



Sept. 13, 2017

Good afternoon Chairs Rosenthal, Cornegy, and Garodnick, and members of the Council's Committees on Contracts, Small Business, and Economic Development. My name is Jonnel Doris and I am the Senior Advisor and Director of the new Mayor's Office of M/WBEs (OM/WBE) and today I will be testifying on Intro. 1400. Also with me is Gregg Bishop, the Commissioner of SBS, who will talk to you more about the other bills on this hearing's agenda, as well as colleagues from DOF, EDC, and HPD to answer questions.

About the M/WBE office and goals

On September 28, 2016 Mayor Bill de Blasio announced the establishment of Mayor's Office of M/WBEs as a critical and much needed next step in the Administration's efforts to drastically increase contracting opportunities for minority and women entrepreneurs. The Mayor and the Citywide M/WBE Director, Deputy Mayor Richard Buery, pledged ambitious goals of achieving 9,000 certified M/WBEs by end of FY2019 and 30% M/WBE utilization by end of FY 2021. To date SBS has certified 5,122 MWBEs. Additionally, at the end of Q3 of FY2017 MOCS reported the MWBE utilization at 19%, representing \$847MM in awards to MWBEs as compared to the 14% or \$696MM in City contracts to MWBEs under Local Law 1 in FY16. The complete fiscal year 2017 numbers will be released shortly at the end of this current quarter.

The foundation and mission of the City's M/WBE program

The City's M/WBE program is intended to remedy the impact of discrimination in the market where the City makes its procurements, and to address the findings of disparity studies demonstrating that minority and women owned firms are underutilized in City procurements. To that effect, Local Law 1 of 2013 established Citywide contracting goals which match the disparity gaps revealed by the most recently completed disparity study at the time from 2011. Currently, LL1 only relates to City procurements.

The City has also implemented a number of creative initiatives to help M/WBEs build capacity and obtain capital, and has also advocated for state legislative initiatives to give us more tools for our MWBE program. The Mayor has also established the One NYC goal to award \$16B to MWBEs by FY 2025. This goal covers both mayoral and non-mayoral agencies. Currently we are ahead of schedule and we have already awarded over \$5B in contracts to M/WBEs.

Key achievements and initiatives

In addition to the importance of remedying the effects of discrimination on our procurements, expanding opportunities for women and minorities is important to this Administration's efforts to fight income inequality. Pursuant to LL1 and the goals therein, the percentage of dollars awarded to M/WBEs subject to the City's Program has trended upward from 8% in FY2015 to 14.3% in FY2016. Just to put that into perspective, at the close of FY16 we were about half way to our 30% goal, which we know we can achieve by 2021.

We are lowering and, wherever possible, removing structural barriers to entering the City's procurement marketplace by providing resources for increased programming and accountability at City agencies and creating strategic initiatives to increase M/WBEs' ability to compete successfully.

We have implemented initiatives to address issues that M/WBEs face in the private marketplace: namely access to capital, which is a common obstacle for many small and mid-sized firms. In order to respond to this need, this Administration launched the Contract Financing Loan Fund and Bond Collateral Assistance Fund, both administered by SBS, and the Emerging Developer Fund which is administered by EDC. Together the initial investment from the Administration across these funds totals \$30M. As you may know, the Mayor also convened the City's depository banks to begin a discussion about a partnership to create accessible capital for more M/WBEs in New York City. These discussions are ongoing.

In the Spring of 2017 we were joined by many M/WBEs, advocates, and stakeholders, including other City agencies, to call for State legislative reform that would drastically improve the success of M/WBEs in the City contracting process. S6513/A8505, a bill that proposes increasing the City's discretionary spending limit on goods and services purchased from M/WBEs and codifies that the City as well as the State may offer M/WBEs a price or points preference. The bill passed overwhelmingly in the Assembly and unanimously in the Senate and for that we thank our elected partners—including the Council members here today—for their advocacy and support.

On ICAP and Intro. 1400

New York City operates more than a dozen commercial tax incentive programs, costing nearly \$1 billion per year. It is important to note that these incentives are state authorized and as of right. Moving into the second year of our office, we are assessing ways to target policy goals like M/WBE participation, capital investment across the city, and NYC workforce.

