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**Testimony of George Sweeting, Deputy Director, New York City Independent Budget Office,  
Before the Contracts and the Education Committees  
Regarding Contracting Practices of the Department of Education, April 1, 2009**

I am George Sweeting, Deputy Director of the New York City Independent Budget Office. I want to thank the Chairs and the Members of the two committees for the opportunity to appear before you today regarding contracting rules for the Department of Education.

Over a year ago, I appeared before a Council hearing on School Governance and Mayoral Control and described how the failure of the 2002 school governance legislation to clarify the department's standing under the procurement regulations that control contracting by other city agencies had left a gray area in the law that needed correction. We suggested that regardless of how the state legislature resolves the school governance question, it should fix the contracting loophole, along with several other budget process issues.

Those of you familiar with IBO procedures may be surprised to hear us making a specific recommendation on this matter. In general, IBO has chosen not to make policy recommendations in order to maintain our role as a source of objective and non-partisan analysis. Over the years we have made one exception and that is for recommendations on questions of budget process. We have supported proposals that improve budget transparency, public understanding, and greater accountability for how city resources are spent.

Since the mayoral control legislation was passed in 2002, most New Yorkers assume that the DOE functions like all other city agencies. However, aside from altering the make-up of the Board of Education and the process for appointing a Chancellor, the legislation made few other changes. The renamed Department of Education is still fundamentally a state entity and as such is not subject to provisions of the New York City Charter that govern procurement policy for city agencies. Specifically, the Procurement Policy Board (PPB), which is created in Section 311 of the Charter, is authorized to issue rules and regulations to be used when city departments procure goods and services. The PPB has exercised that authority to establish a regime of procurement rules which, among other things, largely prohibit sole source contracts for major purchases, requiring competitive bidding instead.

The PPB rules are intended to improve transparency, avoid excessive costs, and reduce the potential for favoritism that can result in the absence of competitive bidding. While agencies procuring goods may chafe under the strictures that the PPB imposes, it is difficult to understand how those rules are considered useful when other city agencies procure goods and services, but unnecessary or too cumbersome for the DOE.

A change to state law clarifying that the DOE is indeed subject to PPB rules and to the full authority of the City Comptroller under the City Charter and existing laws in reviewing and registering contracts, would serve to improve transparency, accountability, and confidence in the DOE's procurements, and potentially save the city money.

Thank you and I would be glad to answer any questions you may have.