

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

JOINT COMMITTEES ON CIVIL RIGHTS, TRANSPORTATION, AND
CONTRACTS

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February 10, 2009
Start: 1:11 pm
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HELD AT: Council Chambers
City Hall

B E F O R E:

LARRY B. SEABROOK
Chairperson, Civil Rights

LETITIA JAMES
Chairperson, Contracts

JOHN C. LIU
Chairperson, Transportation

COUNCIL MEMBERS:

Mathieu Eugene
Daniel R. Garodnick
Vincent Ignizio
Robert Jackson
G. Oliver Koppell
Jessica S. Lappin
Melissa Mark-Viverito
Miguel Martinez
Darlene Mealy

Michael C. Nelson
Diana Reyna
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A P P E A R A N C E S [CONTINUED]

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A P P E A R A N C E S [CONTINUED]

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Regional Director
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Tina Kim
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New York State Department of Transportation

Charlie O'Shea
Former Assembly Member from Long Island

Sandra Wilkin
President
Women Builders Council

Arthur L. Kindred
E. G. Bowman Company

Carol Kleinberg
President
Kleinberg Electric

2 CHAIRPERSON LIU: Good afternoon.
3 Welcome to today's hearing. Well we have a couple
4 of things going on today. First we're going to
5 start with a hearing of the Transportation
6 Committee. My name is John Liu. I have the
7 privilege of chairing this Committee.

8 We have vote that we're going to
9 take shortly before the main event this afternoon.
10 And that is a vote on Intro 880, introduced by
11 Council Member Daniel Garodnick. Proposed Intro
12 880-A would require that Liveries, also known as
13 Community Car Services, post a Passenger Bill of
14 Rights in the rear passenger compartment. This
15 Bill will help protect the rights of many New
16 Yorkers who rely on these car services. Let me
17 turn the floor over to Council Member Garodnick
18 for some opening remarks on his Bill.

19 COUNCIL MEMBER GARODNICK: Thank
20 you Mr. Chairman. And I will be brief. I
21 appreciate this Committee's taking up Intro 880-A.
22 As you noted, it is a Passenger's Bill of Rights
23 for Livery Cars. There are 40,000 of them in the
24 City today. And when you get into most, if not
25 all, there really is no clear indicia of their

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2 being part of New York City's regulatory scheme at
3 all. You don't see a sign of the Taxi and
4 Limousine Commission. There's no information
5 about what your rights are as a passenger.
6 There's no information about where you should go
7 to file a complaint if you have one. And this
8 Bill corrects that.

9 It corrects that by requiring that
10 there be clearly posted the enumerated rights that
11 are set forth in the Bill, which include the right
12 to have a fare quoted to you by a dispatcher.
13 That does not change when you get into a car. It
14 enumerates the right to decline a tip for poor
15 service, to have a car that functions, air
16 conditioning and heat, etcetera, etcetera.

17 There has been a Bill of Rights in
18 effect for Yellow Cabs since 1996. And as a
19 result of that I think people feel a lot more
20 confidence about what they are getting when they
21 get into a Yellow Cab. And I think that they need
22 to have that same satisfaction and that same
23 comfort when they get into all of the other cars
24 that are licensed by the City today.

25 I also think that New Yorkers will

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2 vote with their wallets when it comes to these
3 regulations and rules. And that if certain car
4 services are doing a better job people will go to
5 them. So it is the businesses that are doing best
6 by the customers and that are adhering most
7 closely to the rights that are enumerated that
8 will do better in the long term. Today there
9 about 1,000 complaints a year against Livery Car
10 companies to the Taxi and Limousine Commission and
11 that is in a situation where absolutely nobody
12 sees any information in a car about where they
13 should go to complain.

14 So my hope is that New Yorkers will
15 now have more openness and transparency and the
16 disclosure of this information will help toward a
17 more constructive system. And I encourage my
18 colleagues on the Transportation Committee to
19 support 880-A with a yes vote today. Thank you
20 Mr. Chairman.

21 CHAIRPERSON LIU: Thank you Council
22 Member Garodnick. In addition, we've been joined
23 by members of the Committee, Council Member Diana
24 Reyna of Brooklyn and Queens, Council Member Larry
25 Seabrook of the Bronx and Council Member Oliver

2 Koppell of the Bronx as well. And Council Member
3 Vincent Ignizio from Staten Island. And Council
4 Member Miguel Martinez from Manhattan and Council
5 Member Darlene Mealy of Brooklyn. At this point,
6 without any further discussion, I'd recommend a
7 yes vote on proposed Intro 880-A. Call for, call
8 the roll Mr. Clerk.

9 COMMITTEE CLERK WILLIAM MARTIN:

10 William Martin, Committee Clerk, roll call on the
11 Committee on Transportation, Introduction 880-A.
12 Council Member Liu.

13 CHAIRPERSON LIU: Yes.

14 COMMITTEE CLERK MARTIN: Seabrook.

15 COUNCIL MEMBER SEABROOK: Yes.

16 COMMITTEE CLERK MARTIN: Reyna.

17 CHAIRPERSON JAMES: Aye.

18 COMMITTEE CLERK MARTIN: Koppell.

19 COUNCIL MEMBER KOPPELL: Yes.

20 COMMITTEE CLERK MARTIN: Martinez.

21 COUNCIL MEMBER MARTINEZ: Aye and

22 I'll ask the Clerk to add my name to the bill.

23 COMMITTEE CLERK MARTIN: Garodnick.

24 COUNCIL MEMBER GARODNICK: Aye.

25 COMMITTEE CLERK MARTIN: Mealy.

2 COUNCIL MEMBER MEALY: Aye.

3 COMMITTEE CLERK MARTIN: Ignizio.

4 COUNCIL MEMBER IGNIZIO: I'd just
5 like to vote aye and offer my congratulations to
6 my friend and colleague Dan Garodnick who worked
7 tirelessly for the people who take cabs day in and
8 day out.

9 COMMITTEE CLERK MARTIN: By a vote
10 of eight in the affirmative, zero in the negative
11 and no abstention, the item is adopted. Members
12 please sign the Committee Report, thank you.

13 CHAIRPERSON LIU: Thank you. We'll
14 now--and will the Clerk keep the roll open for
15 members that are en route? We'll now proceed to
16 the main order of today's hearing, a Joint
17 Oversight Hearing of the City Council's Committees
18 on Contracts, on Civil Rights and on
19 Transportation. We've convened this meeting for
20 the purpose of examining which programs our major
21 transportation agencies in New York have in effect
22 to ensure that opportunities are afforded equally
23 across the board including to businesses owned by
24 minorities and women.

25 We have had some good news from the

2 Federal government in Washington that a stimulus
3 package is on its way and that that stimulus
4 package will mean at least a couple of billion
5 dollars of infrastructure capital spending for New
6 York. The vast majority of that will be in
7 transportation. And those monies will go through
8 the traditional agencies that are charged with
9 building our City and State's infrastructure.

10 Specifically we look to the
11 Departments of Transportation, at the State and
12 City levels, as well as the Metropolitan
13 Transportation Authority. The reason why we've
14 decided that it would be timely to convene this
15 hearing today, now, is to get ahead of whatever
16 spending plans may be implemented as soon as the
17 stimulus package is finalized. And that requires
18 us to look at what assurances there are that
19 MWBEs, Minority and Women Owned Business
20 Enterprises will have equal opportunities to bid
21 for the substantial amount of work that will ensue
22 from the stimulus package.

23 In the past the results have shown
24 that great disparities still exist for MWBEs and
25 so we want to make sure that that is going to be

2 in the substance of discussions and negotiations
3 before anything is finalized by way of a spending
4 plan.

5 I'm going to turn it over to my co-
6 chairs today but I do want to note that we are
7 pleased to be joined by the Mayor's Office of
8 Contracts, in some ways representing the
9 Department of Transportation and perhaps the
10 Department of Design and Construction which are
11 the agencies actually charged with doing the work
12 that would be funded by the Federal stimulus
13 funds.

14 We are also delighted to be joined
15 by the State Department of Transportation. They
16 already have implemented what I consider a model
17 program to help ensure that MWBEs get equal
18 opportunities. What is unfortunate is that the
19 Metropolitan Transportation Authority has declined
20 to take part in today's hearing. The reason they
21 stated to me that they would be declining today
22 was that they didn't have any details of what that
23 stimulus package would be. I had responded back
24 to them that what details do you need? You know
25 you're going to get a couple billion dollars.

2 What programs do you have in place to ensure that
3 MWBEs will get some equal opportunity? And to
4 that they had no response.

5 And that shows in the results of
6 MTA contracting over many, many years, where in
7 fact time and time again those MTA contracts go to
8 the same couple of big firms with little
9 opportunity trickling down to smaller, upcoming
10 firms that certainly should be afforded at least
11 an equal opportunity to bid on the same level
12 playing field. And so we're disappointed, highly
13 disappointed in the MTA. But this issue is
14 certainly not going to go away for the MTA.

15 With that let me turn it over to
16 the Chairperson of our Civil Rights Committee,
17 Council Member Larry Seabrook.

18 CHAIRPERSON SEABROOK: Thank you
19 Mr. Chairman. Good afternoon. My name is Larry
20 Seabrook and I am the Chair of the New York City's
21 Council on Civil Rights. I would like to thank
22 Council Member Liu who chaired the Committee on
23 Transportation and Council Member James the Chair
24 of the Committee on Contracts for holding this
25 hearing and for inviting the Committee on Civil

2 Rights to participate today. I would also like to
3 thank the staff on all of the Committees that
4 worked to prepare today's hearing.

5 Of concern to us this afternoon is
6 the role of the Economic Stimulus Plan in relation
7 to our local transportation agencies. Right now
8 New York City is struggling financially as a
9 result of these challenging economic times. We
10 are all hoping that the City and State will
11 benefit from President Obama's Economic Stimulus
12 Plan which is put into effect will help our local
13 economy by creating new jobs and contracting
14 opportunities.

15 Although I have many concerns
16 regarding the day to day operations of our local
17 transportation agencies which I hope to examine in
18 the future, today's focus is on Minority and Women
19 Owned Business Enterprise. Historically our local
20 transportation authority has theoretically
21 committed to awarding contracts to MWBEs but in
22 practice those contract awarders are few and far
23 between.

