



**class size matters**

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Testimony of Leonie Haimson, Executive Director of Class Size Matters  
Before the NYC Council Technology and Contracts Committees  
On the NYC Department of Education's wasteful and corrupt technology contracts

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Thank you, Council members and Chairs Cabrera & Mealy, for holding these important hearings today. My name is Leonie Haimson, and I am the Executive Director of a citywide parent advocacy group called Class Size Matters.

In August of 2009, the NY State Legislature passed new legislation on school governance that was supposed to ensure more transparency and accountability in the NYC Department of Education's contracting. This was in response to a general recognition that DOE's contracting process was out of control. Indeed, an audit from the State Comptroller in May 2009 had revealed that the number and amount of no-bid DOE contracts had mushroomed to 291 between July 2005 and June 2008, amounting to \$340 million, and that in many cases the DOE had "failed to properly document" the reason why these contracts had been awarded. Moreover, 59 percent of the contracts had start dates prior to the internal DOE committee meeting at which the contract was approved.<sup>1</sup> The state legislature included a provision in the new governance law that would require that from then on, DOE contracts be vetted through a public hearing and a vote of the Panel for Educational Policy.

I am sad to say that this legislation has utterly failed. Though the Panel for Educational Policy is required to vote on all DOE contracts, they have acted as a rubber stamp, and have approved every single contract put forward by the chancellor, no matter how wasteful or potentially corrupt.

The first test of the new governance law took place on September 14, 2009. At that meeting, a \$54 million, four year extension of a no-bid contract with Future Technology Associates was on the PEP. This company had recently been the subject of three columns by Juan Gonzalez, investigative reporter for the Daily News.

His first column, published on July 22, 2009, pointed out that though the extension of FTA's contract was no longer officially no-bid, the bid requirements appeared to have been tailored by DOE specifically for the company, despite the fact that FTA had no real address except for mail

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<sup>1</sup> Office of the NY State Comptroller, "New York City Department of Education Non-Competitively Awarded Contracts," Report 2008-N-1, May 19, 2009; <http://www.osc.state.ny.us/audits/allaudits/093009/08n1.pdf>

drops in Florida and Brooklyn and no other apparent clients besides DOE.<sup>2</sup> The second column, published on July 29, pointed out that the average pay of each of the FTA consultants was more than the chancellor's salary at \$250,000 per year, and the annual cost of the contract had ballooned from \$2.5 million to \$15.7 million.<sup>3</sup> The third column detailed how FTA had brought in foreign workers under temporary visas, and was paying them one fourth of what they charged DOE for their labor.<sup>4</sup>

All this information pointed strongly to the existence of either mismanagement or corruption on the part of DOE, and millions of dollars wasted. And yet, remarkably, the PEP approved a new \$54 million contract with FTA with few questions asked, except from panel member, Patrick Sullivan, the Manhattan Borough president appointee. Sullivan pointed out that the contract was "actually four separate projects that were inappropriately bundled together," apparently to "appease FTA or otherwise protect their incumbency." Here is Sullivan's account from that time, as posted on our NYC Public School Parent blog:

*Despite the clear language of the law requiring the PEP to "approve contracts," DOE has refused to provide the actual contracts. Instead, we were supposed to make do with DOE-crafted summaries. I explained how the summaries did not accurately explain what we were buying, how we were paying for it and how much it was going to cost. After much back and forth I said "you will give us the contracts yes or no?" [DOE Chief Operating Officer Photo Anagnostopoulos] eventually agreed. Four mayoral appointees then admonished me, citing the risks of violating vendor confidentiality, the dangers of trying to micromanage the operations of the DOE, the vast complexity of the contracts and perhaps most remarkably, our fiduciary duty to the vendors! "We don't need to see the contracts" they insisted. I wish the mayor's appointees were as equally energetic in looking after the interests of the public school children as they were with the interests of DOE contractors....*

He went on:

*"I could not get a straight answer from DOE on why the system was outsourced to expensive consultants .... I was told the system required the latest software skills in order to function, skills not available amongst DOE employees, but the only skills listed in the RFP were decades-old mainframe skills. ..I voted against the FTA contract and*

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<sup>2</sup> Juan Gonzalez, "Joel Klein is ready to give firm without offices new \$95 million DOE contract," NY Daily News, July 22, 2009; <http://www.nydailynews.com/new-york/brooklyn/joel-klein-ready-give-firm-offices-95-million-doe-contract-article-1.427854>

<sup>3</sup> Juan Gonzalez, "Computer geeks at Future Technology Associates earn more than Joel Klein does, NY Daily News, July 29, 2009; [http://articles.nydailynews.com/2009-07-29/local/17927530\\_1\\_doe-contract-fta-fringe-benefits](http://articles.nydailynews.com/2009-07-29/local/17927530_1_doe-contract-fta-fringe-benefits)

<sup>4</sup> Juan Gonzalez, "Computer firm bills Ed Dept. average of 250K per consultant, " NY Daily News, July 31 2009; <http://www.nydailynews.com/news/computer-firm-bills-ed-dept-average-250k-consultant-article-1.395220#ixzz1cIVTFPrq>

*requested the work be re-bid in separate pieces as I suggested above. The contract was approved 11-2.<sup>5</sup>*

As the NY Times reported at the time,

*"It had been derided as a committee of puppets, a rubber-stamp board with no clear power or purpose. So when word came from Albany over the summer that the Panel for Educational Policy would have greater power over the New York City schools, some thought things might be different. The old days, however, did not seem far behind at the panel's first meeting of the school year on Monday: The "ayes" were nearly unanimous, and friction was virtually nonexistent."<sup>6</sup>*

Here is NY1's account:

*... said panel member Patrick Sullivan. "I think there as we saw tonight there were a number of irregularities in the materials that they presented and yet all the resolutions and all of the contracts were passed overwhelmingly, so there has been no real change in the balance of power." ...On Monday, the 13 members easily passed 15 different contracts... **"I think it was fine. I mean, these were all necessary contracts, there is no question about it," said [Chancellor] Klein.** <sup>7</sup>[emphasis added].*

While Chancellor Klein called the FTA contract "necessary," and the mayoral majority of PEP members approved it without question, the suspicious information revealed in the Gonzalez columns was more than enough to trigger an investigation by the Special Commissioner of Investigation, Richard Condon.

Two years later, in September 2011, Condon's report was finally released. He had indeed found fraud and corruption, including the fact that this was an "inside job". A high level DOE official, Judith Hederman, executive director of the DOE's Division of Financial Operations, was personally involved with Jonathan Krohe, co-owner of FTA, and had provided him with confidential information to aid him in his fraudulent scheme.<sup>8</sup>

Condon found that FTA stole at least \$6.5 million of taxpayer funds, through setting up subsidiary companies overseas which paid employees \$10 an hour, while billing DOE for over \$100 per hour. The FTA owners had repeatedly lied, while stealing millions and wining and

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<sup>5</sup> Patrick Sullivan, "Mayor's Appointees Take Reins of PEP, Defend Dubious Contracts, September 21, 2009, NYC Public School Parents ; <http://nycpublicschoolparents.blogspot.com/2009/09/mayors-appointees-take-reins-of-pep.html>

<sup>6</sup> Javier C. Hernandez, "Newly Empowered Education Panel, Looking Like the Compliant One of Old," NY Times, Sept. 14, 2009; <http://www.nytimes.com/2009/09/15/education/15panel.html>

<sup>7</sup> Lindsey Christ, "New Educational Policy Panel Faces Old Concerns," NY1, Sept. 15, 2009; [http://www.ny1.com/content/top\\_stories/105768/new-educational-policy-panel-faces-old-concerns](http://www.ny1.com/content/top_stories/105768/new-educational-policy-panel-faces-old-concerns)

