Written Testimony
City Council’s General Welfare Committee Oversight Hearing

Fighting Poverty in New York City – Examining programs to help all New Yorkers attain permanent self-sufficiency and to prevent hunger and food insecurity

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This testimony is being submitted by Ami Sanghvi, an attorney in the Homelessness Outreach and Prevention Project of the Urban Justice Center. The Urban Justice Center serves New York City’s most vulnerable residents through a combination of direct legal service, systemic advocacy, community education and political organizing. The Homelessness Outreach and Prevention Project (HOPP) seeks to strengthen New York City’s social safety net and is one of eight projects at the Urban Justice Center. HOPP’s staff of advocates, attorneys, and researchers have implemented a multi-pronged approach in which direct service, support of social service providers, class action litigation, policy advocacy, and research are combined to significantly improve program access not only for our clients but for all low income New Yorkers.

My comments address the proposed contracts between the Human Resources Administration (“HRA”) of the City of New York and the 22 Contractors (“the Contractors”) for the provision of services pursuant to the “HRA Back to Work Program” (“the Program”).

HRA claims that its Back to Work program seeks to prepare employable individuals to successfully transition from welfare to work and remain self-sufficient. Accordingly, HRA seeks to contract with service providers that will provide programs that will focus on preparing individuals for work, job placement, job retention, and career advancement. New York Law makes clear that education and training programs are to be treated as part of the overall plan to assist people in achieving self-sufficiency. The contracts between HRA and the Contractors do not adequately account for the law’s requirement that these programs be treated as integral parts of the process of enabling individuals to become self-sufficient. Therefore, I submit this testimony to highlight how the proposed

1 See generally, NYSSL §§335(1)(b), 336(1)(h),(j),(k); See more specifically, §§335, 336-a.
contracts between HRA and the Contractors for the provision of services under the Program fail to comport with the requirements of the law.

I. The contracts fail to ensure adequate assessments, employability plans, and honor education and training preferences.

As a part of his economic development agenda, Mayor Bloomberg established a New York City Commission for Economic Opportunity whose mission is to develop strategies to reduce poverty in New York.\(^2\) There can be no effort to reduce poverty in New York City without corresponding attention to the need for people to access education. The importance of education in helping to reduce poverty cannot be overstated. Studies have consistently shown that the more educated a person is, the less likely she is to be poor. In New York, an individual without a high school diploma or GED is almost six times more likely to be low-income than an individual with a college degree. Conversely, while almost four-fifths (79%) of individuals living above 300% FPL had a college degree, less than one-fifth (19%) of those individuals had less than a high school diploma or GED.\(^3\) Among the welfare population in New York, this difference has been even more drastic. Only 50% of TANF recipients in 2002 had completed high school or its equivalent, and less than one percent (.6%) had more than 12 years of schooling.\(^4\) As a result, unavoidably, the unemployment rate falls as the level of educational attainment rises. In 2005, New York City residents without a high school degree suffered a 7.3% unemployment rate. Conversely, the unemployment rate for New Yorkers with a bachelor’s degree or higher level of education was only 3.1%. Even those residents with only some college fare better than those individuals with no such education.\(^5\)

Both New York’s Social Services Law (“SSL”) and the implementing Regulations reflect the importance of education and training in the ability of a participant to secure unsubsidized employment.\(^6\) The Social Services Law includes three separate provisions permitting individuals to count education as a work activity.\(^7\) In addition to counting vocational education as a primary work activity for a limited period of time, the law also explicitly identifies basic education and secondary school attendance as countable activities. The law goes further than merely permitting social services districts to count certain educational activities as work by placing an affirmative obligation on social services districts to identify situations in which an individual would benefit from basic literacy services, and instructing districts to encourage and/or require the individual’s participation in a basic literacy program.\(^8\) Similarly, HRA must also make available vocational educational training and educational activities.\(^9\)

\(^5\) Levitan, Mark, Unemployment and Joblessness in New York City, 2005: decline in Unemployment Rate Masks Areas of Continued Weakness...A CSS Annual Report, March 2006.
\(^6\) NYSSL §§335(1)(b); 336(1)(i)(j)(k); 336-a; See also 18 NYCRR § 385.5(a)(1).
\(^7\) NYSSL §§336(i)(j)(k).
\(^8\) NYSSL §§335(2)(b); 335-a(2)(b); 18 NYCRR §§385.6(a)(4); 385.7(a)(4).
\(^9\) NYSSL §336-a; 18 NYCRR 385.9 (c).
The law requires HRA to conduct individualized assessments and formulate employability plans. \(^{10}\) The assessment of employability must consider several factors, including his or her educational level, including literacy and English language proficiency, basic skills proficiency, and training and vocational interests. \(^{11}\) When conducting the employability plans, HRA must honor the preferences of individuals already enrolled in, individuals seeking to enroll in, or individuals that would benefit from enrolling in education and training activities. \(^{12}\) Therefore, HRA is responsible for ensuring that participants are able to access the education and training services to which they are entitled.

The contracts fail to specify that Contractors must evaluate individuals’ education and training needs and honor concomitant preferences. In addition, the contracts contain only one sentence directly pertaining to Contractors’ responsibility to provide access to education and training services. The sentence concerns access to the BEGIN program, which is only one of many available options for recipients and applicants to access education and training. Nowhere in the contract has provision been made for Contractors to assign participants to a vocational training program of the individual’s choice, a 2-year college program, or a non-BEGIN basic education program.

