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TESTIMONY BEFORE THE GENERAL WELFARE COMMITTEE  
NEW YORK CITY COUNCIL  
CITY HALL  
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1:00 PM

Speaker Miller, Committee Chair de Blasio, honorable members of the General Welfare Committee, good afternoon.

As you all know, my office recently completed an audit of the Human Resources Administration's (HRA) HIV/ AIDS Services Administration (HASA)—the division entrusted to provide vital temporary emergency shelter to medically-eligible homeless persons living with Human Immunodeficiency Virus (HIV) or Acquired Immune Deficiency Syndrome (AIDS).

I can not overstate the importance of this division to people with HIV/AIDS, some of the city's most vulnerable residents. The audit focused on HRA's controls over payments to vendors who provide emergency housing to HASA clients, as well as the conditions at the emergency housing facilities.

Our audit, which was released this past June, found that by procuring emergency housing services from vendors without first entering into formal contracts, HRA did not comply with the City Charter and Procurement Policy Board (PPB) rules.

In addition, HRA did not comply with Comptroller's Directives and other applicable regulations in making its payments to vendors. Further, HRA did not have adequate procedures in place to ensure that vendors were paid only for housing services provided to eligible individuals.

Consequently, HRA made approximately \$2.2 million in questionable payments to vendors of which \$182,000 was disbursed to twelve vendors on behalf of twenty-six clients after their death. The individuals had been deceased for periods ranging from two days to more than two years.

Finally, while most facilities we visited were maintained in a safe and sanitary condition, certain units were found to be in disrepair.

I would like to address these issues in more detail. First, I want to talk about the contracting process.

HRA violated City Charter requirements and PPB rules by using 36 vendors to provide housing to HASA clients at 68 facilities without first entering

into formal contracts. As members of this Committee may know, the City Charter and the Procurement Policy Board rules require that vendor contracts be awarded through competition.

Instead, HRA either entered into a Memorandum of Understanding (or MOU), or it had an informal arrangement with the vendor providing the service.

These agreements were never registered with the Comptroller's office as required by the City Charter, even though my office is responsible for tracking City expenditures and maintaining a registry of City Contracts and agreements.

HRA has stated that before entering into the MOUs it consulted with Corporation Counsel, whose position was that entering into MOUs did not violate City Charter requirements or PPB rules. This flies in the face of reason.

An MOU is an agreement between the City and a third party. Chapter 5, Section 93(p), of the City Charter is clear in stating that no contract or agreement executed pursuant to the Charter or any other law shall be implemented until it is filed with AND registered by my office.

In addition, Chapter 13 of the Charter reinforces these requirements by stating that all goods, services, or construction paid for out of the City treasury, or out of moneys under control of the City or collected by the City shall be subject to the City's procurement rules and statutes, including, registration by the Comptroller's Office.

In response to our audit, HRA Commissioner Verna Eggleston wrote me to say that HRA "issues temporary housing assistance grants to facilitate the availability of medically appropriate hotel rooms for HASA clients in crisis. These payments are made directly to the commercial hotel as a matter of prudent fiscal administration." HRA has also stated that because the MOU contains a provision that it is not legally enforceable, it need not be registered.

HRA is attempting to justify its failure to follow the City's contracting statutes and rules by stating that because HRA directly paid the hotel operator a shelter allowance, it need not follow the City's contracting requirements, including registration.

The Charter does not provide an exemption under these circumstances; the City received a service for which it used money under its control to pay for. The Charter is not ambiguous – there should be a contracting process and the contract must be registered.

The MOU language regarding its lack of enforceability is also an invalid argument. The Charter requires that all agreements be registered by the Comptroller's Office, not just the ones an agency feels like registering.

Additionally, contracts contain parameters and deliverables that are auditable and also subject to agency performance monitoring. For instance, of the 91 units we looked at, 25 had unsafe and unsanitary conditions that required correction.

These conditions included the presence of roaches, peeling paint, leaking faucets, water damage and mold on ceilings, walls and broken tiles. Unfortunately, the standards against which the landlords could be audited and their performance held accountable are not enforceable.

Had HRA properly entered into contracts for the housing services, the performance standards for the providers would have helped to ensure the health and safety of the clients.

Had the process been an open one, this fragile population may not have had to endure sub-standard conditions and the landlords who failed to provide appropriate housing would have had information about their poor performance entered into the City's VENDEX system.

It is rather odd that HRA has taken a different position than that taken by the Department of Homeless Services, who agreed to establish contracts with the majority of its facilities – hotels and scatter site housing – with which the City had relationships and which previously had no contracts.

In fact, after an audit by my office of the Department of Homeless Services issued in October 2003, the Mayor and I held a joint press conference to announce an initiative to review existing temporary emergency housing procurement rules and establish a more responsive procurement process for those agencies providing shelter services.

At that press conference, Mayor Bloomberg stated, "Bringing more facilities into a formal contracting process will be better from every perspective."

And yet here we are two years later in the midst of a contracting and procurement problem that has led to vendors taking in excess of \$180,000 for HASA clients who have been dead in some cases for as long as two years, and an additional 2 million dollars in questionable payments.

Adhering to the Charter-mandated contracting process is one critical part of the solution. Developing a better monitoring system is the other.

Our audit determined that HRA made over two million dollars in questionable and improper payments to vendors because it did not review client registration logs and information on the HRA Family Tracking System (FACTORS) before paying vendor invoices.

As a result, HRA paid for clients: who did not sign the registration logs as required; for services or individuals not recorded on FACTORS; for services after

clients left the facilities; for duplicate billings; and after their date of death. And here we are several months after the release of the audit with HRA continuing to combat the findings and recommendations yet still unable to provide documentation to verify that these payments were appropriately made.

Further, HRA improperly used miscellaneous vouchers to make \$22.8 million of payments to vendors in violation of Comptroller's Directive 25.

Miscellaneous vouchers were created explicitly for circumstances in which agencies cannot predetermine the amount to be spent on certain payments. The inappropriate use of these vouchers contributes to the distortion of the City's financial reporting by understating the City's outstanding obligations.

HRA's lack of internal controls over such payments was staggering. Their continued insistence that there is no problem doubles my concern over the agency's administration of this program.

It is in this context that we must look at the legislation pending before the City Council today, Intro #721, which would ensure that no funds of the City of New York are used to provide emergency housing for deceased clients of the HIV and AIDS Services Administration, or HASA.

And it is in this context that I urge you to support this bill as a step toward putting accountability and transparency back into HRA's procurement of homeless housing for victims of AIDS.

The issuance of payments to vendors for deceased individuals is not only a terrible waste of taxpayer money. It also denies other homeless men and women suffering with HIV and AIDS from benefiting from these critical housing services.

Beyond the immediate matter of this legislation, I want to take this opportunity to urge the current HRA Commissioner to create a management system for this program that will ensure its fiscal integrity.

I applaud the Chairman, Mr. de Blasio, and his colleague Health Chair, Ms. Quinn for their leadership in sponsoring this bill, and for their dedication and commitment to this very important issue.

Thank you very much.