24 This is an unfortunate result
25 considering that the goal of the MWBE program is

2 to expand government contracting opportunities for
3 Minority and Women Owned Businesses. Although
4 there has been some increases in the contracting
5 opportunities as well as the number of contracts
6 obtained by Minority and Women Owned Businesses,
7 it is not nearly enough for a City and State as
8 diverse as New York.

9 I'm aware that the City is
10 constrained by State and Federal law when awarding
11 contracts which I am sure we will learn more about
12 today. Despite these restrictions we need to find
13 a way to increase diversity in third party
14 contracts for transportation authorities. We must
15 find a way to utilize the various MWBE programs
16 and make it work within the constraints of State
17 and Federal laws. I hope that today's hearing
18 will allow for a productive discussion on the
19 areas of MWBE program that could use the most
20 improvements and how any changes could be made.

21 With that I'd like to thank
22 everyone for attending today's hearing. I am
23 eagerly anticipating today's testimony by the New
24 York State Department of Transportation, the
25 Mayor's Office of Contracts as well as any

2 interested individuals and groups.

3 And I also might add that I am very
4 concerned and deeply insulted that the MTA did not
5 appear. We have been talking to the MTA about
6 their MWBE programs and it's almost as if they are
7 in non-existence. They have been cited for having
8 the worst, the worst participation for Minority
9 and Women Owned Businesses in terms of
10 contracting.

11 And if they do not understand what
12 is taking place with this stimulus package here
13 today and how best to deal with those who are the
14 bottom and how to allow them to participate, I
15 don't know where their heads have been but perhaps
16 they may not be the entity that should be dealing
17 with any stimulus package, but they should be
18 doled out by someone else who has an
19 understanding, perhaps the State Department of
20 Transportation and others, other than the MTA. If
21 they do not understand this problem and they do
22 not understand this stimulus package, then I think
23 that we need to put some heat underneath them.
24 Because their head must be buried in a whole lot
25 of sand. So without that, thank you very much Mr.

2 Chairman.

3 CHAIRPERSON JAMES: Good afternoon.
4 My name is Letitia James and I'm the Chair of the
5 Contracts Committee. And I want to thank all of
6 you for coming today for this very important
7 hearing regarding what New York transportation
8 agencies are doing to ensure that historically
9 excluded Minority and Women Owned Businesses
10 participate in program projects that are funded by
11 the Federal Economic Stimulus Package that is
12 currently moving through the United States
13 Congress.

14 Let me add that when the stimulus
15 package is approved it will pump billions of
16 dollars into infrastructure programs. Much of this
17 infrastructure money will be used to build and
18 improve bridges and roads and to improve mass
19 transit. There is a concern, there has been--
20 which is not something which is not unique to the
21 stimulus package, but in fact which is unique
22 unfortunately to the State of New York, and that
23 is that WMBEs have not been in a position, have
24 not fully benefited from the programs that were
25 created to increase opportunities for people of

2 color and women throughout this State.

3 This hearing will review New York
4 transportation agencies WMBE programs and examine
5 what they are doing to ensure that WMBEs
6 participate in stimulus plan funded projects.
7 Yesterday we had a discussion at the Economic
8 Development Hearing, where we had requested a copy
9 of all of the projects that were submitted to the
10 Federal government. We were told at that time
11 that the Mayor of the City of New York is not in a
12 position to provide us with that list.

13 Let me again ask that that list be
14 provided to this Committee, to this Chair, so that
15 the City Council be at the table and involved in
16 any discussion with regards to the stimulus
17 package. I appreciate that the transparency that
18 the Mayor would like to operate under, but again
19 it's really critically important that the list be
20 provided to us so that we can be in a position to
21 shape that list as well.

22 I want to thank the Chair of the
23 Committee on Transportation, Council Member Liu,
24 and the Chair of the Committee on Civil Rights,
25 Council Member Seabrook, for organizing today's

2 hearing. I'd also like to thank the staff of all
3 of the Committees for their hard work in
4 organizing the hearing as well.

5 As Chair of the Committee, I'm all
6 too familiar with the issues that businesses owned
7 by minorities and women face when trying to do
8 business with public entities. Further more in
9 these dire economic times that are affecting the
10 entire country and hitting people across all
11 socioeconomic levels, these businesses are hardest
12 hit. Access to credit and capital is severely
13 limited and work opportunities in the private
14 sector are diminishing.

15 Hopefully New York will be the
16 recipient of funds from the Federal Economic
17 Stimulus Package to fund major transportation
18 projects all over the City. As private sector
19 opportunities diminish we have to make sure that
20 all the public entities receiving these funds are
21 doing all that they can to award as many of these
22 contracts to Minority and Women Owned Businesses.

23 Today we will explore the interplay
24 between Federal requirements and what that means
25 for these businesses. We understand that the

2 City's WMBE goals established by local law 129
3 will not be applied to projects funded with
4 Federal stimulus package money that have their own
5 requirements. Notwithstanding this fact, this
6 hearing is important in order to put all agencies
7 receiving those funds on notice that we are
8 watching them carefully to see to it that Minority
9 and Women Owned firms actually receive contract
10 awards. In addition that the minority community,
11 business community, is at the table. They are
12 included. They are empowered. And they are in a
13 position to shape these awards as well as the
14 members of the City Council.

15 At this point in time we'd like to
16 call to the podium--well she's at the podium
17 already, this is someone who is no stranger to
18 this Committee and that is Marla Simpson. And I'd
19 also like to recognize Council Member Stewart from
20 Brooklyn and I believe all the other members have
21 been introduced. Ms. Simpson I believe that
22 you're on. Thank you.

23 MS. MARLA G. SIMPSON: Thank you.
24 Good afternoon. I need some water, excuse me.
25 I'm Marla Simpson. I'm the Director of the

2 Mayor's Office of Contract Services. And with me
3 today to help answer questions from the Department
4 of Small Business Services, Division of Economic
5 and Financial Opportunity, we have Assistant
6 Commissioner Gregg Bishop. In addition from my
7 own office, seated in the front row, we have
8 Assistant Director for Vendor Programs, Jose
9 Jimenez, our Deputy Director for Research and
10 Information Technology, Ezra Polonsky and Chief of
11 Staff, Jahmeliah Nathan.

12 We are eager today to have the
13 opportunity to speak to you about the Federal
14 stimulus package and the efforts that we are
15 making and plan to make in order to make sure
16 there are opportunities for small and Minority and
17 Women Owned Businesses as a result of this
18 stimulus package.

19 Facing a worsening national
20 economic crisis, the Bloomberg Administration has
21 been aggressive in confronting the City's very
22 difficult budget challenge. Over the past seven
23 years, we have invested billions of dollars in
24 infrastructure and institutions including not only
25 the roads, bridges, water and wastewater treatment

2 facilities that are primarily at issue in this
3 bill, in addition to schools and housing but also
4 cultural institutions and parks which are
5 important elements of our infrastructure.

6 Working with this Council we
7 established the Local Law 129 for an MWBE program
8 and also working with our Commission on
9 Construction Opportunity we increased training and
10 apprenticeship opportunities so that our
11 investments that we've made in the City's
12 infrastructure would promote economic growth
13 throughout the five Boroughs. This year as you
14 know, we've had to reduce costs in response to the
15 economic crisis and credit crunch. We've
16 stretching out our capital program to cover five
17 years. We've deferring some projects and more
18 recently made a cut by a further 30%. Therefore,
19 quite obviously, broad-based Federal investment,
20 particularly in ready-to-go infrastructure, is
21 crucial as we work to spur the City's recovery
22 ensure the region's local long-term economic
23 health.

24 Today, as we speak, hopefully,
25 President Obama and Congress are concluding the

2 work of crafting just the kind of economic
3 recovery plan that we have been looking for with
4 the goal of creating 3,000,000 jobs. The American
5 Recovery and Reinvestment Act will help us restore
6 many shovel-ready projects to our current capital
7 program and accelerate other crucial projects that
8 have been cut or deferred to reduce costs, as well
9 as some that we did not have the resources to
10 include in the first place.

11 All of these projects will help the
12 City meet critical needs while creating thousands
13 of construction jobs. Depending on the outcome of
14 those negotiations in Congress, we expect ARRA
15 legislation to include between \$230,000,000 and
16 \$325,000,000 in the first year that would support
17 City road and bridge projects, energy
18 conservation, and water and sewer projects. As
19 you know the procurement process for the Housing
20 Authority differs but we also anticipate
21 substantial funding for public housing
22 improvements. And although school construction
23 was been taken out of the Senate bill, we remain
24 hopeful that an important investment in that area,
25 a substantial investment in that are will be

2 restored at the time of eventual passage. In a
3 few days hopefully we'll know the exact parameters
4 of the program, but we are moving ahead in the
5 meantime to ensure that agencies will be capable
6 of meeting the shovel-ready standard.

7 State law, as you know, requires
8 that we let prime construction contracts by
9 competitive sealed bid. Therefore our first task
10 as we work with agencies in selecting what will
11 become a fairly modest list of projects that we'll
12 be able to be funded under the bill, we are
13 focusing on those for which bid documents are
14 either ready now or can be readily put together
15 based on existing designs.

16 We've made arrangements along with
17 the Law Department to ensure that as soon as the
18 Bill is finalized and final lists can be compiled
19 that we'll be able to get very prompt approval
20 those bid packages and they will be advertised
21 right away. We are also working with vendors and
22 vendor organizations, again once we have a sense
23 of exactly which projects are targeted, 'cause we
24 want to make sure that all of the vendor
25 information gets filed very early in the process,

2 so that we can have speed registration of any
3 stimulus program contract so that we will meet the
4 timetables in the legislation.

5 All the funds, excuse me one
6 second, all of the funds that the City will
7 receive under this program will be subject to
8 Federal subcontracting goals programs, in most
9 cases particularly with the transportation money,
10 we're talking about the Disadvantaged Business
11 Enterprise program. As the Chair recognized Local
12 Law 129 does not apply, as it exempts contracts
13 that are subject to goals that are set by Federal
14 and State goals.

15 While we don't yet know exactly
16 which new City contracts will be funded under this
17 program in order to illustrate the issues today I
18 have brought some examples from the DBE program
19 which were based on data that we reported this
20 year, last September in our Fiscal Year 2008
21 Annual Report. During that Fiscal Year 2008, the
22 City Department of Transportation had a total of
23 11 construction contracts that were valued at
24 above the small purchase limit which is \$100,000.
25 For two of those contracts, no subcontracting was

2 anticipated, so there were no goals set for either
3 program. Five were subject to Federal or State
4 goals and four were subject to Local Law 129 I do
5 want to point out as evidence of our continuing
6 success with Local Law 129 is that one of those
7 winning contracts under the Local Law was a
8 \$15,000,000 transportation contract that was won
9 by a certified company, an Asian American firm on
10 a competitive bid. So that was something that we
11 were very pleased to see.

