

**THE CITY OF NEW YORK  
DEPARTMENT OF INVESTIGATION**

To: File

Date: October 22, 2018

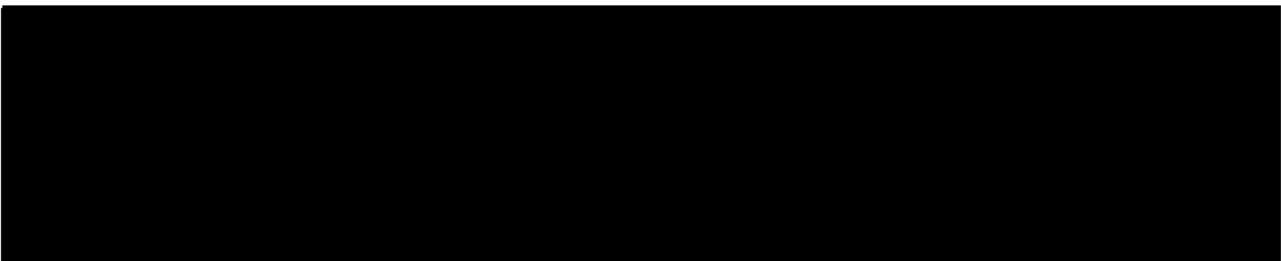
From: Carolyn Tomsu

Re: CMS # 16-03782

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**CLOSING MEMORANDUM**

The following is a summary only of the information pertaining to this investigation and does not contain each and every fact learned during the course of the investigation.



**ORIGIN AND NATURE OF ALLEGATION:**

On April 13, 2016, the New York City Department of Investigation (DOI) received [REDACTED] concerning Mayor Bill de Blasio and the Campaign for One New York (CONY), a not-for-profit organization formerly associated with the Mayor.<sup>1</sup>

[REDACTED] indicated that CONY may have received donations from various entities and individuals with business before the City, some of which were given “at or around the time” the donor was seeking a particular contract or approval. [REDACTED] also noted that CONY appeared to have made payments to consulting firms that “work for Mayor de Blasio in other capacities and are paid by his election campaign fund.”

[REDACTED]  
focused primarily on two areas [REDACTED]:

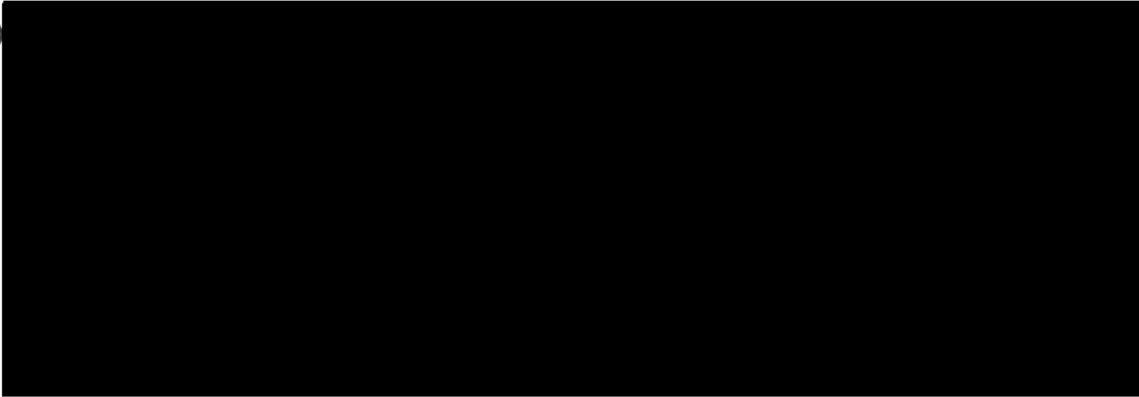
- (1) The Mayor’s fundraising efforts on behalf of CONY:

[REDACTED] whether Mayor de Blasio or any employee of the Office of the Mayor solicited contributions “from any individual who had, or whose organization had, a matter pending or about to be pending before any executive branch of the City,” in violation of City Charter §§ 2604(b)(2), COIB Advisory Opinion 2003-4, and COIB Advisory Opinion 2008-6; and

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<sup>1</sup> DOI Commissioner Mark Peters was recused from the investigation of this matter.

(2)



**DOI'S INVESTIGATION**

DOI's investigation included, among other steps: (1) conducting dozens of witness interviews, including of: CONY donors;<sup>2</sup> attorneys and lobbyists who participated in fundraising for CONY;<sup>3</sup> consultants who were compensated by CONY, either directly or through their firms;<sup>4</sup> former members of CONY's Board of Directors;<sup>5</sup> Mayor Bill de Blasio;



(2) issuing subpoenas to, and reviewing records from, CONY and major consultants to CONY, including SKDKnickerbocker (SKDK), Greenberg Quinlan Rosner Research (GQRR), AKPD Message and Media (AKPD), BerlinRosen, and Hilltop Public Solutions (Hilltop); and (3) performing research to identify CONY donors who had or were likely to have a matter pending or about to be pending before one or more executive branch offices or agencies of the City.

