



Public Testimony of

**Gino Menchini, Commissioner,
Department of Information Technology and Telecommunications;**

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Special Counsel to Mayor Michael R. Bloomberg**

**Before the NYC Campaign Finance Board
Public Hearing on Implementation of the 1998 Charter Amendment**

April 5, 2005

Good afternoon. My name is Anthony Crowell, and I am Special Counsel to Mayor Michael R. Bloomberg. With me today is Gino Menchini, Commissioner of the New York City Department of Information Technology and Telecommunications (DoITT), and Teryn Moore, Director of DoITT's Office of Strategic Technologies. Thank you for the opportunity to testify before you today.

In a few minutes, Commissioner Menchini will be unveiling an important development in our efforts to provide the Campaign Finance Board (CFB) with electronic, Web-enabled data on City contractors. For the last five months, Commissioner Menchini has been spearheading this initiative, and we are pleased to announce that later this week, we expect that the City's VENDEX database will be "live" on the Web, accessible by all members of the public, journalists, candidates, and Board members and staff. The database is a ground-breaking achievement that allows us to ask, "How can this information be used by the CFB to begin fulfilling the mandate of the 1998 Charter amendment?" This question puts New York City at the forefront of the national effort to diminish the pernicious influence of "pay-to-play" campaign contributions. Commissioner Menchini will be demonstrating how the database works, and we will discuss the significant new possibilities it creates, as well as its limitations.

Before turning to this exciting project, I would like to take a few minutes to discuss the now urgent issue that we raised in our January testimony: that of disclosure of contributions by those doing business with the City. As you know, the referendum passed by City voters in 1998 requires candidates in the campaign finance program to disclose which of their contributors do business with the City, and it grants the CFB the authority to restrict or prohibit such contributions. As we said in January, we respect the CFB's concern that it may be too late to impose restrictions or prohibitions on such contributions for the 2005 election cycle, but we believe that strides can and should be made towards realizing the Charter's disclosure mandate this year.

At January's hearing, we proposed, consistent with the language of the Charter mandate, that, for this election cycle, the Board require candidates participating in the campaign finance program to ask their contributors whether they do business with the City, just as they ask them for employer information. Board members seemed very receptive to this modest proposal, and no doubt the intervening months have provided Board members and staff ample time for discussion and consideration. CFB staff has expressed the concern that such a question may intimidate contributors who may be giving only \$10 or \$20. To address this concern, we are proposing that the universe of contributors affected by this rule be narrowed to contributions above a threshold amount, perhaps \$100 or \$200.

We believe that this approach warrants your support. You may choose to exempt small campaigns – which, for reporting requirements, the CFB currently defines as those that raise or spend less than three times the contribution limit. We support any rule that exempts small campaigns, whatever that threshold may be, but we believe it should not be set as high as \$500,000, which was first proposed in the CFB's 1999 draft rules. Alternatively, the CFB may consider exempting all City Council candidates.

If the CFB exempts Council candidates, it should consider requiring winning Council candidates to obtain and file this information after the election. Under this

scenario, Councilmembers-elect would be required to make a good faith effort to contact each contributor who donated more than the threshold amount and obtain from them information about whether they do business with the City. If the CFB were to pursue this route, it makes sense to allow Council candidates to collect this information contemporaneously; the option, it seems, should be theirs.

Later, I will discuss how a question to contributors might be structured but, now, let me turn to the new Vendor Information Exchange System, known as VENDEX, the primary database for City contracts. VENDEX stores information for New York City's franchises, concessions, and for many, but not all, contracts and subcontracts held by vendors who do more than \$100,000 in annual business. The new Web version of VENDEX includes this basic information about who holds or held City contracts and the worth of those contracts. However, as you will also see, the information on each company's principals is limited. For instance, while the CEO of a company may be listed in VENDEX, generally speaking, most senior level personnel and managers are not. Commissioner Menchini and Teryn Moore will walk you through a brief demonstration of the new system.

[Demonstration and discussion.]

COMMISSIONER MENCHINI

This initiative has been a large undertaking, with many hours devoted to it by many talented DOITT staff members, and I want to thank everyone at DOITT and at the Mayor's Office of Contract Services who worked together to create this new public resource, particularly MOCS's Director, Marla Simpson, and MOCS's General Counsel, Elisa Velazquez.

As we move forward, the City is committed both to expanding the database of those who do business with the City beyond VENDEX, while at the same time working with the CFB to integrate this information fully into its own data systems. Expanding the database will include adding registered lobbyists and their clients, information that the

City Clerk currently collects and that we are in the process of putting on-line, which we expect to happen within about a month. At that point, we can begin to work with the CFB to create a new interface that integrates the “doing business” databases with the CFB’s data systems.

We are anxious to take this next step, but to do it, we need to be sure that you are ready to travel that path with us. Let me explain. In order to support the allocation of capital funds toward a project that could cost upwards of \$10 million, we need some assurances from you in two key areas: data collection and regulation. I will discuss data collection and then Anthony will discuss regulation.

There is no technical obstacle preventing us from building the comprehensive database sought by the CFB of individuals and entities that do business with the City. Doing so, however, may require the City to collect more information than is now currently collected. The current VENDEX system, for instance, often does not contain the names of many senior level managers, account executives, and others who might do business with City government, and little information is collected from lobbyists about their clients. Obtaining this information may require various City agencies to ask those who do business with the City for more information about its staff and ownership. Even then, requiring firms to identify every management position may prove impossible and, moreover, staff and ownership interests change frequently. While we could require firms that do business with the City to update their information periodically – a potential burden on both private organizations and City agencies – it is still likely that changes will go unreported. In short, even if we built the perfect database and established strict data collection procedures, it is inevitable that data will be incomplete.