12 On those four LL 129 contracts,
13 under the goals that would apply to those
14 contracts, DOT calculated that MWBEs were due
15 \$1,500,000's worth of subcontracts within the
16 Local Law 129 threshold of \$1,000,000. As of the
17 date we did the September report, those four
18 contracts had already generated about \$2,800,000
19 in MWBE subcontracts, so DOT was already ahead of
20 its projections at the time of that report.

21 Similarly, with respect to the five
22 contracts that were under the DBE program, we
23 calculated that the goals would yield
24 approximately \$77,000,000's worth of DBE
25 subcontracts over the life of those contracts, and

2 one of them I should note is a major bridge
3 replacement, Willis Avenue, which would obviously
4 go on for many years. As of September, DOT had
5 approved already \$58,000,000's worth of
6 subcontracts for those Federally regulated prime
7 contracts and of that \$48,000,000 had already gone
8 to companies that hold New York City MWBE
9 certification. Obviously they obtained those
10 subcontracts because they also hold dual
11 certification as DBEs but we check them against
12 our data base and determined that \$48,000,000 of
13 them hold a City certification as well.

14 DEB certifications are performed by
15 State Agencies such as the State Department of
16 Transportation, and obviously since State DOT is
17 here, I will leave them to speak to you directly
18 about the way in which those certifications
19 proceed and the efforts that they make both at
20 outreach and at ensuring that their companies are
21 qualified.

22 The Federal package, stimulus
23 package is of course not unique in the degree that
24 it's going to generate contracts that are governed
25 by the Federal requirements rather than Local Law

129. Last year when we looked at the City's construction contracts and we looked at all of the--what would otherwise be the category of contracts that would have been subject to LL 129, we learned from the data that 80% of that dollar value was actually not covered by Local Law 129 because it was instead covered by the Federal or State goals programs.

In particular four agencies, the two that you mentioned, DOT and DDC, but also DEP and Parks, procured a total of about \$3,000,000,000's worth of construction contracts that were subject o Federal or State goals. That turned out to be more than half of the City's total construction contracts and basically all of the City's large infrastructure contracts. Based on the applicable State and Federal goals, the MWBE and DBE participation that will flow from those Federal and State goals programs is estimated that it will eventually total \$644,000,000. It's about 19% of the total value.

Most of infrastructure contracts do extend over multiple years but we are looking year to year and early results do show that City-

1
2 certified MWBEs have won many subcontracts on
3 these Federal and State funded contracts even
4 though technically Local Law 129 is not in effect
5 for those contracts. About \$52,000,000's worth of
6 subcontracts went to certified MWBEs during Fiscal
7 Year 2008 mostly through the DBE program and as
8 you can tell from the prior date, much of that
9 through DOT.

10 SBS has estimated that about a
11 third of our 1,800 City certified MWBEs fall in
12 the construction industry category. So it's 600
13 and change in terms of the number of firms that
14 are construction firms. And our data currently
15 shows that just under 40% of those are holding a
16 dual DBE certification. Now that obviously is a
17 number that we want to pull up because we haven't
18 previously collected this DBE data as concerted
19 as we are now, some of the difference between our
20 certification and DBE may simply be that we don't
21 know that they hold a DBE certification but
22 obviously to the extent that it is attributable to
23 a need on our part to alert City certified MWBEs
24 of the importance of trying to get their DBE
25 certification, we expect to do that very

2 aggressively in the weeks and months to come.

3 My office and SBS are planning to
4 work together to conduct outreach to ensure that
5 City certified MWBE firms learn of the
6 opportunities that are available on contracts with
7 DBE goals, and to extent that we can assist them
8 in obtaining their DBE certification we stand
9 ready to do that.

10 The stimulus package projects will
11 be bid out, as you know under the law, very
12 rapidly. But the process of reviewing and
13 approving the individual subcontractors goes on
14 through the life of the contract, and so we are
15 confident that as we continue to both conduct the
16 outreach and follow-up with the enforcement tools
17 that are available to us, we will have an ability
18 to bring even newly-certified DBEs to the table so
19 that along with the firms that already hold the
20 dual certification, they will be able to benefit
21 from the Federal stimulus package.

22 Now we are available to answer any
23 questions that the Committee may have. Thank you.

24 CHAIRPERSON LIU: Thank you. We've
25 been joined by Council Member Matthew Eugene of

2 Brooklyn and also Council Member Jessica Lappin of
3 Manhattan. And being a member of the
4 Transportation Committee, we'd like to offer
5 Council Member Lappin a chance to vote on proposed
6 880-A.

7 COMMITTEE CLERK MARTIN: Council
8 Member Lappin.

9 COUNCIL MEMBER LAPPIN: Aye. Thank
10 you Mr. Chair.

11 COMMITTEE CLERK MARTIN: The final
12 vote now stands at nine in the affirmative, zero
13 in the negative and no abstentions. Thank you.

14 CHAIRPERSON LIU: Thank you. And
15 we've also been joined by Council Member Mike
16 Nelson of Brooklyn. And Melissa--Council Member
17 Melissa Mark-Viverito from Manhattan and the
18 Bronx. Boy. Got to get every thing perfect
19 today. All right. Well thank you very much Ms.
20 Simpson. Your colleague, Mr. Bishop, you're here
21 for questions and answers?

22 MS. SIMPSON: Um-hum.

23 CHAIRPERSON LIU: No prepared
24 testimony. All right. So we... we have worked with
25 you very closely over the years Ms. Simpson and we

1
 2 always appreciate you giving us an update on where
 3 the City stands with regard to our MWBE goals.
 4 Being a member of the Contracts Committee myself I
 5 remember the last time Chairperson James held a
 6 hearing on Local Law 129. We--there was, I
 7 suppose you could describe it as dismay all around
 8 that most of the goals were not even near being
 9 met. And I believe that was certainly true of the
 10 Department of Transportation for the City. Is
 11 there any update on that in terms of meeting the
 12 goals of Local Law 129 or is it fair to say that
 13 we're still a significant ways off.

14 MS. SIMPSON: I think we have to
 15 distinguish between what the law terms the
 16 aspirational goals for prime contracts and the
 17 subcontractor participation goals that apply once
 18 the contract is let. DOT is in full compliance
 19 with the subcontractor goals and as the data I
 20 presented today indicates they're actually ahead
 21 of where the goals would necessarily project.
 22 They've been aggressive.

23 And while DOT has the added
 24 challenge which is to say that when you look at
 25 DOT numbers of LL 129, by definition you are not

1
2 looking at the bulk of their business because the
3 bulk of their business is in the DBE program which
4 is again in consultation with SBS, after a couple
5 of years of looking at the data from the LL 129
6 program, my staff and SBS collaborated because we
7 realized that we weren't presenting a complete
8 picture if we didn't give you the DBE data at the
9 same time.

10 It's a little challenging for us to
11 collect the DBE data because obviously we're not
12 in control of all of the information. But we've
13 ramped up our ability to do that and we think last
14 year in the report that you got in September, we
15 gave you a much broader picture which included all
16 the DBE contracts. And then I gave you sort of a
17 microscope on it in the testimony for how DOT is
18 doing. And we think they're doing fine. You will
19 see for any agency that has to do its contracts by
20 competitive sealed bid, you will see successes and
21 failures in terms of attaining the aspirational
22 goals. But we have to take the low bid. And so
23 when, if all the outreach is done and all of the
24 programs are in place, and at the end of the day a
25 contract is let by competitive sealed bid and is

2 not won by an MWBE, there's not very much that any
3 of us can do to alter that result.

4 So I don't necessarily believe, and
5 again, the law is pretty clear, LL 129, in
6 treating those prime contractor goals as
7 aspirational. And so we would not consider an
8 agency's inability to attain the percentage in
9 prime contracts to be much of an indicator of that
10 agency's either compliance or enthusiasm for this
11 law.

12 CHAIRPERSON LIU: Well I suppose
13 that is an explanation but, you know, as you would
14 not be surprised to hear, the idea that low bids
15 always get in the way of MWBEs getting a good
16 chunk of the opportunities, that's countered by so
17 many stories we hear over and over again of how
18 companies always from even asking for an
19 application to filing it in the right place and
20 being given 100 different answers that there are
21 lots of, there are still remaining many, many
22 barriers that keep MWBE firms from properly and
23 competitively bidding, low bid or not.

24 But my question really has to do
25 with... your testimony talked about how the Federal

2 requirements attached to the stimulus funds, the
3 ARRA funds. Those are, while the Federal
4 regulations do not require MWBE participation per
5 se, it's just DBE participation.

6 MS. SIMPSON: Well that's correct
7 but for example, and again I think my colleagues
8 from the State will be in a better position to
9 explain this, but the same racial, ethnic and
10 gender categories that we use in Local Law 129 are
11 considered presumptive eligibility in terms of the
12 disadvantaged component of the DBE. There are
13 additional criteria that are applied but we
14 believe there's a pretty close fit between which
15 companies, particularly at the small end of the
16 scale, which companies are eligible to be DBE and
17 which companies are eligible to be City certified
18 MWBEs.

19 We've already identified from our
20 data, which again wasn't created for this purpose,
21 but we were able to identify immediately 40% of
22 our companies that hold the DBE certification. We
23 are going to contact all of the other companies
24 that, to ensure, to determine whether they also
25 are eligible for DBE certification and to hasten

1
2 their compliance with that--

3 CHAIRPERSON LIU: [Interposing]

4 Okay. So you--I just wanted to clarify that point
5 because your testimony stated that LL, Local Law
6 129 will not apply as it exempts contracts that
7 are subject to goals that are set by Federal or
8 State funding sources. Even though technically
9 speaking LL 129 will not apply, as you state in
10 your testimony, what you're describing now is
11 basically stating that the intent of Local Law 129
12 would largely be fulfilled so long as the
13 contracts meet up to the Federal standards under
14 ARRA.