**RESULTS OF INVESTIGATION:**

CONY registered as a not-for-profit corporation in New York State on December 12, 2013. The organization began receiving donations in January 2014, and raised a total of approximately \$4 million during its existence. CONY was disbanded around March 2016. Though it was originally established to support Mayor de Blasio's Universal Pre-Kindergarten (UPK) campaign, it later supported a broad array of Mayor de Blasio's policy objectives, paying for numerous

<sup>2</sup>



<sup>3</sup>



<sup>4</sup> Specifically, [redacted] at SKDKnickerbocker; [redacted] at AKPD Message and Media; [redacted] of BerlinRosen; [redacted] at Hilltop Public Solutions; [redacted] at Hilltop Public Solutions; [redacted]

<sup>5</sup>



consultants who advised City Hall on political strategy, communications, and messaging related to a wide variety of issues facing the Mayor.

## **A. CONY's Operations**

### **1. CONY's Legislative and Political Objectives**

According to CONY fundraising materials, CONY began with a single focus: to develop a grassroots campaign to build support for Mayor de Blasio's plan for free, full-day UPK in New York City. During the UPK campaign, CONY operated and received donations under the name "UPK NYC." After the success of the UPK campaign in March 2014, CONY's mission became a more generalized effort to support Mayor de Blasio's overall agenda.

The next major campaign CONY supported was the "The Progressive Agenda to Combat Income Equality" (TPA). In 2015, CONY provided financial support to Mayor de Blasio's affordable housing agenda, though CONY's work on the housing agenda slowed by the summer of 2015. In addition to these larger campaigns, CONY supported a wide variety of Mayor de Blasio's policy objectives. CONY paid several consultants for strategy and communications advice on topics and issues that he encountered as Mayor, including education issues, homelessness, and the preservation of Long Island College Hospital.

### **2. Roles of [REDACTED] and Mayor de Blasio**

[REDACTED] of BerlinRosen described [REDACTED] of Hilltop Public Solutions as the "CEO" of CONY, and indicated that [REDACTED] was involved in making all of CONY's significant decisions. [REDACTED] told DOI that [REDACTED] selected the consultants retained by CONY, negotiated most consulting agreements on behalf of CONY, and was responsible for approving CONY's expenditures. [REDACTED] stated that [REDACTED] selected CONY's consultants because they had existing relationships with the Mayor.

[REDACTED] served as CONY's sole employee from January 2014 until approximately April 2016. [REDACTED]'s official title was [REDACTED] and [REDACTED] that [REDACTED] had no other role or responsibilities beyond raising funds for the organization. CONY also paid several consultants who essentially functioned as part-time CONY employees.

Mayor de Blasio does not appear to have participated in the day-to-day management of CONY, but he influenced the organization's strategy and benefitted from CONY's relationships with several consultants who advised him on a range of matters. Mayor de Blasio was also involved in raising funds on CONY's behalf.

[REDACTED] and [REDACTED] told DOI that they did not know or could not remember whether Mayor de Blasio was directly involved in creating CONY. Mayor de Blasio did not recall who initially had the idea to create CONY, and stated that he had agreed to CONY's creation only if COIB approved it.

[REDACTED] stated that [REDACTED] selected the consultants to be paid by CONY, but did not specifically discuss them with the Mayor. Mayor de Blasio confirmed that he had no direct role

in choosing CONY's employees or consultants, but it was assumed that CONY would be controlled by the same "group of professionals" with whom he had worked for years.

██████████ told DOI that they primarily communicated with ██████████; they assumed that ██████████ further communicated with the Mayor as appropriate. Mayor de Blasio told DOI that he did not need to approve specific expenditures. He explained that he received periodic updates on CONY and was generally satisfied that it was moving in the right direction.

For the most part, CONY – through its consultants – worked on and addressed issues as they arose in Mayor de Blasio's administration. ██████████ expressed that it was ██████████ understanding that ██████████ role as a CONY consultant was intertwined with the Mayor's governing of the City. Thus, ██████████ work for CONY included any request ██████████ received from City Hall. ██████████ attended weekly meetings with the Mayor where they discussed political issues in the City, and otherwise had ongoing, consistent communication with ██████████ and other CONY consultants.