<sup>8</sup> Special Commissioner of Investigation Richard Condon, "Final Report Re: Future Technology Associates, LLC, Tamer Sevintuna, Jonathan Krohe, Judith Hederman, Swaroop Atre, Kabir Rekhi, Mustafa Cem Arpaci, SCI Case No. 2009-2871, September 28, 2011; <http://www.nycsci.org/reports/09-11%20FTA%20Report%20letter.pdf>

dining city employees, and even charged their Mets season tickets to the contract, without a single DOE official apparently registering any concern, as the bill got bigger and bigger.<sup>9</sup> In his report, Condon concluded:

*“The DOE cannot allow consultants to have free reign over DOE projects that cost millions of dollars. DOE officials who are charged with oversight of the projects must be held accountable for failing to supervise them...”*

Many other wasteful and possibly corrupt contracts have been approved and extended by the PEP since the FTA contract was extended, including the recent Verizon contract. In that case, Verizon had already been implicated in another scandal, in which a DOE consultant named Ross Lanham in charge of wiring schools for the internet had stolen \$3.6 million dollars through a false billing scheme, again by setting up a fake sub-contracting company.

Special Investigator Condon found that Verizon had *“profited... from Lanham’s scheme”* and *“had agreed to Lanham’s demand that Verizon use subcontractor Custom Computer Specialists (“CCS”) at a higher cost to the DOE than Verizon would have charged for the same service..”* He concluded that Verizon had *“facilitated this fraud”* and *“concealed from the DOE and law enforcement that they got millions of dollars in contracts through Lanham only after agreeing to hire CCS as a subcontractor.”*<sup>10</sup>

In justifying a new contract with Verizon, DOE said that “Verizon is in discussion ... regarding repaying of the overcharges.” Yet the company has to this day refused to pay back any of the excessive profit it took, and in a letter to the PEP dated August 16, 2011, Jim Gerace, the NY Regional President of Verizon, falsely stated that the Condon report had cleared the company of all wrongdoing.<sup>11</sup>

Nevertheless, on August 16, 2011, the PEP approved a new \$120 million Verizon contract by an 8 to 4 vote; with the Mayor’s appointees again unanimously voting yes.

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<sup>9</sup>The only question asked internally by DOE officials about the overcharging of FTA consultants was by Deputy Chancellor Anagnostopoulos, apparently in response to points made during the meeting by PEP member Sullivan: “In September 2009, Hederman shared with Krohe [co-owner of FTA] another internal DOE e-mailstring concerning FTA. Apparently acting in response to a request by a member of the DOE Panel on Educational Policy, Deputy Chancellor Anagnostopoulos requested information about the cost to maintain the DOE financial system in the future. She specifically asked for the “difference in the costs between consultants and” full-time equivalents. Giordano forwarded these messages to Carlo and Hederman who sent the e-mails to Krohe 12 minutes later. <http://www.nycsci.org/reports/09-11%20FTA%20Report%20letter.pdf>

<sup>10</sup> Special Investigator Condon, Re: Ross Lanham SCI Case #2008-4446, April 28, 2011, see esp. p. 26 at: <http://www.nycsci.org/reports/04-11%20Lanham%20Rpt.pdf>. See also Chris Arp, “Report on thieving DOE consultant damning for IBM and Verizon, GothamSchools, April 29, 2011 <http://gothamschools.org/2011/04/29/report-on-thieving-doe-consultant-damning-for-ibm-and-verizon/>

<sup>11</sup> The contract with Verizon began on January 1, 2011, and yet DOE only asked for PEP approval “retroactively”, despite the fact that here is *no allowance for DOE retroactive contracts in state law*, unless the chancellor finds that due to an emergency, it is necessary for “the preservation of student health, safety or general welfare” and provides a written justification. This was never done. Thus this contract with Verizon was likely illegal on the face of it. For yet more reasons this Verizon contract should have been rejected, see Leonie Haimson, “Five reasons to say NO! to the DOE’s \$120 million contract with Verizon,” NYC Public School Parents, August 12, 2011 <http://nycpublicschoolparents.blogspot.com/2011/08/five-reasons-to-say-no-to-does-120.html>