15 MS. SIMPSON: Well I think that
16 that's true. I think it's incumbent on us at the
17 City level to make sure that companies know of the
18 DBE program and the importance, particularly with
19 the infrastructure money coming, know of the
20 importance of gaining that certification. And I
21 am confident from everything that Governor
22 Paterson and the State agencies have done that
23 they would help us speed along any of those
24 applications that we can bring to the table from
25 qualified MWBEs who might not yet hold a DBE

1 certification but who would be entitled to that.
 2
 3 And so that's something that we are very
 4 interested in working on.

5 It won't be every MWBE that will
 6 qualify as a DBE. Some, a few of our certified
 7 MWBEs may be too large or have had succeeded in
 8 winning too many contracts to qualify as DBEs.
 9 But the standard is a fairly high threshold and
 10 we, again, we want to make sure that every company
 11 that we are working with in the City program at
 12 least knows of its rights under the Federal and
 13 State program, and to the extent that it requires
 14 any assistance in gaining access to that
 15 Federal/State program, we want to make sure that
 16 they do.

17 CHAIRPERSON LIU: All right. We've
 18 got questions from some of my colleagues here but
 19 I do want to state that part of what you're
 20 describing is the dilemma that actually some MWBE
 21 firms are caught in the middle of. That they may
 22 be too large as you described to be included under
 23 DBE programs and yet they're not large enough to
 24 be the large firms that agencies like the MTA and
 25 in some cases the City DOT state are not--they're

2 not large enough to be able to accommodate those
3 contracts. So, you know, that is a problem area
4 that we're going to have to pay more attention to--
5 -

6 MS. SIMPSON: [Interposing] Well
7 the good--

8 CHAIRPERSON LIU: --because just as
9 MWBE companies are starting to gain in size and in
10 capacity, they are then somehow locked out on both
11 sides. And so what we have to pay more attention
12 to that but I also do want to state to you,
13 because we don't get to state this to the City
14 Department of Transportation very much, that there
15 are lots of problems with regard to the way they
16 contract their construction business. And I know
17 some of that is done through the Department of
18 Design and Construction. But it's, again, not as
19 bad, it's not as bad as with the MTA, but the City
20 projects are almost always given to large sized
21 firms when it comes to street construction or when
22 it comes to bridge work. In some cases tunnel
23 work, it's always--

24 MS. SIMPSON: [Interposing] Almost
25 always tunnel work. There's probably only three

1
2 companies in the region that can do the tunnel
3 work at the scale that the City does tunnel work.

4 CHAIRPERSON LIU: Well in, even in
5 those cases, there are ways to ensure that there's
6 more participation by MWBEs and firms.

7 MS. SIMPSON: Councilman, I think,
8 again, I'd be happy to look at any individual
9 complaint or issue that you can bring to our
10 attention 'cause I--we'll have to--I do say that I
11 don't think I've heard those about the bidding
12 process per se. The City operates, particularly,
13 if you look at the bridge jobs that DOT does, you
14 look at some of the tunneling and major facility
15 jobs that DEP does, the scale at which the City
16 has to operate is so large that there are really
17 only a handful of companies in the entire region
18 that qualify to do the work.

19 Where the Local Law 129 program or
20 the Federal DBE program has an impact on those
21 contracts is at the subcontractor level. And we
22 are very aggressive in ensuring that all of our
23 agencies meet those standards for subcontracts and
24 that's a huge dollar impact. So that's where
25 we're trying to make, you know, I don't know any

1
 2 more than you can take, you know, most of the
 3 companies that do the City's construction work on
 4 our structure side, most of the companies, whether
 5 they're MWBE or not, they don't have the capacity
 6 to do a \$300,000,000 bridge project. So there are
 7 only a handful of companies that will undertake a
 8 \$300,000,000 bridge project. And the key for us
 9 is making sure that when one of those companies
 10 wins a bid that we enforce aggressively the
 11 subcontractor participation part.

12 CHAIRPERSON LIU: Thank you very
 13 much. Questions from Chairman Seabrook.

14 CHAIRPERSON SEABROOK: Thank you
 15 very much Mr. Chair. Just a couple of questions
 16 because you just related the issue of the larger
 17 companies in that they're very limited in terms of
 18 the work in which they can do. What is the type
 19 of outreach that you use and when you state
 20 regional in terms of these large bridge and
 21 tunnels and so forth 'cause there have been
 22 minority companies that have come that's not in
 23 New York but have an interest in doing work and
 24 they have done work throughout but they can't seem
 25 to get any work in New York City? What's the

2 outreach of dealing with these larger minority
3 firms? How do you--what's your outreach in terms
4 of participation?

5 MS. SIMPSON: I'm going to defer to
6 my colleague because SBS is really in charge of
7 that area.

8 MR. GREGG BISHOP: Good afternoon.
9 We're responsible for the certification of the
10 MWBE program. And we have a couple MOUs with the
11 State authorities. So we actually, we reach out
12 to those authorities, the State, the Port
13 Authority, SCA and actually MTA, to figure out
14 their list and actually get those companies
15 certified. It's a different process. It's a
16 fast-track process. Once they're certified by one
17 of those authorities they can be easily certified
18 with our companies.

19 In terms of outreach we are
20 actually looking at the reverse with our
21 relationship with the Port Authority and with the
22 MTA to look at our pool of certified companies who
23 are not DBE certified because I've heard just by
24 going out there and meeting with those companies
25 who are concerned about getting cut out of the

2 stimulus money, to reach out to them and actually
3 have networking opportunities where the Port
4 Authority or the MTA can explain to them the DBE
5 requirements because there's two different
6 criteria that they have to meet. And get those
7 applications in as quickly as possible. So if
8 there's a company that is not City certified but
9 is certified through any other entity in New York
10 State, we can get them certified rather quickly.

11 CHAIRPERSON SEABROOK: Okay. Then
12 the question of what type of advertisement vehicle
13 that you use in terms of requesting this
14 participation.

15 MR. BISHOP: In terms of the
16 certification process? We--

17 CHAIRPERSON SEABROOK:
18 [Interposing] No. In terms of--that the City uses
19 in terms of saying that these jobs are open for
20 bidding, how is that done?

21 MR. BISHOP: The--sorry--

22 MS. SIMPSON: [Interposing] Well a
23 lot of those are nationally advertised in trade
24 publications as well as, you know, the standard
25 City record and newspaper advertisements. It

2 really varies project to project what level of
3 advertisement goes out but--

4 CHAIRPERSON SEABROOK:

5 [Interposing] Who's responsible?

6 MS. SIMPSON: --of our large-scale,
7 you're talking about the major trade publications
8 as well.

9 CHAIRPERSON SEABROOK: No I'm
10 saying but who's responsible for that?

11 MS. SIMPSON: Each individual
12 agency.

13 CHAIRPERSON SEABROOK: Each
14 individual agency has that responsibility. And
15 do, would you be able to have the information of
16 the amount of advertising dollars that goes into
17 minority and women's publications that these
18 agencies advertise in?

19 MS. SIMPSON: Councilman I don't
20 know. I can look into that and get back to you.
21 I, it would depend on whether we can track it that
22 way, whether we have that information. I'm sure
23 we know from our contacts with both the ACCO
24 [phonetic] offices and the liaisons with LL 129
25 programs, I'm sure we know what publications and

2 what outreach efforts each organization is making.
3 They report that to SBS as part of their response
4 under Local Law 129. So I'm sure we could put
5 some response together. I don't know if we'd have
6 it all by dollar value, but I'm sure we could get
7 you some information.

8 CHAIRPERSON SEABROOK: Okay. I'd
9 appreciate it because the minority newspapers have
10 indicated that they do not get their fair share of
11 these publications and these notices that's
12 available. So if you could do that, I'd
13 appreciate it.

14 MR. BISHOP: I just want to add,
15 when a bid goes out and it has to be on the City
16 record, we, our certified firms, one of the
17 advantages of being certified with the City, we
18 have a team that actually looks and depending on
19 what sector it is, we send it out, that
20 information, to our certified firms. So if you're
21 certified with the City, you will be notified by
22 SBS about the actual bid.

23 CHAIRPERSON SEABROOK: And then the
24 other thing that you indicated that your
25 encouragement of subcontractors and the emphasis

2 you try and talk or have communications with the
3 developer in terms of doing this subcontracting,
4 how successful has that been and what's the
5 percentages of those minority participating in
6 that?

7 MS. SIMPSON: It does appear that
8 both on the LL 129 side and on the DBE side,
9 looking particularly at transportation in this
10 instance, that we are on target. We're making
11 those--subcontractor awards are coming in. We're
12 tracking them. We're, SBS has begun this year and
13 you're going to see some reports on this in a few
14 months, we've begun to do auditing of contracts so
15 that we can make sure that after the subcontract
16 is reported to us that that is actually how the
17 monies flow and how the, you know, to make sure
18 that everything is on the up and up and that the
19 subcontractors that are identified are getting the
20 work that is promised to them. So we're pretty
21 encouraged by those results.

22 CHAIRPERSON SEABROOK: And just one
23 final question. It has come to my attention that
24 I don't know how true it is, but it is said that
25 in the Federal stimulus package, one of the

1
2 attachments and which one would love to have, is
3 somewhat of the Waters Amendment to it that says
4 that there needs to be participation specifically
5 when these Federal dollars go in, that they have
6 to have a certain percentage of minority and women
7 participation and certainly in the urban areas,
8 that this money is going to be spent.

9 How would that affect the City as
10 it relates, I think this Congresswoman Waters has
11 been talking about putting this amendment in.
12 Because otherwise we're just actually taking care
13 of the same people that didn't take care of us
14 that we're going to be awarding contracts and the
15 lack of our participation. So one way of assuring
16 that, I don't know, is that there will be attached
17 to this, an amendment that says that a certain
18 percentage of this has to be with minority
19 participation.

20 How does that affect the City in
21 terms of its involvement as it relates to low
22 bidder when they're saying that this stimulus
23 money and that's the level of attachment?

24 MS. SIMPSON: Again I can't really
25 comment without a copy of the text in front of me.

2 It would actually have to go, obviously to the Law
3 Department and we've have to be given guidance as
4 to how to implement it consistent with State law.
5 Unless it's somehow going to override State law
6 but I'm not qualified to comment on that
7 particularly not without a copy of it.

8 CHAIRPERSON SEABROOK: Okay. Thank
9 you Mr. Chair.

10 CHAIRPERSON JAMES: Ms. Simpson I
11 sort of want to deconstruct your testimony. Can
12 you identify the shovel-ready projects being
13 considered for funding under the American Recovery
14 and Investment Act? And do you have such a list
15 and can that list be shared with the Committee?