██████████ told DOI that, by the summer of 2015, many of the consultants began to question CONY's effectiveness and considered shuttering operations. ██████████ recalled that Mayor de Blasio initially opposed CONY's closure, but later agreed to its dissolution.<sup>6</sup>

## **B. Issue #1: CONY's Fundraising**

### **1. Background**

In two advisory opinions from 2003 and 2008, COIB articulated rules for elected officials who are fundraising on behalf of a not-for-profit organization that support the official's mission. In brief, COIB stated that elected officials may use City time and resources to participate in such fundraising, provided that: (1) the solicitations contain an express statement that a decision whether or not to give will not result in official favor or disfavor, and (2) the official does not solicit any person or firm with a matter pending or about to be pending before the official where it is within his legal authority or duties to make, affect, or direct the outcome of the matter. *See* COIB Advisory Opinion No. 2003-4; COIB Advisory Opinion No. 2008-6.

<sup>6</sup> On February 22, 2016, various news outlets reported that Common Cause had submitted letters to government agencies requesting an investigation into CONY. CONY's dissolution was first reported on March 17, 2016.

[REDACTED]

[REDACTED]

[REDACTED] The Mayor stated that he was generally aware that COIB rules governed his CONY fundraising activities, but he was not specifically aware of the restriction against soliciting individuals with a matter pending or about to be pending before an executive branch agency, nor was he specifically aware of the requirement to inform potential donors that their decision to give or not give would not result in official favor or disfavor.

## 2. The Establishment of a Vetting Process for Potential CONY Donors

At some point, CONY established a system through which the organization screened potential donors for, among other things, business with the City. [REDACTED]

DOI uncovered no evidence that such a system was implemented until April 4, 2014,<sup>8</sup> when a memorandum entitled “Protocol for Ensuring Compliance with Conflicts of Interest Laws” was issued.<sup>9</sup> [REDACTED] both stated that there was no formal vetting system until they wrote the April 4 memorandum.

The April 4 memo outlines steps to comply with the prohibition against fundraising from individuals with matters “pending or about to be pending” before the City. It is silent as to the requirement that the Mayor must inform potential donors that their decision to give or not give will not affect their business with the City. The memo advises that the Mayor “may solicit funds” from an individual “who has City business (e.g., already has the City permit, grant or contract),” but he may not solicit funds from any individual or entity that has “matters pending or about to be pending before any city agency.” It further states that the Mayor may “encourage excitement and support for UPK NYC with individuals who have pending matters.” [REDACTED] told DOI that “support” might include lobbying or placing a phone call to another elected official like the governor. The memo established five vetting steps to be taken “prior to any requests for Mayoral solicitations.”

[REDACTED] stated that [REDACTED] discussed the memo with the Mayor, who was generally informed of the vetting process described therein, but [REDACTED] could not recall if he was given a copy of the memo. [REDACTED] stated that they discussed the memo with [REDACTED]

<sup>8</sup> By the date of this memo, CONY had already raised approximately \$1.37 million.

<sup>9</sup> The memorandum was issued from “Counsel to Mayor Bill de Blasio” and addressed to “UPK NYC Staff and Chief of Staff to Mayor Bill de Blasio.”



potential donors were being vetted, even though ██████ denied any significant role in the vetting process. ██████ did not know who was responsible for overseeing the vetting process.

#### 4. De Blasio's Solicitation of Potential CONY Donors

██████, ██████ and ██████ all told DOI that Mayor de Blasio called the vetted potential donors at regularly scheduled "call times." According to ██████, between June 2015 and the fall of 2015, Mayor de Blasio called approximately six to ten potential donors per week. ██████ recalled that call times were not held every week, and were not held if the Mayor's schedule was too busy.

At "call times," Mayor de Blasio walked around the block as he called potential donors on his cell phone. Before each call, de Blasio was instructed whether he could solicit the potential donor for a specific monetary donation or for support. ██████ stated that Mayor de Blasio reported back with the results of the calls, and ██████ was responsible for following up with individuals interested in donating to CONY. Mayor de Blasio confirmed these details. In ██████ follow-up calls, ██████ requested specific donation amounts from those potential donors from whom Mayor de Blasio requested more general support.

The Mayor explained that, generally when asking for support, he described the cause for which he was fundraising, explained that he had an effort underway to achieve these goals, and expressed that he hoped for the individual's support. He told interested individuals that someone would follow up with them. When the potential donor was familiar with ██████, he stated that ██████ would be the one following up.

Mayor de Blasio stated that he did not recall telling any potential donors that their decision to give or not give would not impact their current or future City business. ██████ also told DOI that ██████ was not instructed to deliver any such disclaimer to potential donors. ██████ told DOI they did not believe Mayor de Blasio needed to personally deliver this disclaimer when soliciting potential donors.

