



**Public Testimony on MWBE Procurement Opportunities
By East Williamsburg Valley Industrial Development Corporation
NYC Council Committee on Contracts Hearing
January 27, 2009**

On behalf of the East Williamsburg Valley Industrial Development Corporation (EWVIDCO) I am strongly supportive of Resolution Number 1773, and applaud NYC's efforts to strengthen the local economy through the purchase of locally-manufactured goods provided by MWBE-certified firms.

EWVIDCO provides technical assistance to the over 1,000 industrial firms in the Greenpoint-Williamsburg and North Brooklyn Industrial Business Zones through a contract with NYC Department of Small Business Services. EWVIDCO also contracts with New York State to administer the North Brooklyn-Brooklyn Navy Yard Empire Zone. The businesses in our service area employ over 15,000 individuals, many of which reside in the local neighborhood.

North Brooklyn relies on industrial and manufacturing jobs to support the nearly 40% of community residents who work in the industrial sector. These jobs, on average, pay our residents 73% more than local retail establishments; or \$52,842 vs. \$30,620 annually. Additionally, over 60% of manufacturing jobs offer benefits, compared with 30% of service jobs. Also, these jobs frequently do not require English proficiency or advanced education. Considering 20% of our local residents do not speak English, 31% live at or below the poverty line and nearly 37% of are on some form of public assistance, these jobs offer the best path to self sufficiency and economic security for our community residents.

The majority of the firms in our service area are manufacturers, and many of our local manufacturers are certified MWBE businesses. Although some of them produce goods intended for export beyond the NYC region, the vast majority supply products within the region. NYC manufacturers find their competitive advantage not on price, but on some other attribute such as access to a specially skilled workforce, proximity to the local markets (such as ethnic communities or the immense population of the NYC region), proximity to key purchasing agents (such as architects and designers).

NYC manufacturers support the other export sectors of New York City, producing goods that cannot be imported. Rebuilding efforts in lower Manhattan require concrete that must be poured no more than 90 minutes after being mixed; midtown hotels and restaurants require freshly baked bread that must be delivered twice daily; Wall Street firms require prospectuses to be printed and delivered overnight. The concrete mixers, bakeries and printers must be located very close to the primary business center in industrial areas—this demonstrates the importance of industrial uses in the overall local economy.

Increasing turmoil on Wall Street combined with the general softening of the national economy make this a tentative time for NYC manufacturers. Although these forces may provide some relief from the relentless march of gentrification that threatens many of our manufacturing areas, it will surely result in fewer orders for products fabricated by local firms. This is an excellent time to discuss ways that NYC can encourage local businesses. Ironically, the soft US dollar is bolstering the business of some NYC manufacturers; the soft dollar is making the goods of local manufacturers cost competitive with increasingly expensive imports.



Resolution 1773 is an excellent way to encourage local purchasing by allowing a small price preference for goods manufactured by MWBE firms within the 5 boroughs. This way, local manufacturers are not penalized by their high-cost location as they compete with suppliers from less expensive locales. NYC may wish to mandate a certain percentage of purchases in specific types of projects be made from local manufacturers.

There are several other ways that NYC can encourage more local and MWBE procurement opportunities. At present, several local organizations such as SOBRO and NYC DSBS offer services through the Federally-funded Procurement Technology Assistance Center program. The PTAC distributes bids for products to program subscribers; NYC could expand this program so that bids are shared more widely, and that business service organizations like EWVIDCO are aware of the opportunities and transmit them to businesses that may be able to take advantage of these opportunities.

There are numerous other ways that local development corporations can assist you in your efforts. Many LDC's already certify MWBE businesses, and host events informing these and other local businesses of procurement opportunities. Last spring, EWVIDCO invited a number of procurement officers from NYC and NYS agencies to meet local businesses at our annual Networking Event to share information about various procurement opportunities. This event was beneficial to both the officers and our local businesses; we may expand upon this in the future.