Along with the Administration's commitment to leveraging City financial assistance to hold developers accountable, SBS has taken steps to ensure M/WBEs are aware of and have access to the opportunities created from ICAP projects. Outreach has been a major focus for SBS and this program is no different. I'd like to highlight some of the work we've done to increase the visibility of ICAP contracting opportunities for M/WBEs. Previously these opportunities were listed in an unsearchable PDF on a webpage that was not easily accessible. Understanding the barriers that already exist for M/WBEs looking for contracting opportunities, we have updated the SBS website to highlight private contracting opportunities and make them visible on the home page. Opportunities will no longer be posted as PDF, but rather as searchable database. We have also increased outreach through social media and direct email marketing to ensure that M/WBEs are not left in the dark about potential contracting opportunities. Though more needs to be done, we believe these small steps will greatly help connect M/WBEs to contracting opportunities created through City investment.

Expanding opportunities to women and minorities is a priority to this Administration's efforts to fight income inequality. Intro. 1400 is another step in this direction. We support the goal of Intro. 1400 which, as we understand it, seeks to increase the number of ICAP beneficiaries who will be required to engage with and solicit M/WBEs participation.

Again, we want to thank committee members for your attention to and support for M/WBEs. I would like to now turn it over to Gregg Bishop, Commissioner of the Department of Small Business.

TESTIMONY

BY

COMMISSIONER GREGG BISHOP

NEW YORK CITY

DEPARTMENT OF SMALL BUSINESS SERVICES

BEFORE

**THE COMMITTEES ON CONTRACTS, ECONOMIC DEVELOPMENT,
SMALL BUSINESS**

OF THE

NEW YORK CITY COUNCIL

WEDNESDAY, SEPTEMBER 13, 2017

Good afternoon Chairs Rosenthal, Garodnick and Cornegy and members of the Committees on Contracts, Economic Development and Small Business. My name is Gregg Bishop and I am Commissioner of the Department of Small Businesses Services (SBS). At SBS, we aim to unlock economic potential and create economic security for all New Yorkers by connecting New Yorkers to quality jobs, building stronger businesses, and fostering vibrant neighborhoods across the five boroughs. Today, I am pleased to testify on Intros. 752-B, 1382-A, and 705-A and reporting of workforce data.

Ensuring City contractors have a workforce that reflects the diversity in the talent pool of this city is an important mission of SBS and the Administration. Through our Construction Industry Partnership and "The Mayor's Committee on Construction," SBS is working with industry, organized labor, non-profits, training providers, and workforce organizations to build a pipeline of local talent to fill New York City's jobs. The Committee is tasked with understanding the barriers to diversity and access to opportunities for underrepresented groups in the trades such as NYCHA residents, women, minorities, veterans, employees of MWBEs, and young people in public schools. In addition, the City, the Building Trades Employers' Association (BTEA), and the Building and Construction Trades Council (BCTC) are committed to increasing diversity in the trades through a Memorandum of Understanding (MOU). The MOU sets a target goal for the construction trades of 55% of all new apprenticeship slots for underrepresented groups.

As part of our efforts to connect New Yorkers to quality jobs, SBS will administer the Mayor's Green Jobs Corps program in partnership with the Mayor's Offices of Sustainability and Climate Policy. This three-year initiative aims to train 3,000

individuals through a variety of trainings, including pre-apprenticeship. We are partnering with groups such as BCTC, Construction Skills, Nontraditional Employment for Women (NEW), and Helmets to Hardhats, to offer these pre-apprenticeships, which are direct entry construction programs recognized by the trades. We are recruiting for these programs through our Workforce1 Career Centers.

In October 2015, Mayor De Blasio announced HireNYC, a targeted hiring program that places New Yorkers at the front of the line for jobs created by City contracts and investments. Through the SBS-operated HireNYC Portal, vendors who receive new City contract awards are now required to consider New Yorkers for employment opportunities created through eligible City contracts. HireNYC leverages SBS's network of 20 Workforce1 Career Centers to connect New Yorkers to open positions created through the City's purchases and investments.

SBS recently launched our mobile outreach unit, boosting our support to a whole new level by bringing our services not just to each borough, but directly to business owners, community-based organizations, and jobseekers in their own neighborhoods. The mobile outreach unit will bring access to employment opportunities through HireNYC directly into communities where Workforce1 staff will be able to screen local job candidates near the sites of City projects, increasing community access to these jobs. Last year, SBS's network of providers and 20 Workforce1 Centers connected nearly 30,000 New Yorkers to employment.