DOI interviewed four executives of real estate development firms in New York City who were contacted by Mayor de Blasio concerning CONY. In three of these cases, the firm likely had some sort of business or potential business pending before an executive branch office or agency at the time of the solicitation.

a. ██████

██████ donated \$ ██████ to CONY on March ██████, 2015. In an interview with DOI, ██████ stated that ██████ had ongoing interactions around March 2015 with several City agencies—the New York City School Construction Authority (SCA), New York City Department of Housing Preservation and Development (HPD), and the New York City Housing Development Corporation (HDC)—concerning a development in ██████.

██████████ agreed to develop affordable housing at the site with HPD. In ██████████ 2015, ██████████ and the de Blasio administration had reached an agreement concerning affordable housing subsidies at the development. The development was also approved on the condition that ██████████. Around March 2015, ██████████ and ██████████ were negotiating the agreement ██████████, and a draft agreement had been sent to ██████████.

██████████ explained that ██████████, with whom ██████████ had a previous business relationship, invited ██████████ to meet Mayor de Blasio in February or March 2015. ██████████ stated that ██████████ met the Mayor and ██████████ at ██████████'s office for approximately twenty minutes. During the meeting, ██████████ mentioned raising money for Mayor de Blasio's policies. ██████████ could not recall whether ██████████ was asked to donate during this meeting or whether CONY itself was mentioned during this meeting. ██████████ subsequently received a telephone call from ██████████ who provided details about donating to CONY. ██████████ stated that at no point was it explicitly communicated that a donation to CONY would have no impact on any current or future City business.

Mayor de Blasio told DOI that he recalled speaking with ██████████ but remembered no details of the communication.

*b.* ██████████

██████████ donated \$██████████ to CONY on March ██████████ 2015. ██████████ told DOI that the firm had been seeking a zoning change for a project in ██████████ for years. ██████████ submitted ██████████ concerning this proposal to the Department of City Planning (DCP) in ██████████ 2013. It submitted ██████████ in ██████████ 2016. In ██████████ 2017, ██████████ submitted ██████████ to DCP.

DOI identified at least one other project that ██████████ had underway with the City around the time of the donation: ██████████ a mixed-use development that received HPD funding. According to Department of Finance records, the property was transferred by deed by the City of New York to ██████████ in December 2014. HPD and HDC finalized loans for the project, and the project's regulatory agreement was signed, in ██████████ 2014. In total, HPD granted ██████████ to the project.

██████████ explained that ██████████ office received a call from the Mayor's Office, asking if ██████████ would like to speak with the Mayor. Shortly thereafter, on or around February 15, 2015, ██████████ received a call from Mayor de Blasio. They talked generally about City politics for most of the ten-minute call. Near the end of the conversation, Mayor de Blasio mentioned CONY and informed ██████████ that ██████████ would receive a follow-up call from ██████████. ██████████ could not recall whether Mayor de Blasio explicitly asked for a donation to CONY during this call, or whether ██████████ was the first to solicit a donation. ██████████ estimated that ██████████ received ██████████'s call a few days to a week after speaking with Mayor de Blasio. ██████████ stated that, at no point during ██████████ conversations with Mayor de Blasio or ██████████ was it explicitly communicated that a donation to CONY would have no impact on any current or future City business.



Mayor de Blasio stated that he did not recall speaking with [REDACTED].

c. [REDACTED]

[REDACTED] donated \$ [REDACTED] to CONY on February [REDACTED], 2014 and \$ [REDACTED] to CONY on April [REDACTED], 2015. DOI identified potential business before the City contemporaneous with the 2014 donation. According to information obtained from the Landmarks Preservation Commission (LPC), [REDACTED] submitted an application to the LPC on [REDACTED], 2013. A hearing on the application was held on [REDACTED], 2014, and approval was granted at a public meeting held on [REDACTED], 2014. Additionally, [REDACTED] submitted a bid to [REDACTED] that was pending at the time of the February 2014 donation. [REDACTED]

[REDACTED] told DOI that [REDACTED] called [REDACTED] in early 2014. [REDACTED] had met [REDACTED] at a 2013 fundraiser, and knew him to be affiliated with Mayor de Blasio. During the call, [REDACTED] asked [REDACTED] to donate to a fund to support UPK. [REDACTED] stated that [REDACTED] did not provide any disclaimer that a donation would have no impact on [REDACTED] current or future city business.

DOI identified one [REDACTED] project continuing at the time of the 2015 donation. On [REDACTED], 2015, the Department of Buildings (DOB) issued a stop work order on the project [REDACTED] subsequently submitted its building plans for the DOB's review [REDACTED]. On [REDACTED], 2015, the DOB approved modified [REDACTED] plans for the project [REDACTED].