LDC's can also serve public agencies by reaching out to local manufacturers to inform them of procurement opportunities as they arise. Organizations like EWVIDCO maintain detailed records about the manufacturers we serve; we can create a targeted list of businesses based on the requirements of each procurement request submitted to us for distribution.

We are pleased that the NYC Council is encouraging procurement of goods from local MWBE firms and offer our assistance to help you as you develop a policy to encourage the purchase of locally produced goods. This is important for the economic health of the entire city, but especially for NYC's 7000 manufacturers and the 200,000 families that depend on manufacturing for their income.

HENRY C. CHAN, ESQ.

PARTNER
WILSON & CHAN, LLP
(MBE CERTIFIED LAW FIRM)

ASIAN MWBE ASSOCIATION OF NEW YORK

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RES. NO. 1773

PRESENTED TO THE:
COMMITTEE ON CONTRACTS

JANUARY 27, 2009

INTRODUCTION

Chairman, distinguished members of the Committee, thank you for allowing me the opportunity to testify today. It is a pleasure to appear before you on behalf of WILSON & CHAN, LLP, an MBE certified law firm based in Manhattan, our clients, consisting of over fifty (50) M/WBE certified companies in the greater New York City area, and the ASIAN MWBE ASSOCIATION OF NEW YORK, a non-profit organization serving and promoting the interest of Asian MWBE companies in the State of New York. Today, I will respectfully address this Committee concerning Res. No. 1773, calling upon the New York State legislature to reintroduce and pass and the Governor to sign S. 8575 and A. 11672 of 2008. I will also provide recommendations to this Committee so that New York City can continue to make progress in meeting the goals of Local Law 129 of 2005. The testimony I will give will be based on my own personal experiences concerning the City's MWBE program as well from voluminous feedback from my clients and members of the Asian MWBE Association of New York.

Before I address the main topics, I would like to personally express our firm's and our clients' appreciation for all the hard work that you and your staff have done over the past year. My MWBE clients understand that the MWBE law is not about "hand outs," but is about fair and equitable

opportunities for City contracts so not only does the awarding party win, but the city fiscally wins as well – especially in these turbulent economic times.

Obviously, on some issues and methods, we have not had a complete meeting of the minds, but we can all agree that from collecting and analyzing the data on the citywide utilization of MWBE spending and working with all of the interested parties in developing a more sustainable and effective MWBE program where the emphasis is on accountability and transparency, we can take one step closer to the “*spirit of the MWBE law*” in [quote] “reducing disparity and to ensure fair participation and equal opportunity in city procurement.” Res. No. 1773 is a positive step in the right direction.

RES. NO. 1773

Let me first address Res. No. 1773, a resolution calling upon the New York State legislature to reintroduce and pass the Governor to sign S. 8575 and A. 11672 of 2008, which authorize political subdivisions to award public procurement contracts to participants of a minority and women owned business enterprise program at a cost premium not to exceed ten percent of the lowest bid. First, I emphatically applaud this committee for “thinking outside the box” with this resolution. We do not need reminding of all the multitude of excuses from agencies, buyers, sellers, etc., of why the “*letter of the MWBE law*” is nowhere near being achieved. Instead, it is the action taken by this committee on this resolution, to think differently, unconventionally, and from a new perspective, that will bridge the gap between “actual” MWBE procurement spend and the unambiguous goals of Local Law 129. This resolution is a positive step in the right direction sending a strong message to the New York State legislature and the City’s Agencies that the City’s MWBE program is not going to be business as usual.

Res. No. 1773 & PROFESSIONAL SERVICES

Although we have made some progress advancing the spirit of the MWBE law, the last fiscal report sums it up the best where we stand today by stating that [quote] “thus, the data achieved does not yet reflect the levels the City aims to achieve as the LL 129 program evolves.”

MWBE professional services firms, including law firms, are still not getting its fair share of New York City government contracts despite the huge amount of New York City professional services. If there is one industry that requires this Committee's special attention more than any other industry under the City's MWBE law, it is the forgotten MWBE professional firms. It is my hope that Res. No. 1773 will be a tool and catalyst to allow for the bridging of the disparity between actual professional services spend and the goals and expectations enunciated by Local Law 129.