School budgets have been cut repeatedly to the bone over the last four years. Our schools have lost valuable programs and staff, and class sizes have risen to the highest level in over a decade. A quarter of our elementary schools are so overcrowded they had waiting lists for Kindergarten. And yet the private contracts have continued to mushroom under Chancellor Walcott's direction, as documented by a recent article in City Hall News:

*“Spending on outside contracts at DOE has risen over the years, especially as the department ramps up its ambitious technology initiative, which aims to have 300,000 students at 75 schools using online learning tools within five years. The department’s contract budget is \$4.5 billion this fiscal year, a 19 percent increase over the previous year. But as spending has increased, so have theft and waste.”<sup>12</sup>*

As Patrick Sullivan has stated, the situation has only gotten worse under Chancellor Walcott:

*“The DOE now routinely asks for approval well before the contracts are even drafted making proper due diligence impossible. Mayoral bloc appointees rubber stamp the contracts regardless of issues uncovered. ... The measures taken by Walcott and Hernandez have dramatically undermined the approval authority provided to the PEP under state law.”<sup>13</sup>*

But none of these scandals compare to the potential for fraud, waste and abuse in the future, as the DOE plans to spend \$1 billion on new technological enhancements, including hi-definition video and high-speed internet, to facilitate the rapid expansion of online learning and testing to more than 400 schools. As the Center for Reinventing Education states, this expensive project represents a large scale experiment on our children, without backing in research:

*“...NYC school district leaders are taking risks with the iZone, implementing new models, committing deeply to a defined set of principles that challenge core assumptions about what a school should look like, and moving to scale very quickly. How and when they will know if they got the big bet right is a question district leaders will have to ask so that students are not subjected for too long to programs and schools that don’t work.”<sup>14</sup>*

And without proper oversight in place, there is also the potential that hundreds of millions of dollars stolen of taxpayer dollars in the years to come.

Mayoral control was widely justified as a result of a handful of Community School Boards that had embezzled funds or had hired relatives or friends to positions in schools. Never mind that years before the adoption of mayoral control in 2002, these boards had already lost any power

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<sup>12</sup> Andrew Hawkins, “Contract Killer,” City Hall News, October 17, 2011; <http://www.cityhallnews.com/2011/10/contract-killer/>

<sup>13</sup> Patrick Sullivan, “Bloomberg Education Record Stained by More Corruption,” NYC Public School Parents, September 29, 2011; <http://nycpublicschoolparents.blogspot.com/2011/09/bloomberg-education-record-stained-by.html>

<sup>14</sup> Robin Lake, Betheny Gross, “New York City’s iZone, Center for Reinventing Public Education, January 2011, [http://www.crpe.org/cs/crpe/view/csr\\_pubs/382](http://www.crpe.org/cs/crpe/view/csr_pubs/382)

to hire staff or spend funds.<sup>15</sup> In any case, the profligacy, waste and fraud that has occurred in recent years under mayoral control have now far surpassed any two-bit corruption in past eras of NYC history.

Chancellors Klein, Walcott and other DOE officials have failed in their fiduciary responsibilities to taxpayers and our children; as have most of the members of the PEP. But in a system of mayoral control, Mayor Bloomberg is the one individual ultimately responsible, by hiring incompetent and heedless administrators, and failing to ensure that there are robust mechanisms in place to prevent the theft of millions of dollars from our children's schools, and from their futures.

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<sup>15</sup> In 1996, the NY State Legislature eliminated much of the power of Community School Boards to hire and fire school staff, and they remained primarily as policy-making bodies. See Derek Alger, "School Boards," Gotham Gazette, November 13, 2000; <http://www.gothamgazette.com/article/iotw/20001113/200/194>