[REDACTED] stated that the Mayor contacted [REDACTED] by phone in approximately March 2015 and asked whether [REDACTED] could donate to the Mayor's affordable housing campaign. Although [REDACTED] could not recall the exact language Mayor de Blasio used, [REDACTED] told DOI that [REDACTED] was confident that Mayor de Blasio asked for a donation. [REDACTED] further stated that Mayor de Blasio did not provide any disclaimer that a donation would have no impact on [REDACTED] current or future City business. [REDACTED] could not recall whether Mayor de Blasio brought up CONY during their call or whether [REDACTED] mentioned it in a follow-up call.

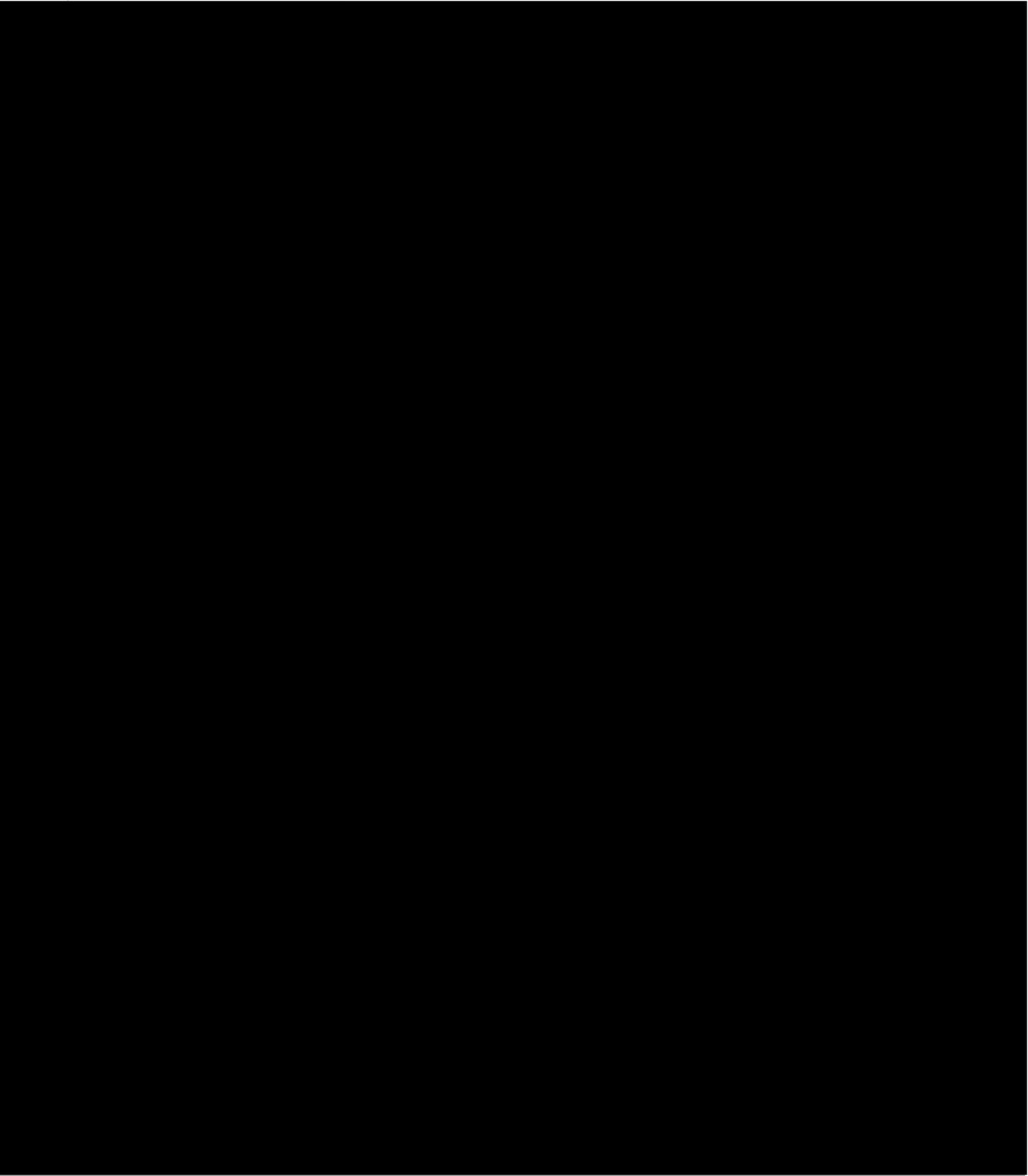
Mayor de Blasio told DOI that he recalled speaking with [REDACTED], but remembered no details of the communication.