Given the evidence of the correlation between education and economic self-sufficiency, HRA’s lack of attention to these issues is cause for great concern. New York has the fifth lowest rate of participation in education and training activities among TANF recipients in the country. In 2002, the last year for which this type of data was available, only 1.7% of TANF recipients were participating in any form of education or training. This is almost 5% lower than the national average. \(^{13}\) As conceived, these contracts further facilitate HRA’s failure to ensure that public assistance recipients receive the education and training that they need to improve their employability. The failure of these contracts to explicitly or adequately address the education and training needs of recipients and applicants will inevitably result in inappropriate assessments, inadequate placements, and the improper erection of barriers to education and training. As a result, these contracts violate the law.

II. The contracts include performance incentives that undermine the ability of Contractors to invest time in education, training and other vital services that can lead to long term employment.

The Back to Work contracts are designed to replace two sets of vendors that have been providing extensive welfare to work services over the last several years. One set of those vendors, the Employment Services and Placement Vendors (“ESP”), were extensively studied in 2005 by Community Voices Heard (“CVH”). In their report, *The Revolving Door*, CVH found that, despite the fact that 71% of clients who were not in education or training reported that they would like to be in such a program, only 18% of clients were able to access education and training.

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\(^{10}\) NYSSL §§335; 335(a).

\(^{11}\) NYSSL §§ 335(1); 335-a(1); 18 NYCRR §§ 385.6(a)(2)(i),(ii),(v); 385.7(a)(2)(i),(ii),(v).

\(^{12}\) NYSSL §§335(2)(a); 335-a(2)(a); 18 NYCRR §§385.6(b)(1)(ii)(d); 385.7(b)(2)(iv).

\(^{13}\) "Table 4:1: Annual Monthly Average of Total Hours of Participation per Week for All Adults, TANF, FY2002,” TANF Sixth Annual Report to Congress.
training in the ESP system. In addition one in three clients did not know that education and training might satisfy a portion of their work requirement.\textsuperscript{14}

CVH attributed these dire statistics in large part to the performance incentives inherent in the ESP contracts. As they stated, “with payment contingent on placement within six months, vendors with short-term cash flow concerns have more incentive to push participants into quick employment than to promote choices that might be better for clients in the long run.” \textsuperscript{15}

The new Back to Work Contracts suffer from the same fundamental problem and are in one important respect, significantly worse. Contractors are paid at the front end for assessment and then only again at placement and retention. There is no payment offered for placement in education and training or any other intensive service the client may need to obtain and sustain employment that could lift their families out of poverty. These contracts are, in fact, even worse than the ESP contracts in one important respect: the last set of ESP contracts contained a higher payment for placement in a “high wage” job, a performance incentive that arguably might lead a vendor to invest in skills training in order to prepare recipients for obtaining such jobs. This performance incentive does not appear in the Back to Work contracts.

**III. The performance incentives not only make it unlikely that participants will access education and training, but also encourage Contractors to violate legal requirements concerning assessment.**

As discussed above, New York State law requires HRA to record and honor the preferences of individuals to participate in education and training as their work activity. In 2003, the HRA entered into a Stipulation and Order of Settlement in Davila v. Eggleston\textsuperscript{16}, a lawsuit in which Plaintiffs claimed that HRA was failing to (a) conduct an adequate assessment, (b) develop an appropriate employability plan, or (c) honor preferences as stated in the employability plan to the extent possible as is required by SSL. Under the settlement, the City agreed to various “Principles” which sought to ensure that participants would receive an opportunity to access education and training programs. The proposed Back To Work contracts fail to provide Contractors with any guidance of how to ensure that participants will continue to be able to access to education and training programs. Failure to establish these guidelines with the service providers who will be conducting the assessments and employability plans for Davila class members may lead to a violation of the terms of the lawsuit’s Settlement and Principles.

The performance incentives strongly encourage Contractors to circumvent these requirements. The reason for this is simple. Contractors receive payments for conducting assessments regardless of what the result of that assessment is. However, if the assessment leads to a placement in longer term education and training, the Contractor is less likely to be paid any additional money for that participant. If however, they do not provide that opportunity, and invest resources in placing that person in any employment, no matter how low wage or unstable, the Contractor is more likely to get paid. Because Contractors may not receive any additional compensation if they determine that a participant would benefit from education and training, the

\textsuperscript{14}The Revolving Door pp. 61-64.  
\textsuperscript{15}Id. Executive Summary, research finding 2.  
structure all but ensures that providers will not accurately assess this need or preference. Furthermore, because Contractors are not compensated for placing someone in an education or training activity, there is an increased likelihood that providers will ignore those preferences of participants who indicate that they are already enrolled in or would like to enroll in an approved education or training activity.

IV. Conclusion

Access to education and training are important components of preparing individuals to transition from welfare to work and become self-sufficient. If the goal of this program and the proposed contracts is to advance that transition, then excluding provisions for participants’ access to education and training activities is a significant omission in attempting to achieve that goal. By not considering placement in an education or training activity as a milestone, HRA neglects to acknowledge the importance of education and training as a step to attaining self-sufficiency. Similarly, by excluding placement in an education and training program as part of the payment and incentive structure, HRA ignores the value of encouraging a participant to develop skills that will later assist the participant in attaining self-sufficiency. Finally, by not requiring the providers to ensure complete and adequate assessments and employability plans, HRA pursues a Program that directly conflicts with existing State and City laws and regulations and that may result in violations of the terms of the settlement in Davila v. Eggleston.

For the above stated reasons, we strongly urge the Committee and the Council to closely monitor the implementation of these contracts to ensure that the law is followed and that, more urgently, welfare recipients receive the education and training they so need to lift their families out of poverty.