If the CFB’s system of disclosing and regulating “doing business” contributions is to have integrity, information from one side of the equation is simply not sufficient. Information gathering must occur at both ends of the transaction – from the City, which interacts with representatives of firms with which it does business, and from campaigns, which interact with contributors who may do business with the City. I cannot stress

enough that the failure of one side to make a strong effort at data collection, no matter how comprehensive the data collected by the other side, will lead to incomplete disclosure and impediments to enforcement.

We are sympathetic to your interest in minimizing the burdens placed on candidates. Indeed, in the last few years, the Bloomberg Administration has made huge strides in reducing the reporting requirements for City contractors. But if asking those who do business with the City to complete additional disclosure forms, and requiring various City agencies to take on additional responsibilities relating to this task, is what it takes to implement the 1998 referendum, we are ready to do it. And like you, we will look for ways to minimize the impact of new reporting requirements on our customers. How each side should structure its questions and processes is a policy matter that I will leave to the CFB and the Administration.

ANTHONY CROWELL

The Bloomberg Administration strongly supports the creation of a comprehensive database, for use in post-2005 elections, that includes information currently not captured by the City or the CFB, but we also want to be certain that its expense is justified. If the Board decides not to regulate contributions by those who do business with the City – for instance, by making them ineligible for public funds – then the need for the comprehensive database is lessened, because the need for enforcement is lessened. The CFB does not maintain a database of every employer in the City, yet it still requires candidates to make a good faith effort to obtain employer information. The same should be true of “doing business” contributions.

We believe that the expense of building a comprehensive system that will allow the CFB to regulate and enforce “doing business” contributions will be re-paid many times over in savings that result from eliminating abuses in the matching funds program, as well as savings that result from strengthening the integrity of the political process. For that reason, we will work to secure capital funding to build this exceptional database and enforcement tool, and we have recently requested that the Office of Management and

Budget place up to \$3 million in capital funds for DOITT in the FY 2006 Executive Budget.

The Administration believes, however, that such an expense would not be justified if the CFB's only intention is to require disclosure, a very important step forward, but one which does not carry the same need for enforcement and which can largely be achieved through other means (a combination of candidate disclosure and use of existing "doing business" data, soon to be on the Web). In sum, we are ready, willing, and able to work with you to produce a comprehensive database that is integrated with your systems, but to move forward, we need a concomitant commitment from the Board that it will join us in data collection, and in making use of its new enforcement tool to restrict "doing business" contributions.

Whether the CFB opts to restrict "doing business" contributions for elections that take place post-2005, the Bloomberg Administration urges the Board to act swiftly to put in place for this year the modest disclosure requirement that we have proposed so that a second citywide election does not pass without the 1998 referendum being implemented, at least in part. Adopting a rule that requires candidates to ask their contributors whether they do business with the City requires the CFB to adopt a question for candidates to pose to contributors. Attached is a draft proposal that, we believe, is straight-forward and will be easy to understand by the vast majority of contributors. We are not, however, wedded to every word, and we have been anxious to have the Board propose its own language. We know that the challenge of creating a user-friendly question has long been viewed as an almost insurmountable obstacle by CFB staff, but the time to confront this challenge head-on is now here. I cannot stress strongly enough that we must find a solution to this issue, and we are prepared to sit with the Board for whatever length of time it takes to come up with language that the Board considers acceptable. We must not allow a "can't do" approach to torpedo our best hope for a full and effective disclosure system. We have said on a number of occasions that, for too long, the perfect has been the enemy of the good. Working together, we can change that dynamic.

Finally, I would like to draw your attention to the calendar for rule promulgation, as set forth in Charter Chapter 45, the City Administrative Procedure Act (“CAPA”), which, with limited exceptions, generally takes a minimum of 60 days. As you know, under CAPA, the CFB must publish a proposed rule in the *City Record*, seek public comment and hold a hearing no sooner than thirty days after the first date of publication. After the hearing, CFB must publish a final rule which cannot take effect for at least another thirty days. However, the CFB may, if it were to find a substantial need to implement the rule prior to the expiration of the second thirty day period, request that the Mayor waive that period and allow the rule to take effect earlier upon notice. Therefore, if the Board intends to have a rule in place by its June 1st certification date, or for the filing period that begins on July 12, it is essential that the Board, at its upcoming April 14th meeting, approve for immediate publication draft rules implementing this requirement. We hope that, particularly in light of the fact that nearly seven years have passed since the voters expressed their will, that the Board will take the steps necessary to ensure that another election does not pass without achieving the disclosure mandated by the City Charter. Failure to do so would also be a missed opportunity to learn – as the Board considers additional regulations that would apply following the 2005 election – which contributors do business with the City.

Thank you for your time today, and we look forward to answering any questions that you may have.

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DRAFT LANGUAGE OF DOING BUSINESS QUESTION

New York City's Campaign Finance Program requires candidates to disclose which of their contributors do business with the City. Please answer the following question:

In the past year, have you or your spouse (or either of your employers) had or sought business dealings with New York City government, registered as a lobbyist, or hired a firm that is a registered lobbyist? The definition of "business dealings" includes applications for City grants, land use permits, concessions, franchises, and contracts of more than \$100,000.

Yes _____ No _____

If you have any questions, please call the Campaign Finance Board's Candidate Services Unit at (212) 306-7100, or visit www.nyccfb.info for more information.