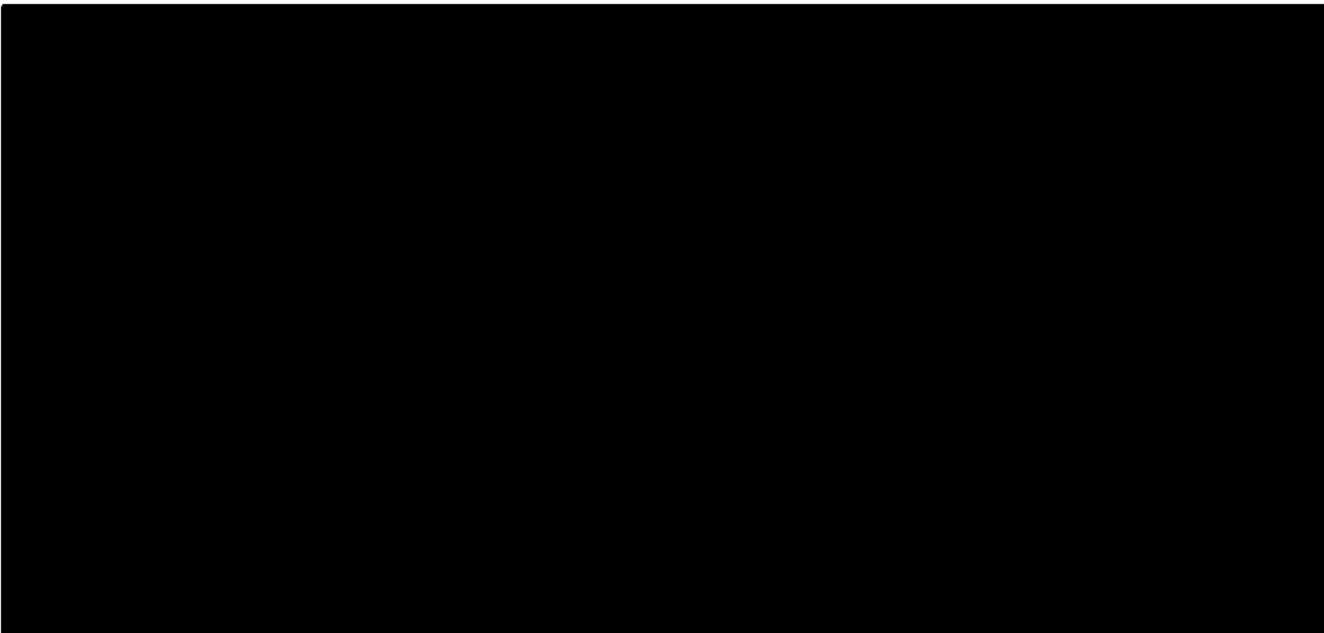
d. [REDACTED]