RECOMMENDATIONS

In the spirit of Res. No. 1773 that it will not be business as usual with the City' MWBE program, I would like to expound on a few recommendations to bridge the disparity between actual MWBE spend and the goals and expectations of Local Law 129.

- Promote the utilization of joint ventures between a MWBE company and non-MWBE company to achieve procurement goals in industries where MWBE participation is lackluster;
- Require the detailed evaluation of all professional services RFP's to breakdown the criteria for selection based on a fair and transparent point system (e.g., 100 point system based on experience, expertise, etc.) - as a progeny of Justice O'Connor's decision in *Grutter v. Bollinger*, 539 U.S. 306 (2003), allow the use of MWBE status as a "plus" factor in determining whether an MWBE business should be awarded a professional services contract; and
- Require MWBE participation goals for contracts over \$100,000.00 in construction, professional and architectural/engineering services contracts.

CONCLUSION

That concludes my prepared remarks. Again, I want to thank the Chairman, distinguished members of the Committee, for allowing me the opportunity to testify today. Much has been accomplished since the enactment of the MWBE law. There is much more to do. Res. No. 1773 is a tool and catalyst that will increase MWBE participation. WILSON & CHAN, LLP stands ready, willing, and able, to do whatever we can to adhere to the spirit of the MWBE law.

I will be glad to answer any questions.

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FOR THE RECORD

January 27, 2009

RE: The New York City Council, Committee on Contracts, Resolution No. 1773.

Lloyd Douglas Consult Company (LDCC) is in support of the resolution calling upon the NYS Legislature to pass legislation that would authorize political subdivisions to award on public procurement contracts to participants of Minority Owned Business Enterprises, at a cost premium not to exceed ten percent of the lowest public bid.

LDCC is a small minority business company, specializing in Minority Business Consultancy. We have worked over the years to Design and Implement Programs to foster the Growth and Development of Minority Enterprises in NY City, NY State, and throughout the Region.

This proposed legislation, when enacted would serve as another important tool in the Minority Business Development Tool Kit. It is however, very important to keep in mind that even more significant than the tools or techniques, is the Mind-set in the Public and Private Sectors, that is needed to actively and progressively promote and foster Minority Business Development on every level of Business and Politics in NY City, NY State and Nationally.

We must collectively act with sense of urgency and responsibility to change the way business has been done with Blacks and People of Color, for too long. It's a new day, we need a new way, YES WE CAN!!!

The concept of a cost premium is a good one, I would be interested in more details for the proposed implementation. However, let's make good use of the Times, the Opportunities and the Circumstances, to achieve a worthwhile goal.

Thank you for the opportunity to present to you on this most important matter.

Lloyd Douglas
President, Lloyd Douglas Consultant Company

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Karen Shaffer, Assistant Commissioner

Address: DETA

I represent: _____

Address: _____

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Name: Joseph Dirac

Address: 103 East 125th Street, Suite 604

I represent: ANRP Foundation Work Search

Address: (Same as above)

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Name: Suleika Cabrera (PLEASE PRINT)

Address: _____

I represent: Institute for the Puerto-Rican/Hispanic

Address: Elderly 105 E 22nd St. - Room 615

NY, NY 10010

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Date: _____

Name: Bob Finkel (PLEASE PRINT) Joe

Address: 780 ...

I represent: AAEP & ...

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Name: TOM Moy - Deputy Director (PLEASE PRINT)

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I represent: DFTA

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1pm

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Address: _____

I represent: *Food Bank*

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Date: *1-27-2009*

Name: *TRIADA STAMPAS* (PLEASE PRINT)

Address: *39 BROADWAY, 10th Fl*

I represent: *FOOD BANK FOR NYC*

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Name: *Suleta Cabrera DRINONE* (PLEASE PRINT)

Address: *Trd. for the P.R.*

I represent: *H. Spain Elders*

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