I will now turn to the legislation at hand. To begin, I would like to provide an update from our hearing in January on Intro. 1382 and the Division of Labor Services. The SBS Division of Labor Services (DLS) monitors contractor compliance with equal

employment opportunity laws and supports them in their efforts to increase the representation of minorities and women in their workforce. DLS reviews construction contracts in excess of \$1 million and subcontracts in excess of \$750,000. For supply and services, prime and subcontracts over \$100,000 are subject to review when the vendor has more than 50 employees. SBS meets with contractors and works with them to ensure they understand the equal employment requirements of City contracts and to evaluate their compliance. This allows us to directly engage with the contractors on their hiring practices and at times results in contractors making changes to their EEO policies.

When SBS last came before you on this subject, we heard loud and clear—both from Council Members and stakeholders—that the capacity to track and aggregate workforce data should be a priority in our work. Since that hearing, we took steps to better understand the technological restraints to data reporting and assess solutions. We are happy to share that we are developing a plan to better track data on City construction projects. To begin, SBS is now accepting projected workforce data and EEO documentation electronically for contracts subject to DLS review prior to the start of City construction projects. The City is also in the process of reviewing technological solutions to help track workforce data. This will empower agencies to request workforce data directly from contractors and subcontractors once the project has begun. However, since this involves many stakeholders, it will likely involve several phases to ensure it is effectively and efficiently rolled out across the City. Once in place, SBS will work with businesses to create an efficient process that allows vendors to easily provide the necessary data.

We share the Council's goal of tracking and aggregating data relating to the workforce of City funded projects. Intros. 1382-A and 752-B would require disclosure and reporting on certain information regarding employment details and M/WBE certification. Though our interpretation of the bill only includes development contracts and projects receiving financial assistance from the City, we understand the Council's intention is also to include certain City contracts. Transparency is always a laudable goal and we would like to work with the Council to better define the intended scope of this legislation.

The City already tracks some of the data required by these bills pursuant to existing City contract requirements, and a technological solution may enable us to track much of this information electronically. We are happy to work with the Council to discuss these reporting requirements as we move forward with a technological solution.

The Administration supports the intent of the bills and we would like to work with Council to ensure a responsible scope and implementation timeline. I want to be clear that this process will take some time, because changes must be rolled out to agencies in phases. Implementation will also be resource heavy and once in place, agencies and contractors alike will need time to acquire more advanced administrative systems, learn new procedures, and gather newly required data. Should this bill move forward, we would need to work closely with businesses to provide clear guidelines on the new process and data required, which could be especially resource intensive and difficult for small businesses. The legislation also creates new penalties for contractors that do not disclose their workforce data, but currently there is no enforcement mechanism and SBS is not a regulatory agency.

Finally, we recognize the importance of reporting workforce data; however the Administration has significant concerns about protecting the privacy of the individuals working on these projects and respecting City's contractors' interest in the confidentiality of proprietary information they are required to disclose in order to be awarded a contract. We would like to discuss amendments to the bill that would create safeguards for the personal information of employees and to avoid a conflict with the requirements of the General Municipal Law.

Intro 705-A would require contractors employed to work on projects receiving financial assistance from the City to disclose certain information regarding the race and gender of directors, officers and other executive-level staff. While we appreciate the intent of this bill to increase diversity in leadership, we have concerns with the legislation as drafted. Collecting data on race and gender of executive level staff for City contracts may discourage some businesses from competing for contracts with City. As with the other bills, we also have significant concerns about protecting the privacy of these individuals. As a reminder, SBS is also mandated by Council to produce a report that analyzes the racial, ethnic and gender diversity among directors, officers and executive level staff members of certain City contractors. We would recommend waiting for the full report next summer to consider whether this legislation is necessary.

SBS and the Administration stand with the Council and advocates to ensure transparency of the workforce on City funded projects. We are committed to working with the Council to develop the best strategy that achieves this goal in a smart, holistic way. We are now happy to take questions from the Council. Thank you.

COMMENTS OF THE REAL ESTATE BOARD OF NEW YORK ON INT. NO. 1400 MINORITY AND WOMEN OWNED BUSINESS REQUIREMENTS FOR ICAP PROJECTS

September 13, 2017

The Real Estate Board of New York, Inc. (REBNY) is a broadly based trade association of over 17,000 owners, developers, brokers, managers and real estate professionals active throughout New York City. We offer our comments to the City Council regarding the revised minority and women owned business requirements for the Industrial and Commercial Abatement Program.