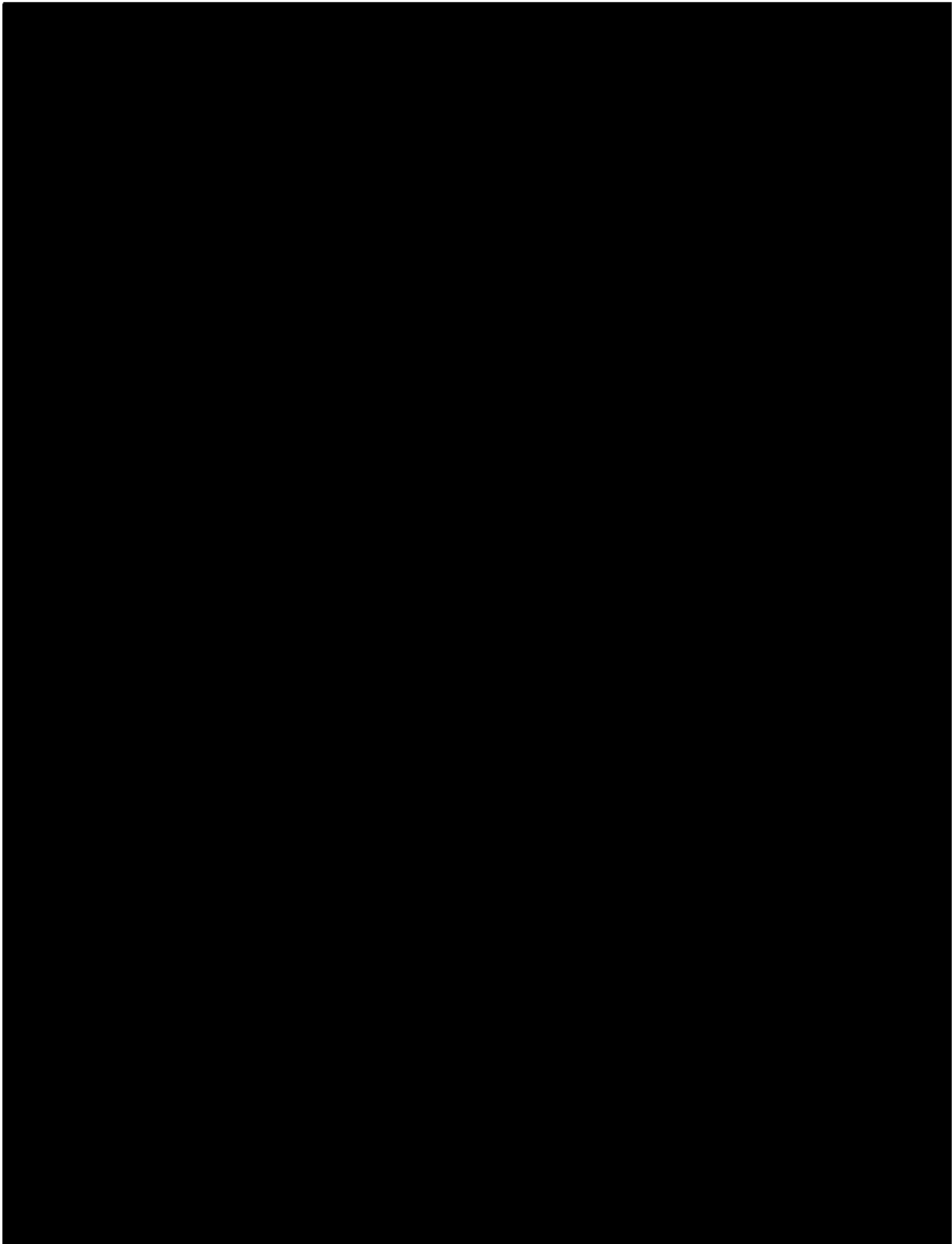
[REDACTED] donated \$ [REDACTED] to CONY on March [REDACTED], 2014. On March [REDACTED], 2014, [REDACTED] submitted a bid concerning [REDACTED] to [REDACTED]. Although this [REDACTED] was an issue of interest to the Mayor, DOI did not connect it to any matter pending before an executive branch City agency.

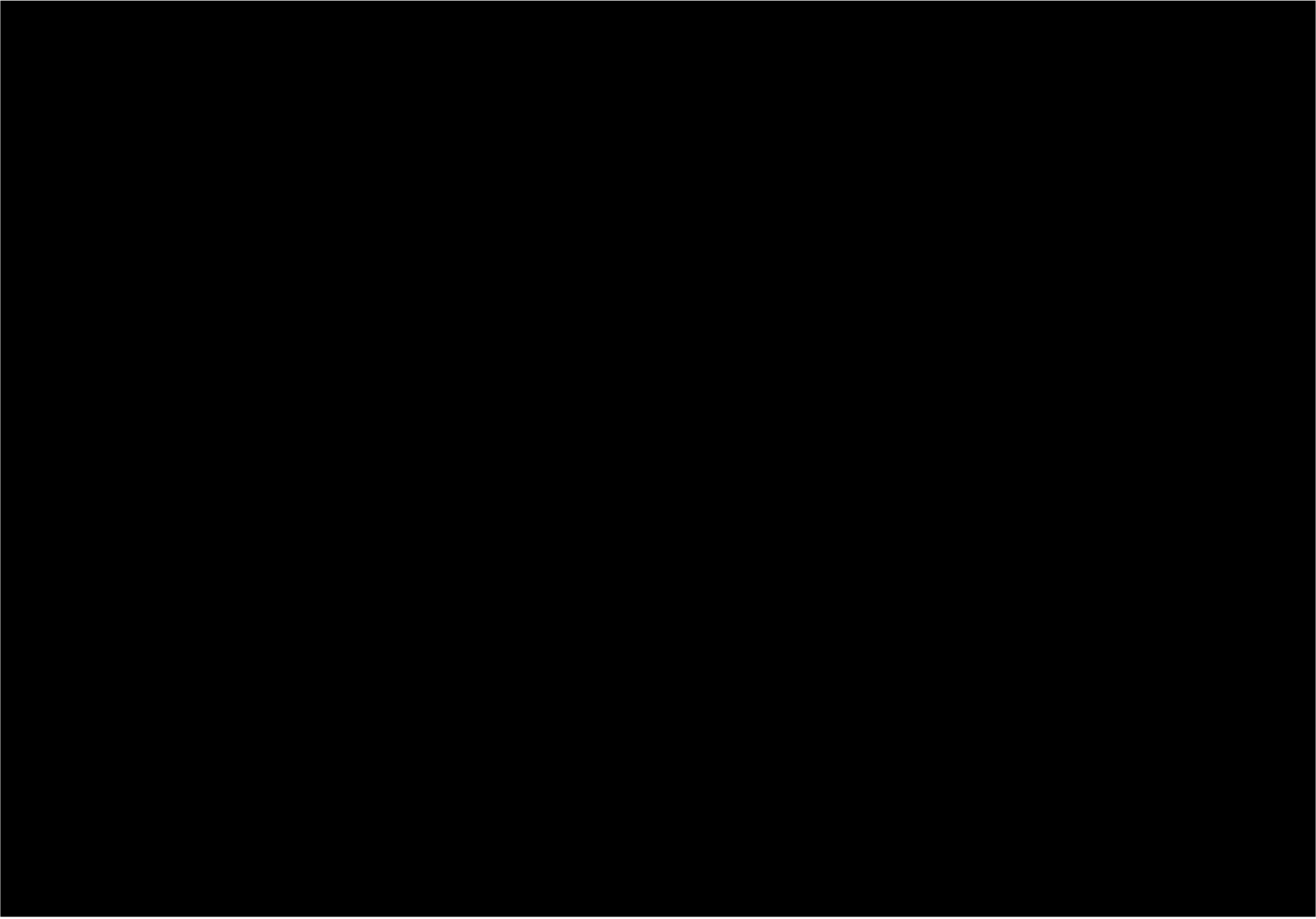
DOI identified another matter that was potentially pending at the time of the solicitation. In [REDACTED], 2013, [REDACTED] acquired a landmarked building [REDACTED].



