



*American Council of Engineering Companies of New York*

**Testimony – February 17, 2022**

**Committee on Contracts**

**Oversight Hearing: Updates to the Procurement and Sourcing Solutions Portal (PASSPort)**

Good afternoon Chair Won and members of the Committee. Thank you for holding today's hearing on this very important topic.

The American Council of Engineering Companies of New York (ACEC New York) is the voice of New York's consulting engineering businesses. Our association represents roughly 300 firms that employ 30,000 professionals in New York. By the way, Chair Won, four of our member firms are located in District 26.

Our members provide professional design services to public agencies including NYC DEP, DOT, DDC, SCA, NYCHA and many others. Our members' work with the public agencies – whether it be on schools, housing, hospitals, streets and bridges, water mains and sewers, or coastal protection systems – is designing the City's infrastructure to deliver a more sustainable, resilient, equitable future.

It is no secret, however, that inefficient procurement processes have vexed the City for too long. Some of the most severe problems include unacceptable delays in contract and change order registration and delays in payments. These problems impede services to the City. They increase costs and cause major challenges for firms that partner with the City. These problems also fall disproportionately on our smaller member firms and on emerging MWBE companies.

It took a major effort by the City, working with ACEC New York, to expand the number of engineering firms who were willing to work with agencies. Now, we are hearing again from some firms that they may not seek City work because of delays in payment and delays in contract and change order registration. They can't afford to make what, in effect, are interest free loans to the City and the City cannot afford to shrink the number of engineers willing to provide services to the City at a time when the infrastructure needs are so great.

As we sit here today, New York is on the cusp of receiving a once-in-a-lifetime investment of federal funds from the federal *Infrastructure Investment and Jobs Act*. It is therefore urgently important that the City Council and Mayor's Administration prioritize procurement reform across the capital agencies at this critical time. Capital projects are at the heart of our communities and the economy. They physically transform the City, create good-paying local jobs and spur economic activity. Without them, we cannot meet the urgent need for sustainability and resiliency.

Our members have worked closely with the Mayor's Office of Contract Services (MOCS) to develop and test the PASSPort procurement database. They welcomed the upgrading of what had been the Vendex portion of the procurement process and the electronic filing of proposals. But the promise of PASSPort was its ability to transform the procurement process, and that has yet to be realized.

We recommend the following specific reforms be prioritized:

**PASSPort.**

- Publish and use the digital procurement system's data to increase transparency, identify bottlenecks and share the status with the engineering professionals, and to agency accountability and performance.
- Allow engineers flexibility to submit graphics without artificial limits for evaluation of their proposals. Engineers are encouraged in the RFP process to propose innovative design concepts, the benefits of which can be missed when an agency insists on text submissions only; a picture speaks a thousand words in many cases.

**Contract & Change Order Registration.**

- Accomplish contract registration within 60 days, and change order registration within 30 days.
- The COVID emergency provided a window into how projects can be managed more efficiently.
- It is worth noting that the federal government prohibits continuing work on their projects until a change order is properly registered. The City routinely expects its engineering professionals to continue work without having any idea of when they can submit an invoice and get paid.

**Design-Build.**

- Improve this contracting method at City agencies by including use of *Progressive Design-Build*, a specific form of design-build used around the country and a best practice laid out in our [policy paper](#).

**Payment Processing.**

- Agencies should adopt electronic invoicing ASAP and achieve payment within 30 days. For engineering firms, especially small- to medium firms including many of our member MWBEs, delays are very harmful. The pace of introducing electronic invoicing should be accelerated and uniform across agencies.

ACEC New York would welcome the opportunity to work with you on these efforts. Our member firms are poised to roll up their sleeves, share their expertise, and team with you to craft solutions.

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