The purpose of the amendment to the Local Law is to encourage greater hiring of MWBE's for projects receiving ICAP benefits. We support the intent of this amendment which will be easier for large companies with the existing capacity to advertise and the experience to track the MWBE process. However, by lowering the threshold in an effort to expand opportunities for MWBE companies, it can be expected to impose additional requirements for small companies who may be unable to comply with these new, for them, additional requirements. Unable to comply and thus ineligible for the ICAP program, companies could abandon new projects. In short, in an effort to help MWBE firms, the amendments could be placing insurmountable obstacles for small businesses. Below are some suggestions we have received from REBNY members who are and who work with small business.

The MWBE Outreach Compliance Report should be submitted with the final application and not with each award.

In regards to advertising subcontractor opportunities on the job site, minimal information, such as the trade package, bid release date, and contact information, should be required. This information should also be on the SBS website.

The provision of the statute ("except that the department of small business services and the department of finance shall take such actions as may be necessary to implement this local law, including the promulgation of rules, prior to such effective date") which provides for rules suggests that the new amendments can be applied retroactively. These amendments should only be applied prospectively and this language should reflect clearly this intent.

To lessen the burden on small businesses, a log tracking incoming bids from MWBE's and printout all related MWBE's from the SBS website should suffice as evidence that efforts were made to hire a MWBE and may be submitted with the final application.

SBS should confirm receipt of all documents received, whether or not it is accepted, and if it is rejected the reason why should be noted. Notarized documentation should no longer be required as it is burdensome and expensive for all involved.

In conclusion, the amendments by broadening the applicability will increase, especially for small firms, the burden of paperwork for these firms to participate in this vital program. The concern expressed by our members is that this additional requirement for some projects may jeopardize the feasibility of the project and undermine the goals of this amendment. If administering agencies can

find ways to make compliance easier and more efficient, it could go a long way to lessening the burden on applicants and achieving the amendments goals.

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TESTIMONY

of

**Carl Hum
Senior Vice President
Management Services and Government Affairs
The Real Estate Board of New York**

before the

**New York City Council Committees on Contracts, Economic
Development, and Small Business**

on

Introduction No. 705-A, 752-B, 1382-A, and 1400

**September 13, 2017
City Hall – Council Chambers
New York City**

MEMORANDUM OF SUPPORT

INTRODUCTION:

The Real Estate Board of New York (REBNY) represents over 17,000 owners, developers, managers and brokers of real property in New York City. REBNY fully supports the City Council's efforts to improve the diversity of construction projects utilizing financial assistance from the City of New York. We commend the City Council for taking steps to more effectively pursue its citywide diversity and Equal Employment Opportunity commitments to ensure the continued growth of Minority and Women-Owned Businesses (MWBE) and other small business contractors across the City so that qualified contractors actually receive the benefits available to them. We thank you for the opportunity to comment on these proposals in order to help increase transparency and equal opportunity for more New Yorkers.

INTRO NO: 705-A

SUBJECT: Racial diversity in the workforce and leadership of city contractors.

SUMMARY: Requires contractors employed to work on city-funded construction projects to disclose certain information regarding the race and gender of directors, officers and other executive-level staff.

SPONSORS: Crowley, Mealy, Chin, Palma, Rose, Koslowitz, Ferreras-Copeland, Mendez, Cumbo, Barron, Rosenthal, Gibson, Lancman, Cornegy, Jr., King, Espinal, Jr., Reynoso, Torres, Kallos, Maisel, Menchaca, Garodnick

REBNY supports Intro 705-A.

INTRO NO: 752-B

SUBJECT: Information regarding employees of city contractors.

SUMMARY: Requires an agency designated by the mayor to publish a bi-annual report providing employment details regarding vendors that contract with the City.

SPONSORS: The Public Advocate (Ms. James), Rosenthal, Chin, Mendez, Miller, Menchaca

REBNY supports Intro 752-B.

INTRO NO: 1382-A

SUBJECT: Reporting of information on the workforce of contractors performing construction work for the city.

SUMMARY: Requires contractors employed to work on city-funded construction projects to disclose certain information regarding whether such contractor is certified as a minority-owned or women-owned business enterprise, in addition to other administrative information.

SPONSORS: Cornegy, Jr., Miller, Cumbo, Salamanca, Jr., Richards, Torres, Barron, Menchaca, Chin

REBNY supports Intro 1382-A with modification. We recommend that it be amended to include reporting requirements for each worker's trade and union affiliation. We believe this information will be useful for the ongoing conversations surrounding construction safety.

INTRO NO: 1400

SUBJECT: Participation of minority-and women-owned business enterprises in construction projects related to properties receiving tax benefits in accordance with the industrial and commercial abatement program.