16 MS. SIMPSON: There is not a list
17 at this point in time. I think a lot of thought
18 has gone into what the possibilities are. And
19 some of that is a question of timing. Something
20 that was shovel-ready and needed to be bid in
21 January obviously got bid in January and isn't
22 being held back for the Federal program.

23 It will depend a lot on what the
24 terms are and those are still in motion. As you
25 know, we were until, you know, a few days ago,

2 looking very--we're still looking aggressively at
3 school construction, but suddenly school
4 construction disappeared as a topic. There is not
5 a list that exists that is final.

6 I think Director Kay gave you some
7 examples of the kinds of projects that are under
8 consideration. The three areas that I highlighted
9 in my testimony, energy conservation, roads and
10 bridges, and water and sewer projects, those are
11 all areas where the City has easily three or four
12 times the number of eligible shovel-ready projects
13 than we anticipate could conceivably receive the
14 Federal money.

15 So I think at some point which will
16 depend a little bit on the timing of the Bill,
17 decisions will end up having to be made by the
18 agencies and by the OMB and the City about which
19 are the most appropriate projects.

20 CHAIRPERSON JAMES: Now the City
21 does include the City Council. Will there be any
22 discussion with the City Council with respect to
23 this list of projects? What role, if any, will
24 the City Council have in shaping the projects that
25 have been deemed shovel-ready?

2 MS. SIMPSON: I'm not sure I
3 understand the question. I don't know that nor--I
4 mean obviously we come before the Council on an
5 oversight basis all the time. It is in general
6 not, I mean the Council does not have a structural
7 role in the City's solicitation of contracts. So
8 I don't know how the Council would have--I mean
9 obviously we're here. We're available to the
10 Council in an oversight setting at any time. But
11 when a decision is made by a City agency today to
12 put a project in the City record for solicitation,
13 that's not a decision that goes through the
14 Council and I don't think that would change.

15 CHAIRPERSON JAMES: So it is your
16 position that there is no role for the City
17 Council in this stimulus package? In shaping--

18 MS. SIMPSON: [Interposing] I
19 believe that City Council has the same role in the
20 stimulus contracts that it has on all of the
21 City's contracts which is an important role in
22 both the budget of the City, the capital budget of
23 the City, and oversight. But I don't believe the
24 City Council is part of the solicitation process
25 for awards.

2 CHAIRPERSON JAMES: The 11
3 construction contracts that you've outlined in
4 your testimony, can you further delineate these
5 construction contracts? Were they, were the
6 awardees Black-owned businesses, Latino owned
7 business, Asian owned business, Women owned
8 business? Could you delineate the 11?

9 MS. SIMPSON: The 11 contracts that
10 I referenced were awarded, 10 of them to non-
11 minority prime contractors and 1 of them, as I
12 mentioned, to an Asian American company by the
13 name of Unicorn.

14 CHAIRPERSON JAMES: So ten were to
15 non-minorities and one to one minority.

16 MS. SIMPSON: All through
17 competitive sealed bids, yes.

18 CHAIRPERSON JAMES: And in that,
19 and in your--based upon your testimony, you
20 believe that's success.

21 MS. SIMPSON: I believe it's
22 consistent with an aspirational goals program
23 which is all that is in effect for prime
24 contracts. Those 11 contracts then generated in
25 excess of what Local Law 129 required in their

2 subcontracts. Local Law 129 is primarily and
3 overwhelmingly a subcontracting participation
4 program. That's what Local Law 129 is designed to
5 do and on that standard, those 11 contracts are a
6 shining success.

7 CHAIRPERSON JAMES: And in your
8 testimony you talked about you've increased
9 training and apprenticeship opportunities. But
10 again the training and the apprenticeship
11 opportunities have not led to any contracts for
12 minorities and that being Black, Latino, Asian and
13 people who have been historically excluded.

14 MS. SIMPSON: Training and
15 apprenticeship applies to workforce participation,
16 not to--in the context that I testified, I was
17 referring to the workforce requirements. And yes
18 I believe that those are substantially beneficial
19 to persons, both minorities and persons in
20 economically disadvantaged areas. That's the
21 whole objective of most of those programs.

22 CHAIRPERSON JAMES: In your
23 testimony you testified, you stated, that DOT
24 calculated that approximately \$1,500,000 in
25 subcontractors valued at below \$1,000,000 would go

2 to certified MWBEs. Could you again state and
3 delineate those subcontractors? How many of those
4 were Black, Latino, Asian or people who have been
5 historically excluded?

6 MS. SIMPSON: In that case--I did
7 not bring that table with me but I can easily send
8 it to you. There was in that category there were
9 represented subcontractors of all of those groups
10 at a reasonable distribution. I'm happy to supply
11 you with the list of those subcontracts.

12 CHAIRPERSON JAMES: You also
13 testified that \$2,800,000 in subcontractors, was--
14 subcontracts, excuse me, was ahead of the
15 projections, the aspirational goals that you
16 referred to earlier--

17 MS. SIMPSON: [Interposing] No.

18 CHAIRPERSON JAMES: No?

19 MS. SIMPSON: No.

20 CHAIRPERSON JAMES: So the
21 aspirational goals were--

22 MS. SIMPSON: [Interposing] At--

23 CHAIRPERSON JAMES: --below that?

24 MS. SIMPSON: No. Aspirational
25 goals applied to prime contracts.

2 CHAIRPERSON JAMES: Right.

3 MS. SIMPSON: The subcontracts are
4 not aspirational--

5 CHAIRPERSON JAMES: [Interposing]
6 Okay.

7 MS. SIMPSON: --the subcontract
8 goals are what Local Law 129 is primarily aimed
9 at. And if you do the calculation under Local Law
10 129, the projection is \$1,500,000--

11 CHAIRPERSON JAMES: [Interposing]
12 Right.

13 MS. SIMPSON: --what they came in
14 with was \$2,800,000--

15 CHAIRPERSON JAMES: [Interposing]
16 \$2,800,000. And so that \$1,580,000 which is the
17 projection, what is the sum total of subcontracts
18 under DOT?

19 MS. SIMPSON: I don't have that
20 number. I can give you the calculation in terms
21 of how--for example on--

22 CHAIRPERSON JAMES: [Interposing] I
23 think I can tell you that.

24 MS. SIMPSON: --Local Law 129--no,
25 because, remember--

2 CHAIRPERSON JAMES: [Interposing]
3 It's in your testimony.

4 MS. SIMPSON: --Local Law 129 has
5 a, no it isn't. Local Law has an upper threshold
6 of \$1,000,000. So there are a substantial number
7 of subcontracts in any of our infrastructure
8 agencies, DOT being an example, that don't fall in
9 the program because the subcontract itself is
10 above \$1,000,000. And I don't have date, didn't
11 put data on that in this testimony because that--I
12 was comparing the goals that we do have.

13 CHAIRPERSON JAMES: Let me help
14 you. In your testimony, you stated as of
15 September, and I'm only referring to as of
16 September, as is referenced in your testimony, you
17 said as of September, DOT has approved about
18 \$58,000,000 in subcontracts. Going with your
19 testi--

20 MS. SIMPSON: [Interposing] Right.
21 But that's not the total number that's projected.

22 CHAIRPERSON JAMES: No I
23 understand. But let's just with as of September.
24 As of September, \$58,000,000 in subcontracts. And
25 again, based upon your definition of success, we

2 have awarded \$2,800,000 in WMBE subcontractors--

3 MS. SIMPSON: [Interposing] No
4 absolutely wrong.

5 CHAIRPERSON JAMES: --
6 subcontractors--okay.

7 MS. SIMPSON: --I'm sorry. You're-

8 -

9 CHAIRPERSON JAMES: [Interposing]
10 Okay.

11 MS. SIMPSON: --mixing apples and
12 oranges.

13 CHAIRPERSON JAMES: [Interposing]
14 Okay.

15 MS. SIMPSON: Let me go back
16 through the--

17 CHAIRPERSON JAMES: [Interposing]
18 Okay.

19 MS. SIMPSON: --testimony and
20 explain the difference.

21 CHAIRPERSON JAMES: Okay.

22 MS. SIMPSON: The first
23 calculation, the \$1,500,000 and the \$2,800,000--

24 CHAIRPERSON JAMES: [Interposing]
25 Yep.

2 MS. SIMPSON: --that refers to the
3 subcontracts that are covered, technically covered
4 by Local Law 129, not exempt, covered.

5 CHAIRPERSON JAMES: Um-hum.

6 MS. SIMPSON: What I'm then looking
7 at is the--really the 80% of it that is covered
8 not by Local Law 129--

9 CHAIRPERSON JAMES: [Interposing]
10 Correct.

11 MS. SIMPSON: --but by the Federal
12 and State programs.

13 CHAIRPERSON JAMES: Okay.

14 MS. SIMPSON: I think the
15 projection that I gave, I'm trying to do this from
16 memory, was more like \$77,000,000 that was
17 projected as likely to be generated, \$52,000,000
18 had been generated and \$48,000,000 went to
19 certified MWBEs. That's the number.

20 CHAIRPERSON JAMES: So again, based
21 upon my reading of this, \$48,000,000 of the
22 \$58,000,000 in subcontractors, in subcontractors
23 as a total, correct--

24 MS. SIMPSON: [Interposing] That's
25 at total--so far.

2 CHAIRPERSON JAMES: --as a total.

3 MS. SIMPSON: So far.

4 CHAIRPERSON JAMES: As--so far, as
5 of September.

6 MS. SIMPSON: Correct.

7 CHAIRPERSON JAMES: So we both
8 agree. It's \$58,000,000 total. As of September.

9 MS. SIMPSON: Yes.

10 CHAIRPERSON JAMES: Right. We
11 agree. Now. As of--in terms of WMBEs, you said
12 \$48,000,000 had gone to certified WMBEs, each of
13 which presumably holds dual DBE certification. So
14 it's possible that a significant number of these
15 WMBEs were in fact Disadvantaged Business
16 Enterprises which could have been people who were
17 not African American, Latino--

18 MS. SIMPSON: [Interposing] No.

19 CHAIRPERSON JAMES: --Asian or
20 people who are--

21 MS. SIMPSON: [Interposing] No.

22 CHAIRPERSON JAMES: --historically
23 excluded.

24 MS. SIMPSON: No. What I'm telling
25 you is that \$48,000,000 went to companies that are

2 on our list, certified by SBS as Asian American,
3 Hispanic American, African American, or Women
4 Owned, eligible and qualified under LL 129--

5 CHAIRPERSON JAMES: [Interposing]

6 But--

7 MS. SIMPSON: --so while you could

8 be--

9 CHAIRPERSON JAMES: [Interposing]

10 You could be.

11 MS. SIMPSON: --outside those

12 categories and be a DBE, we have verified from the
13 data that we checked in preparation for this
14 hearing that \$48,000,000 of them were not in those
15 other categories, they were in the actual category
16 that is part of our program. They were certified
17 under our program. So we're confident that they
18 are Minority and Women Owned Businesses within the
19 meaning of our program.