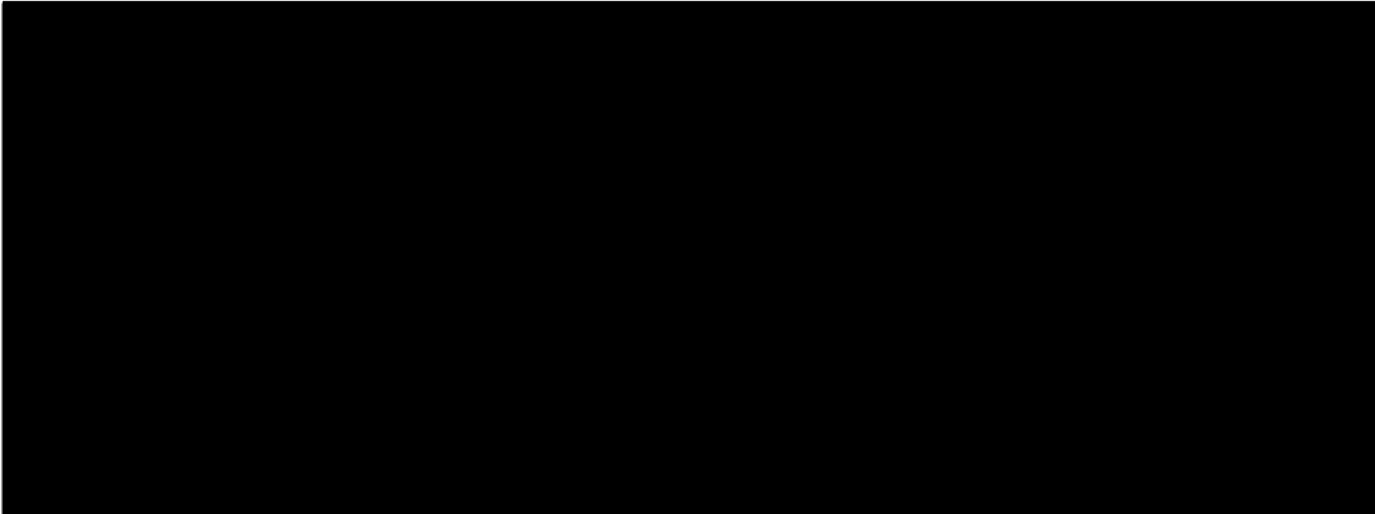








**CONCLUSION AND RECOMMENDATIONS:**



Therefore, this matter will be closed as:

(1) Substantiated with respect to the first question, whether the Mayor solicited contributions “from any individual who had, or whose organization had, a matter pending or about to be pending before any executive branch of the City.”

(2)



Submitted by



Date: 10/22/18

Carolyn Tomsu  
Investigative Attorney

Approved by:



Date: 10/22/18

Andrew Sein  
Senior Inspector General