SUMMARY: Amends the Administrative Code of the City of New York, in relation to the participation of minority-and women-owned business enterprises in construction projects related to properties receiving tax benefits in accordance with the industrial and commercial abatement program.

SPONSORS: Rosenthal, Chin

REBNY supports Intro 1400.



BUILDING & CONSTRUCTION TRADES COUNCIL OF GREATER NEW YORK

FOR THE RECORD

AFFILIATED WITH THE
BUILDING CONSTRUCTION TRADES DEPARTMENT
OF WASHINGTON D.C.
—
BUILDING AND CONSTRUCTION TRADES COUNCIL
OF NEW YORK STATE
—
AMERICAN FEDERATION OF LABOR OF CONGRESS
OF INDUSTRIAL ORGANIZATION

GARY LaBARBERA
PRESIDENT

TESTIMONY

**ON BEHALF OF THE BUILDING AND CONSTRUCTION TRADES COUNCIL OF GREATER NEW AND
VICINITY**

BEFORE THE CITY COUNCIL

On Intro. 752-B; 1382-A; 0705-A; 1400

September 13, 2017

My name is Santos Rodriguez and I am here to testify on behalf of Gary LaBarbera, President of the Building and Construction Trades Council of Greater New York and Vicinity (a.k.a. as "BCTC"). Thank you to the Chairpersons and staff of the Committees on Contracts, Economic Development and Small Business, for the opportunity to be heard today. The BCTC is an umbrella organization representing the interests of over 100,000 union construction workers, as well as an advocate for all construction workers in New York City.

The package of bills before the Committees today, [Int. No. 0752-B](#); [Int. No. 1382-A](#); [Int. No. 0705-A](#); [Int. No. 1400](#), are generally designed to increase transparency with respect to the diversity of the workforce and contractors on city assisted projects. The BCTC generally supports any effort to increase diversity and opportunity for workers and MWBE contractors.

The BCTC submits that with increased transparency comes increased responsibility to provide resources for both workers and contractors to be successful. Transparency is only the first step to increased access.

Construction is an expensive, difficult and dangerous business. It is important to know who is working on construction sites, but it is equally important to know that those that work on construction have the training and knowledge required to be safe, efficient, cost-effective. As you all know we support a training bill for workers. We have also supported additional training and resources for MWBE contractors to build the capacity to compete on bigger and bigger projects.

To the extent that these bills create new levels of transparency, which we hope, translate into new levels of access and diversity, we support their enactment. We submit that with increased access, there must be increased resources and training for success.





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Council Hearing

Contractors and Diversity

Committee on Economic Development, Committee on Contracts & Committee on Small Business

Testimony of BTEA President and CEO Louis Coletti

September 13, 2017

Good afternoon Chairs Cornegy, Garodnick and Rosenthal, and, members of the Committees on Economic Development, Committee on Contracts and the Committee on Small Business. I am Louis J. Coletti, President and CEO, of the Buildings Trades Employer's Association (BTEA), an organization representing 26 contractor associations, and 1,800 union construction managers, general contractors and specialty trades contractors doing business in New York City. Thank you for the opportunity to submit testimony on Intro's 705, 752, 1382 and 1400.

First, allow me to say that the BTEA has been an advocate for diversity in the construction industry for the entire 20 years that I have been at the Association. The organization, and I (personally), were co-founders of Construction Skills. A program that is open to NYC high school students, it is a pathway directly into the Building Trades Union's apprenticeship program. To date, Construction Skills has placed over 1800 union apprentices, of those, 51% are African American and over 35% are Latino. In addition, over 85% are New York City residents. The BTEA is on the Board of Non-Traditional Employment for Women or N.E.W, furthering the careers of women in construction and Helmets to Hardhats, a program designed for returning veterans.

These programs were born of a need to increase diversity in the workforce and the successes are many. In addition, Mayor de Blasio has appointed me to the MWBE Advisory Council.

In order to increase diversity on the management side of the construction industry, the BTEA entered a groundbreaking new partnership with CUNY and NYC Dept. of Education that will enable high school students to earn their high school diploma, and, an Associate's Degree in construction management, architecture and civil engineering. The program of study, vocational training and work experience will make these students the top candidates for jobs in construction management. We are happy to report that two years into our first six-year program, the student body is more than 90% African American and Latino students, all NYC residents with a strong presence from Brooklyn and Queens. The next generation of leaders in construction management is on their way.

With this said, we do have concerns regarding the vague nature of some of the content of the bills, as always, the devil is always in the details. For example, in Intro 752 it is difficult to ascertain who or what "executive level" staff means.