20 CHAIRPERSON JAMES: And they could

21 have been a White Woman.

22 MS. SIMPSON: As they can be under

23 our program.

24 CHAIRPERSON JAMES: Correct. So

25 but we don't know because you don't have the

2 information, you can't delineate as to whether or
3 not it was African American, Latino--

4 MS. SIMPSON: [Interposing] I do
5 have that information. I don't have it in the
6 testimony but I'd be happy to supply it.

7 CHAIRPERSON JAMES: Okay. I would
8 like to see that. Because again based upon your
9 information earlier, there was only one prime bid
10 and the rest of them were not minority, they were,
11 it was in all likelihood a woman owned business
12 enterprise. My point is, is that, again,
13 historically excluded groups have not benefited
14 under Local Law 129 and it appears that they have
15 not benefited under any law which requires
16 increasing opportunities who have been
17 historically excluded.

18 If you hear my frustration in my
19 voice, it's the frustration which is shared within
20 the WMBE community as a whole. And I believe that
21 we have got to do better to increase opportunities
22 for those people who unfortunately have not shared
23 from the largesse of government. And I don't know
24 if it's outreach. I do know that apprenticeship
25 programs, well that's workforce development, but I

2 do know that the certification program has just
3 been a certification program and it's not resulted
4 to any significant degree, any major contracts in
5 the City of New York. I believe the law
6 unfortunately has been an abysmal failure and it's
7 really, it's extremely frustrating. Thank you.

8 MS. SIMPSON: I do want to correct
9 the record because we included in our report a
10 pretty detailed description of several very large
11 contracts that were won by MWBEs last Fiscal Year.
12 Again the program was established with what was
13 described as a three year ramp up time which
14 obviously, you know, is something that we've been
15 trying to do as aggressively as we can. But DOIT
16 [phonetic] had an \$80,000,000 contract won by a
17 Woman owned firm. As I mentioned Unicorn had won
18 a contract, I don't recall at the moment if it's
19 DOT or DDC but it's a transportation contract. We
20 have a contract in the Parks Department for a
21 major, \$15,000,000 or \$16,000,000 contract that
22 was won on a competitive sealed bid.

23 There are examples and we are
24 extremely proud of the program's efforts to
25 increase the number of those examples. But we are

2 working within the confines of a piece of
3 legislation and I'll borrow from the President's
4 description of the infrastructure package
5 yesterday. It was less than perfect. We knew it
6 was less than perfect at the time that we worked
7 and this Council worked very hard to pass it.

8 We are constrained to use the
9 results of the Disparity Study and that
10 established for this program an upper limit
11 ceiling of \$1,000,000. I think you will see as we
12 go forward that the MWBE community is crashing
13 through the \$1,000,000 ceiling and we are very
14 hopeful that as we go forward the program will
15 continue to grow. Because both on the prime
16 contract level and on the subcontract level,
17 that's the place where we can get growth. We can
18 get growth in the area above \$1,000,000.

19 CHAIRPERSON JAMES: I'll close by
20 just saying that the--when the stimulus money
21 comes to the City of New York, the American
22 Recovery and Reinvestment Act, it's really
23 critically important that you outreach to the
24 minority business community. That you bring them
25 in. that you engage in a dialog with them to see

2 how we can increase opportunities. There are
3 opportunities to increase minority contract,
4 consistent with the law.

5 And in the absence of a
6 conversation with the business community, we're
7 going to continue to see these types of numbers.
8 I recognize that you are constrained by State law.
9 I recognize that. And we are working with the
10 State legislature, hopefully to address the
11 defects of Article 15(a) and their Disparity Study
12 which is outdated. I understand that. But at
13 this point in time we can improve these numbers by
14 engaging in a dialog with the business community.

15 It has been done on projects in
16 Queens and it has been done on other projects.
17 But we have to apply what they did in Queens, in
18 Southeast Queens, and apply it to the system
19 overall. And it can be done consistent with both
20 Federal, State and Local law. But it begins with
21 a conversation. Thank you.

22 CHAIRPERSON LIU: Thank you
23 Chairperson James. We have questions from Council
24 Member Reyna.

25 COUNCIL MEMBER REYNA: Thank you

2 Chairs. I just wanted to take an opportunity to
3 understand a little further the shovel-ready
4 projects. The shovel-ready projects obviously
5 were, had to fall under a certain category under
6 the stimulus package. Am I correct?

7 MS. SIMPSON: There are multiple
8 categories, but yes.

9 COUNCIL MEMBER REYNA: Correct. So
10 that projects qualifying under those categories
11 did not need to have any shortfall budget
12 constraints. They could have been whole and we're
13 trying to introduce projects where we can get some
14 assistance in decreasing the commitment from the
15 City freeing up dollars on behalf of the City to
16 shift to other projects.

17 MS. SIMPSON: Well. That's actually
18 sort of more relevant to the testimony my
19 colleague did yesterday. But I think it is not,
20 not the City's understanding that what the Federal
21 funding agencies expect us to do with stimulus
22 money is to simply cost shift projects that we
23 were already going to pay for to the Federal
24 package. I think the intention of the Federal
25 package is to bring things into development that

2 we were not going to be able to do or to bring
 3 them in quicker than we were going to be able to
 4 do it. I don't think we can simply pull things
 5 out that we were already going to do and say oh
 6 okay the Feds will pay for this now.

7 COUNCIL MEMBER REYNA: So we're
 8 trying to avoid any delays, so projects that had
 9 to be delayed due to fiscal constraints will now
 10 hopefully be delivered on a more timely fashion?

11 MS. SIMPSON: [Interposing] The--

12 COUNCIL MEMBER REYNA:
 13 [Interposing] More--

14 MS. SIMPSON: --shovel--I'm sorry.
 15 The shovel-ready aspect of what we're talking
 16 about really has to do with whether the project
 17 has been designed already. If you're talking
 18 about a project whether we delayed it or we didn't
 19 delay it, if you're talking about a project that
 20 we haven't yet even had the engineering work done
 21 for or designed, under the Federal standard that
 22 would not be considered shovel-ready because if we
 23 were to get the green light tomorrow, only a few
 24 jobs would be created because the only people
 25 working would be the engineers.

2 COUNCIL MEMBER REYNA: Um-hum.

3 MS. SIMPSON: What they're looking
4 for are projects where the design is finished so
5 that when we put it out to bid and they give us a
6 very short time window that we have to get the
7 bidding process--

8 COUNCIL MEMBER REYNA:

9 [Interposing] Um-hum.

10 MS. SIMPSON: --done in. Once we
11 put it out to bid we can put thousands or hundreds
12 of people to work on each project because it's the
13 actual construction not the design.

14 COUNCIL MEMBER REYNA: Um-hum.

15 MS. SIMPSON: So the difference
16 between a project that's in our capital plan
17 that's deferred into the out years, and that we,
18 you know, that has been delayed and one that is
19 shovel-ready is most often a difference in whether
20 the design work was finished already.

21 COUNCIL MEMBER REYNA: And as far
22 as, you know, members of the Council, we're
23 supposed to have a full budget... you know, a
24 specific project has to be fully funded before we
25 can move ahead. So I'm under the impression that

2 these projects had to be fully funded already
3 before going into design and scope.

4 MS. SIMPSON: That's correct but
5 not all the funding is current. I mean you'll
6 have a project where design is funded in this
7 Fiscal Year and construction begins next Fiscal
8 Year or even one year down from that. So the
9 projects that agencies are looking at today as
10 candidates for the stimulus package are projects
11 that probably the design for them got done last
12 Fiscal Year or maybe at the beginning of this
13 Fiscal Year or in some cases even two or three
14 Fiscal Years ago and we simply had to defer them
15 because we didn't have all of the money for
16 construction.

17 And when the capital plan was
18 stretched out to five years, something that was
19 slated for FY '09 construction could well have
20 been moved to FY '10 or FY '11. But if the design
21 was completed in FY '08 or FY '09, that project
22 could be recaptured from the out year and brought
23 into a current year and people could be put to
24 work on that project right now--

25 COUNCIL MEMBER REYNA:

2 [Interposing] Um-hum.

3 MS. SIMPSON: --because it's ready
4 to go.

5 COUNCIL MEMBER REYNA: Okay. And
6 as far as the, going back to the cost savings of
7 anything, there is no cost savings because the
8 stimulus package is not intended to, obviously,
9 shift a municipality's money from one particular
10 project to another.

11 MS. SIMPSON: I really am not
12 qualified to comment entirely on the budget
13 implications of that. I mean Director Kay who
14 testified yesterday is obviously the point person
15 who would be better, you know, to respond to your
16 questions on that--

17 COUNCIL MEMBER REYNA:
18 [Interposing] Um-hum.

19 MS. SIMPSON: --we can take that
20 question back.

21 COUNCIL MEMBER REYNA: Um-hum.

22 MS. SIMPSON: I'm sure that overall
23 from an economic standpoint anything that puts
24 thousands of New Yorkers back to work will save us
25 money--

2 COUNCIL MEMBER REYNA:

3 [Interposing] Um-hum.

4 MS. SIMPSON: --in the sense that
5 those will be people who presumably have paychecks
6 and may be less dependent on other services and
7 who can pay taxes and all of that is obviously to
8 the City's economic benefit and certainly to the
9 budget's benefit. But exactly how projects can
10 come in or out of the stimulus package in terms of
11 whether we can save money for the City's immediate
12 budget needs, I think those are questions that are
13 better directed to OMB or to Operations.

14 COUNCIL MEMBER REYNA: Um-hum.

15 Okay. So. The answer is not a clear no; you're
16 just deferring to--

17 MS. SIMPSON: 0020[Interposing] I'm
18 here to talk about the subject of this hearing--

19 COUNCIL MEMBER REYNA:

20 [Interposing] Right.

