening to the point of irrelevance reporting requirements for agencies that serve the public and eliminating the ability to monitor and oversee programs that dole out millions of dollars annually of public funds and tax benefits is a terrible idea, it is extremely shortsighted. It is extremely irresponsible. New Yorkers need to have strong accountability and oversight where public dollars are involved. We strongly oppose the Commission's proposal here today. Thank you.

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