I know that when we think of construction companies we think of large multinational corporations like Tishman, Turner or Skanska. Those companies have EEO officers, recruit diverse members to their staff and often finance diversity training workshops for other smaller companies. But, the heart of the construction industry in NYC is the small companies that span two, three or four generations of a family, with only a handful of company employees. According to a joint study conducted by the BTEA and the Wharton School of Business, 90% of construction companies employ 25 people or less. I would hate to see a NYC based, family owned company, punished for this. The second problem is, does "executive level" extends to the workforce? Those foremen and women and Superintendents? These are not usually employees of the company, except on that job, but in our contracting world are sent from the trade Locals.

Again in Intro 705, we are asked for diversity statistics on "covered contractors" does that only mean the Construction Manager or General Contractor, who are usually the permit holders? Or does this also apply to secondary subcontractors, or further down the line to tertiary subs?

This is not a knee-jerk reaction against more government regulation. The construction industry is one of the most difficult endeavors there are. In the Wharton report, over 90% of construction companies have gone bankrupt since 1988. There are concepts here we support, such as the lowering of monetary thresholds for small businesses stated in Intro 1400, but unfortunately at this juncture we need to oppose the bills. What we hope to achieve is a thoughtful discussion of the bills, with the sponsors, to clarify vagueities and to prevent duplicitous reporting with Federal EEO-1 reports or NYS Executive Order 16 reporting.

We look forward to having those discussions and working along with you.
Thank you.



Hazel N. Duker
President

NAACP NEW YORK STATE CONFERENCE
NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE
Testimony of Hazel N. Duker

President

NAACP New York State Conference
Regarding Int. No. 705-A, 752-B, 1382-A, and 1400
NYC Council Committees on Contracts, Economic Development, and
Small Business Hearing
9/13/17

Good afternoon Chairman Cornegy and members of the Committees on Small Business, Economic Development, Contracts, Progressive Caucus, and Black, Latino, and Asian Caucus. My name is Hazel Duker, and I am the president of the NAACP New York State Conference with 15 branches across the boroughs. The NAACP is one of the oldest, boldest, most effective, and most respected civil rights organizations in the Nation. The NAACP New York State Conference has played a pivotal role in moving the agenda for freedom and equality forward under the leadership of dynamic State Conference Presidents, each of whom addressed many critical issues during their tenure.

As you know, diversity and Equal Employment Opportunity are of paramount importance; particularly within New York City's construction industry, which has historically served as a pathway to economic advancement for minorities workers. For over a year, I have personally discussed the need to increase the transparency surrounding construction projects that receive financial assistance of any kind from the City.

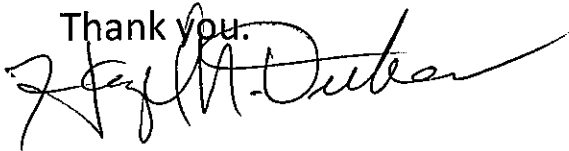
The City's inability to assess who receives the benefits of City-assisted construction projects continues to be unacceptable. The public should know whether City residents of all races are actually working the good paying construction jobs receiving City funding.

Today, I am pleased to share emphatic support for all four of the bills being heard. These bills will help minority-and women-owned businesses get more of the opportunities that they deserve. I commend the City Council and its staff for coming to their senses by adopting the majority of provisions included in the City-Assisted Construction Workforce Disclosure Act (“Disclosure Act”) that I submitted in my January testimony on Intro 1382.

However, now is not the time to rest on your laurels. I urge the Council to be even more aggressive and to adopt more of the Disclosure Act’s language. Specifically, by requiring covered projects to disclose the union affiliation of their workers, by requiring the designated administering agency to release data-driven recommendations to improve diversity, and by making these much needed improvements effective immediately. Furthermore, you all must begin considering the ongoing oversight that will be needed to ensure the requisite data is actually collected this time.

Take action to address this City’s past failures and broken systems immediately. City-assisted construction projects should know that receiving public benefits brings public responsibility. Do not let the Department of Small Business Services, real estate developers, contractors, or trade associations tell you otherwise. The NAACP stands ready to support you in these long overdue efforts.

Thank you.

A handwritten signature in black ink, appearing to read "Ray M. Duber". The signature is written in a cursive style with a long, sweeping tail that extends to the right.