21 MS. SIMPSON: --which--and I
22 prepared on the subject of participation goals. I
23 don't have at my fingertips all of the legal
24 requirements that would apply to, you know,
25 whether or not we can pull projects in--

2 COUNCIL MEMBER REYNA:

3 [Interposing] Right.

4 MS. SIMPSON: --and out of the
5 budget.

6 COUNCIL MEMBER REYNA: Well, you
7 know, my point is referencing that subject because
8 of the simple fact that the stimulus package is
9 directed towards very specific categories. And so
10 if there's an opportunity to shift dollars on a
11 savings, to shift dollars somewhere else where it
12 didn't qualify under those categories at the
13 Federal level, that now we have even more
14 opportunity to contract MWBEs as far as work is
15 concerned in the City of New York. So I was
16 trying to figure out how this had a multiple
17 effect not just under the stimulus package but
18 indirectly affecting other opportunities. So I
19 guess this particular answer can only be answered
20 by the Director from--

21 MS. SIMPSON: [Interposing] I think
22 it--

23 COUNCIL MEMBER REYNA: --
24 Operations.

25 MS. SIMPSON: Yes. And I think the

2 other thing is that those are the kinds of issues
3 that we have to look closely at, what comes out of
4 the conference report. Because there are
5 distinctions between the House Bill and the Senate
6 Bill in terms of what the actual requirements that
7 would apply to States and localities would be.
8 And rather than speculate on what we're going to
9 be allowed--

10 COUNCIL MEMBER REYNA:

11 [Interposing] Of course.

12 MS. SIMPSON: --to qualify, we
13 really do need to see how that language gets
14 hammered out--

15 COUNCIL MEMBER REYNA:

16 [Interposing] Of course.

17 MS. SIMPSON: --and I think we'd be
18 happy, you know, basically if the Committee wanted
19 to hold another hearing on this topic down the
20 road a bit. I'm sure both Director Kay and I
21 would be able to come and explain to you those--
22 and I'm sure a lot of that will come out as the
23 Council holds its budget hearings in the next
24 couple of months.

25 COUNCIL MEMBER REYNA: Thank you.

2 And I wanted to just, you know, continue to ask
3 specifically on the 11 contracts, prime contracts,
4 is what you had definitively mentioned in your
5 testimony of which you can, you broke down 10 were
6 non-minority and 1 was a minority award. But I'm
7 trying to understand how many MWBEs participated
8 in the prime contracting bidding process?

9 MS. SIMPSON: I don't know. I'm
10 not sure how easy it will be to go back and get
11 you that data for FY '08. You'll be happy to know
12 I hope that one of the things that we've done now
13 is we've actually built a system that collects
14 bidding data. And on FY '09 bids we're able to do
15 that quite easily. We do recognize that we want
16 to watch how the bidding process works and try to
17 see if we can learn from that how to do better, or
18 how to help the MWBE bidders do better.

19 I know, you know, from just
20 anecdotal evidence that the circumstances can be,
21 you know, very disappointing. I mean I've dealt
22 recently with a company where a low bid was lost
23 on a very, very small dollar amount. And, you
24 know, we looked very closely at the bidding
25 documents and there was nothing out of order in

2 anybody's bids. And the reality was that a
3 qualified MWBE company lost a contract on a very
4 tiny dollar amount. And that simply was the
5 result that there was. And there was really
6 nothing any of us could do about that.

7 A similar situation arises and I
8 don't recall whether it was a minority company or
9 not, but it happens with some frequency where a
10 company based in New York City loses to a non-New
11 York City company based on a tiny dollar amount.
12 And again the law being what it is, there isn't
13 much we can do about that. We obviously in those
14 circumstances when someone brings it to our
15 attention, we fly-speck the documents to make sure
16 that the result was correct. Because you wouldn't
17 want something like that to happen in error but if
18 it is correct the result is what it is.

19 So anyway, long story short, we
20 agree that we should be able to give you better
21 data and we hope for FY '09 and the future we will
22 be able to do that.

23 COUNCIL MEMBER REYNA: And is there
24 any reason Director why there's no thought behind,
25 once Local Law 129 passed, as to tracking how many

1
2 participate in the bidding process to analyze the
3 results of the process?

4 MS. SIMPSON: I won't say that
5 we're not tracking it. In fact that is a major
6 element of our effort to do a Disparity Study.
7 And our consultants did go out and collect all of
8 the bidder data for purposes of doing the
9 Disparity Study that is now underway. What I
10 meant by saying we're not tracking it is that I
11 don't have real time data on it. I agree that
12 that's something that we should have. And we now,
13 for FY '09, we do. Prior to FY '09 we did not.

14 COUNCIL MEMBER REYNA: Um-hum.

15 MS. SIMPSON: And hopefully, you
16 know, going forward if you were to ask me that
17 question about DOT's contracts next year, I would
18 have all that data at my fingertips. Right now,
19 for the period of time looking backwards, our
20 consultants went out and collected that data and
21 we're waiting still to get more information from
22 them. But the degree to which companies have bid
23 on projects and lost contracts or lost narrowly or
24 lost--

25 COUNCIL MEMBER REYNA:

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[Interposing] Um-hum.

MS. SIMPSON: --that's very important data for the Disparity Study and they will use it.

COUNCIL MEMBER REYNA: And as far as the 11 contracts are concerned, you don't have the information as to how many MWBEs participated but you will know for next year?

MS. SIMPSON: I will know for next year. And frankly for, I mean I can go back to DOT and see if--

COUNCIL MEMBER REYNA:
[Interposing] And collect.

MS. SIMPSON: --we can--and see if we can reconstruct it for the contracts that I discussed today. It shouldn't be that difficult for 11 contracts to reconstruct who the bidders were--

COUNCIL MEMBER REYNA:
[Interposing] Um-hum.

MS. SIMPSON: I don't have that at my fingertips today--

COUNCIL MEMBER REYNA:
[Interposing] Um-hum.

2 MS. SIMPSON: --and there's no data
3 system--

4 COUNCIL MEMBER REYNA:
5 [Interposing] Um-hum.

6 MS. SIMPSON: --I can push a button
7 on--

8 COUNCIL MEMBER REYNA:
9 [Interposing] Um-hum.

10 MS. SIMPSON: --and get it for you.
11 But human beings can look it up and give it to you
12 and we can do that.

13 COUNCIL MEMBER REYNA: Good old
14 fashioned way.

15 MS. SIMPSON: Yes.

16 COUNCIL MEMBER REYNA: Absolutely.
17 And I'm not just looking on who participated but--

18 MS. SIMPSON: [Interposing]
19 Categories.

20 COUNCIL MEMBER REYNA: --a
21 comparison--

22 MS. SIMPSON: [Interposing]
23 Underst--

24 COUNCIL MEMBER REYNA: --of MWBE
25 versus non-MWBE. The last question I have, you

2 mentioned the Disparity Study. And it's, we're in
3 the process of seeing a Disparity Study be
4 conducted to be published. So when is the
5 expected date of completion?

6 MS. SIMPSON: I don't know that we
7 have a fixed expectation. We're, I think our
8 consultants have worked very hard on that. And
9 I'm sure that when we have something that, you
10 know, where we've got preliminary data that we'd
11 be happy to bring that to the Committee. I think
12 it is our intention to have a dialog with the
13 Committee about that information before the study
14 is finished.

15 COUNCIL MEMBER REYNA: And as far
16 as the Disparity Study having begun the process of
17 conducting the study, when did it begin?

18 MS. SIMPSON: We've been doing data
19 collect on an ongoing basis almost since the
20 inception of the law--

21 COUNCIL MEMBER REYNA:
22 [Interposing] So back in 2005.

23 MS. SIMPSON: No, really the law
24 kicked in, in July of 2006.

25 COUNCIL MEMBER REYNA: Okay.

2 MS. SIMPSON: And we have been
3 looking at the collection of data. We, I think,
4 in the first year or so, the consultants tried to
5 do a quick review of data to see if there was a
6 basis based on the earliest indications of data to
7 see if there was a basis right at the early stage
8 of altering the goal percentages. The conclusion
9 at that time was that they did not have sufficient
10 data that would justify that from a legal
11 standpoint.

12 So we authorized them to go into
13 the field and conduct a full-out study and that's
14 complicated. But they have gotten a huge amount
15 of data on subcontracting, all of the bidder data,
16 all of the data on who's enrolled. And they're
17 really doing a significant piece of work to try
18 and see what the basis is under which either the
19 goals could be changed or different parameters
20 could be changed--

21 COUNCIL MEMBER REYNA:

22 [Interposing] Um-hum.

23 MS. SIMPSON: --the one I keep
24 mentioning is the \$1,000,000 limit.

25 COUNCIL MEMBER REYNA: Um-hum.

2 MS. SIMPSON: Right now the single,
3 as I said in my testimony the last time I was
4 here, the single largest factor that limits the
5 size of this program is the fact that nothing over
6 \$1,000,000 qualifies. That's a huge limiter. And
7 if we can get a data basis for changing that, then
8 that's obviously something we're interested in
9 doing.

10 COUNCIL MEMBER REYNA: Now why
11 wouldn't, you know, I can't remember if it was
12 2006 or 2007, I was the prime sponsor on the EBE,
13 Emerging Business Enterprises, that's under
14 \$1,000,000 so that it would capture a whole new
15 different category so that you're not limited to
16 opening the parameter of nothing under \$1,000,000.

17 MS. SIMPSON: No, well Local Law
18 129 is limited to under \$1,000,000 as well--

19 COUNCIL MEMBER REYNA:
20 [Interposing] It's limited--

21 MS. SIMPSON: --they're both--

22 COUNCIL MEMBER REYNA: --up to
23 \$1,000,000.

24 MS. SIMPSON: --as well.

25 COUNCIL MEMBER REYNA: Okay.

2 MS. SIMPSON: To date, again because
3 we have goals in the MWBE program, I don't think
4 there's been a significant interest yet in the
5 business community in having people qualify as
6 EBEs. We did have, SBS has regulations in place
7 for EBE qualification. But I don't think a lot of
8 companies have come forward to be interested in
9 that yet. And to--so far, I think SBS's priority
10 has been on trying to increase LL 129 MWBE
11 certifications.