**Testimony of Denise Richardson, Executive Director
The General Contractors Association of New York
Joint Hearing of the New York City Council Committees on
Contracts, Economic Development and Small Business
Intros 705, 752, and 1382
September 13, 2017**

Good Afternoon Chairs Cornegy, Garodnick and Rosenthal and members of the Committees on Contracts, Economic Development and Small Business. I am Denise Richardson, Executive Director of the General Contractors Association of New York. The GCA's 300 members build the very foundations of New York City and rehabilitate New York's roads, bridges, parks, schools, water, and transit systems.

Let me be clear: the GCA and our members strongly support EEO and workplace diversity efforts. We promote a diverse workforce through support of pre-apprenticeship training programs that provide direct entry to the construction unions, and curriculum development with the city's department of education, mentoring programs, and scholarships that encourage a diverse group of students to enter the engineering and construction profession.

Let me also be clear: the GCA and our members strongly support federal, state and city equal opportunity employment standards. The GCA members, like all businesses, are already subject to 68 various federal, state and local anti-discrimination, EEO standards and pay protection laws, rules and regulations. Since 1980, the GCA members, like all construction contractors doing business with the City, have been submitting workforce utilization reports in compliance with Executive Order 50. That is 37 years' worth of information that the City already has in its possession that will provide a more than adequate snapshot that will profile the composition of the construction industry workforce that works on City projects. Based on both the number of existing EEO statutes and the reporting that the industry is already subject to, the GCA strongly opposes the excessive and burdensome data collection and reporting requirements set forth in Intros 705, 752 and 1382.

These bills unfairly target construction contractors, impact business competitiveness, and disclose confidential pay information. They represent a new and onerous record-keeping requirement for firms already overburdened with compliance reporting, and will require contractors to keep records for 6 years, even though the average City construction project has a duration of about 3 years. Interestingly, construction managers, architects and engineers and other professional services that are integral to delivering the City's capital program are oddly

excluded from these bills, as are the multitude of other companies with which the city does business. The construction managers, safety consultants, inspectors and a host of other professions are the place construction foreman and field supervisors advance in the industry, but apparently, the City is not concerned with reviewing this data.

Based on MOCS' own data, actual construction represents only 19% of the City's overall procurement expenditures, yet these bills only look at construction contracts. In FY16, only 3 of the city's 15 largest contracts, 7% of the total dollar value represented by these awards were for actual construction work, and yet these bills target only this very small piece of the city's overall procurement portfolio.

It is ironic that the City now seeks to require employers to collect data about their employees' race, ethnic group and gender that under other laws, is a voluntary disclosure. But the data requirements go further, mandating disclosure of their workers' hours worked, job title, full time or part time designation, total compensation, zip code, date of hire and pay trends for each worker. This is confidential employee information that the Council is asking to be reported quarterly and to post the information on the City's website. The potential for identity theft is significant as most construction projects do not employ hundreds of people in either their executive staff or their workforce. In fact, the average number of executives and senior managers at a construction company is seven and the average workforce is less than 20. A simple cross-matching of information among various data source would easily yield individual information. The City should not be in the position of enabling identity theft.

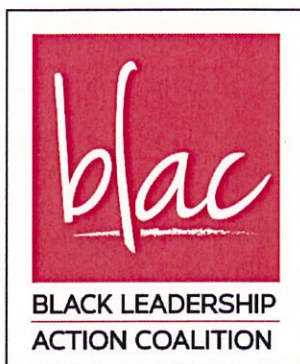
The disclosure of this pay information is also contrary to Local Law 67, recently passed by the Council and signed into law by the Mayor, which prevents prospective employers from inquiring about a worker's salary history. Making this information publicly searchable or at risk of disclosure has the potential to reinforce salary disparities among women and minorities by limiting their rate of pay to their pay history.

Note also, that firms bidding against each other for city contracts will be able to use this data to figure out their competitors' approach to work and use that information in their bids. This is not the intent of the city's competitive bidding statutes. Firms will also use this information to poach people from each other as the salary information will easily reveal a business's overall compensation program. Again, this is a city intrusion on private business decisions and does nothing to ensure that the City's bidding opportunities remain fair, open and competitive.

For many small businesses, the most onerous aspect of doing business with the City of New York is the recordkeeping and reporting requirements. These bills will make it more difficult for businesses, especially small businesses and minority and women owned businesses to contract with the City. The onerous nature of the reporting will also encourage firms to think twice about whether they want to continue doing business with New York City or to focus solely on private work or work in other jurisdictions or for other government entities. Just today in speaking with one of our members that does business in other states, he reported what a difference it was to work in a state that partners with their contractors to get the projects done

on time and on budget, with a minimum of paperwork. I would not be surprised if that member made the decision to focus its efforts elsewhere and stop bidding work in New York. The impact of course, will be on those employees whose personal circumstances would not afford them the opportunity to move with their employer. But apparently, as the City looks to impose more onerous requirements on the businesses that provide private sector middle class jobs, the impact on the individuals is not a consideration.

For these reasons, the General Contractors Association of New York strongly opposes Intros 705, 752 and 1382.



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www.TheBlackInstitute.org

**Testimony of Bertha Lewis
President
The Black Institute
Regarding Int. No. 705-A, 752-B, 1382-A, and 1400
NYC Council Committees on Contracts, Economic Development, and Small Business Hearing
9/13/17**

Good afternoon. My name is Bertha Lewis. I am an activist and an advocate for fair practices in housing and labor for working people of color. I am the founder and president of The Black Institute, as well as the founder of the Black Leadership Action Coalition (BLAC). My entire life's work has revolved around shaping public policy to affect positive, equitable change in minority communities. It is in this capacity that I am here to offer my full-throated support for all four bills being heard today.

Employment in New York City's construction trades has historically been a vehicle of economic mobility—a vehicle which, also historically, has been to the exclusion of people of color. Equal Employment Opportunity laws are not enough to remedy this injustice, or to turn the tide of bigotry against people of color in the construction trades. This is why it is imperative that we keep the light shining on projects that receive assistance from the city, to make sure that the diversity of this city is truly reflected in the labor force working on those projects. Anything short of this transparency is an insult not only to workers excluded from such projects, but to the public which is helping to subsidize them. Developers are not entitled to this assistance—it comes with the responsibility to be part of a community, a diverse community.

We also must recognize that transparency alone is only a first step. We have to be aggressive in making sure that diversity is the rule and not the exception on projects that receive city assistance. We now have the ability to use data to make this a reality, and there is no excuse for why we aren't using these tools today. After all, without data, you cannot have policy or legislation. This is why we need the oversight necessary to guarantee that data is collected properly and impartially. Passing these bills would be a victory for Minority and Women-Owned Businesses that I have advocated for my entire career. They stand ready to help continue to build this great city, and there's no good reason at all why they shouldn't be getting their fair share of contracts on city-assisted projects.

As committee members, you are the trusted inheritors of a checkered history. And so it is on your shoulders to help remedy the failures and injustices of our past, to make sure that the developers and businesses, which wish to use city assistance for their projects, understand their responsibility to the people. I, The Black Institute, and BLAC stand ready to support you in that effort.

Thank You.

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

[]

I intend to appear and speak on Int. No. 72/1382/1705 Res. No. _____
 in favor in opposition

Date: 9/13

(PLEASE PRINT)

Name: Commissioner Gregg Bishop

Address: _____

I represent: SBS

Address: _____

**THE COUNCIL
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705-A
752-B
1382-A
1400

Appearance Card

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I intend to appear and speak on Int. No. _____ Res. No. _____
 in favor in opposition

Date: Sept 13, 2017

(PLEASE PRINT)

Name: Bertha Lewis

Address: 39 Broadway Suite 1740

I represent: The Black Institute / Black Leadership Action Coalition

Address: _____

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Appearance Card

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 in favor in opposition

Date: 9/13/2017

(PLEASE PRINT)

Name: Denise Richardson

Address: _____

I represent: General Contractors Association

Address: _____

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Appearance Card

I intend to appear and speak on Int. No. 1382, 715, 752 Res. No. _____

in favor in opposition

Date: _____

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Name: Director of Comeliner, Shin Mitsugi

Address: _____

I represent: EDC

Address: _____

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in favor in opposition

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Name: Theodore Oberman, Director

Address: Mr. Drant-1

I represent: DDF

Address: _____

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Name: Mr. Drant-1 Commissioning Officer, Meryl Black Weissman

Address: _____

I represent: HPD

Address: _____

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Name: Jonahel Davis MOWBE

Address: _____

I represent: MOWBE

Address: _____

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in favor in opposition

Date: 9/13/17

(PLEASE PRINT)

Name: HAZEL W. DUKES

Address: 10 WEST 135th ST APT 4E NYC 10037

I represent: NAACP

Address: 114 West 40th St 7th floor NYC 10018

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THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 9/13/17

(PLEASE PRINT)

Name: Donald RANSHTE

Address: Senior Vice President

I represent: BTEA

Address: 1430 Broadway Rm 1106

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