12 COUNCIL MEMBER REYNA: And the
13 intent of the EBE was not to drive away from the
14 MWBE--

15 MS. SIMPSON: [Interposing]
16 Correct.

17 COUNCIL MEMBER REYNA: --it was to
18 supplement it--

19 MS. SIMPSON: [Interposing] That's
20 correct.

21 COUNCIL MEMBER REYNA: --because
22 there were falling categories. And so this was
23 supposed to capture whatever was falling off of
24 the MWBE process to follow Local Law 129. I
25 wanted to just be very specific on the, since July

2 of 2006, you know, how many certified companies do
3 we have as of 2006, 2007, 2008 and then obviously
4 2009?

5 MR. BISHOP: Just in general, we
6 currently have over 1,800 certified firms.

7 COUNCIL MEMBER REYNA: But the
8 broken down information as to--we started off in
9 2006--

10 MR. BISHOP: [Interposing] Okay.

11 COUNCIL MEMBER REYNA: --how many
12 certified businesses as MWBEs--

13 MS. BISHOP: [Interposing] Um-hum.

14 COUNCIL MEMBER REYNA: --2007, 2008
15 and now we're in 2009. I should see a steady flow
16 of an increase in MWBE certification.

17 MS. BISHOP: Right. That's
18 correct. I--

19 COUNCIL MEMBER REYNA:
20 [Interposing] Do you have that data?

21 MR. BISHOP: I don't have that
22 information in front of me. I can tell you in the
23 past year or so we've seen a huge increase. In
24 terms of companies putting in their applications
25 to be certified. But I can get that information--

2 COUNCIL MEMBER REYNA:

3 [Interposing] Putting in their applications, not
4 certified.

5 MR. BISHOP: Well.

6 MS. SIMPSON: Both.

7 MR. BISHOP: Both. Exactly.

8 MS. SIMPSON: And I think if you
9 go, I'm sure the Committee has the records, Local
10 Law 129 requires a report to be given to the
11 Committee every six months and we have done that
12 and it includes that data.

13 COUNCIL MEMBER REYNA: So the total
14 number of certified MWBEs to date is what?

15 MR. BISHOP: As of December it was
16 1,797. We are now closing out our information,
17 our monthly--

18 COUNCIL MEMBER REYNA: 1,797--

19 MR. BISHOP: [Interposing] Yes.

20 COUNCIL MEMBER REYNA: --not
21 17,000.

22 MR. BISHOP: No. Yeah.

23 COUNCIL MEMBER REYNA: Okay.

24 MR. BISHOP: 1,797.

25 COUNCIL MEMBER REYNA: Um-hum.

2 MR. BISHOP: Correct.

3 COUNCIL MEMBER REYNA: I'm sorry
4 and I continued. I interrupted.

5 MR. BISHOP: Yep We are closing
6 out. WE have certified firms obviously in
7 January. So it's a little over 1,800 I don't have
8 the exact number.

9 COUNCIL MEMBER REYNA: And out of
10 the 1,797, we'll even it out to 1,800, how many
11 have been awarded contracts successfully? And the
12 breakdown of prime contracts versus subcontracts?

13 MS. SIMPSON: I don't have that at
14 my fingertips. I know that we have given, as I
15 say, because we do the data every six months, a
16 lot of that data has been supplied to the Council
17 but we can certainly look at that and try to get
18 you information broken along those lines.

19 Certainly we have it, we can do it for prime
20 contracts. We will look at the categories of
21 subcontracts where it's possible to do that. As
22 you may recall Local Law 129 does not have
23 subcontract goals for most types of contracts--

24 COUNCIL MEMBER REYNA:

25 [Interposing] And I just want to make sure we

2 understand--

3 MS. SIMPSON: [Interposing] Um-hum.

4 COUNCIL MEMBER REYNA: --Director
5 Simpson. I'm not looking for just following local
6 law 'cause nothing prohibits us from doing better
7 than Local Law 129.

8 MS. SIMPSON: That's correct.

9 Although what I'm saying is that in some kinds of-
10 -let's, a lot of our firms, for example, sell
11 goods. If we have a certified firm that's selling
12 goods--

13 COUNCIL MEMBER REYNA:

14 [Interposing] Um-hum.

15 MS. SIMPSON: They may well and we
16 will give you data to show which ones have gotten
17 contracts, either prime contracts through bids to
18 DCAS or small purchase contracts up to \$100,000.
19 All of those could happen. But in goods, nobody
20 subcontracts.

21 COUNCIL MEMBER REYNA: Um-hum.

22 MS. SIMPSON: So there will be zero
23 or virtually zero subcontracts. And then it's not
24 because the MWBEs haven't won any subcontracts,
25 it's because there aren't any subcontracts.

2 That's the only point I was trying to make.

3 COUNCIL MEMBER REYNA: Um-hum. Um-
4 hum. And I am asking these questions because I
5 wanted to be relevant to the subject today, you
6 know, if we don't have companies that are
7 certified, not getting contracts, it's going to
8 prohibit them from being able to participate in
9 graduating from a subcontract to a prime contract.
10 And so we have a very vicious cycle of stumbling
11 blocks here.

12 And so I need to understand what
13 are we doing to break those barriers? And have we
14 already successfully broken those barriers so that
15 now with this stimulus package of billions of
16 dollars coming in, we're hitting the ground as we
17 speak.

18 MS. SIMPSON: Well for purposes of
19 the stimulus package the more relevant number is
20 not the 1,800 number but the number that I think
21 is around 600 or 623. What we are looking at are
22 those certified companies that are certified in
23 construction. Because the area where, in the
24 stimulus package, where those subcontract
25 participation goals will kick in is construction.

2 COUNCIL MEMBER REYNA: Um-hum.

3 MS. SIMPSON: So a company that's
4 certified to do business with us in some other
5 area is not going to be likely to get business
6 through the stimulus package. We want to focus on
7 the 600 or so that are construction firms. Those
8 are the ones that I think we, you know, when we
9 talk about trying to make sure that they have DBE
10 certification and that they're eligible, those are
11 the ones that we're focused on.

12 COUNCIL MEMBER REYNA: Which is why
13 I asked the first question--

14 MS. SIMPSON: [Interposing] Um-hum.

15 COUNCIL MEMBER REYNA: --you know,
16 is this going to give us the opportunity to flow
17 funding so that we're filling in holes with
18 Federal dollars and plugging more City funds in
19 other areas so that we can have a multiple effect.

20 MS. SIMPSON: I don't think it does
21 that.

22 COUNCIL MEMBER REYNA: Right.

23 MS. SIMPSON: I don't--I think the
24 Bill is designed not to do that.

25 COUNCIL MEMBER REYNA: Right. And,

1
2 you know, just one example of an MWBE that's very
3 close to my District although it's in Tish's
4 District, it's a Woman owned business and she does
5 electro-polishing.

6 MS. SIMPSON: Um-hum.

7 COUNCIL MEMBER REYNA: And, you
8 know, she was on the verge of closing down her
9 business because she's getting no real contracts.
10 And, you know, she doesn't see the opportunity of
11 being a certified MWBE. And she's, you know,
12 literally it's an electro-polishing business. So
13 she gives you the finished product of whatever
14 metalwork or otherwise fixture. You know,
15 plugging her into some of these contracts. But if
16 we don't know what these MWBEs are, you know,
17 trying to provide a service as, in the
18 construction field, I would think she would be a
19 perfect fit.

20 MS. SIMPSON: Um-hum.

21 COUNCIL MEMBER REYNA: But again
22 how do we match up this individual to that--

23 MR. BISHOP: [Interposing] Well one
24 of the things that we're--

25 COUNCIL MEMBER REYNA: --

2 opportunity.

3 MR. BISHOP: We at SBS when a firm
4 is certified, they move into our vendor management
5 team. And we actually reach out to that firm. We
6 find out what their capacity is. We look at what
7 they're offering. And we are now building out on
8 the buyers' side which I'm responsible for,
9 account managers for all the agencies to learn
10 about all the procurement activity to better match
11 firms like that.

12 So if that company is certified
13 with us, they should have already been contacted.
14 And we should already know what they do. So when
15 we see an opportunity come out from the agencies
16 and we have really good relationships with the
17 agencies, we will send that information out to
18 your firm.

19 If the firm has problems with
20 bidding we also offer a lot of resources and
21 technical assistance in terms of helping minority
22 firms fill out the bids, etcetera, etcetera. So
23 that way they are competitive.

24 COUNCIL MEMBER REYNA: I want to
25 give you the person's information so that way we

2 can certainly confirm that you've been in touch
3 with them--

4 MR. BISHOP: [Interposing] Okay.

5 COUNCIL MEMBER REYNA: --just so
6 that at least I know that this information's
7 getting to her if it didn't already. But it
8 strikes me that she hasn't or nothing has really
9 come about. And so I just want to make sure that
10 we make the proper connections.

11 MR. BISHOP: I'd be happy to take
12 that.

13 COUNCIL MEMBER REYNA: Thank you.

14 MR. BISHOP: Yep.

15 CHAIRPERSON LIU: Thank you Council
16 Member Reyna. We have some follow-up from Council
17 Member Seabrook.

18 CHAIRPERSON SEABROOK: Yeah. Just
19 one question and I hope you can provide this
20 Committee with a listing of all of the MWBEs that
21 have actually been awarded contracts and the
22 amount and the name of the company that have been
23 awarded these contracts that you have and you're
24 stating these amounts that have actually been
25 given to Minority and Women Owned Business, and

2 their classification. Is that possible that we
3 can have that?

4 MS. SIMPSON: Much of it has
5 already been submitted in reports, but sure.

6 CHAIRPERSON SEABROOK: 'Cause we'd
7 really like to have it because most minority
8 contractors say they aren't getting any contracts.
9 The City is not treating them right. So somebody
10 is lying. So we'll get a chance based upon what
11 you have. So if you can provide us that as soon
12 as possible I'd appreciate it.

13 CHAIRPERSON LIU: Thank you. Is
14 that doable?

15 MS. SIMPSON: Well. I've given you
16 most of it in reports in the past and none of the-
17 -the reports that we've given you are accurate and
18 we're not lying. So I somewhat resent the
19 insinuation but we will continue to give you the
20 information that you ask for as we always have.

21 COUNCIL MEMBER REYNA: Are your
22 reports on line?

23 MS. SIMPSON: Yes.

24 CHAIRPERSON SEABROOK: I'm just
25 saying minority contractors constantly come to us

2 and say that they are not getting any contracts
3 from the City of New York. And so if you can
4 provide us with that information and then it would
5 be very helpful to us, right, meeting with them,
6 and showing that this has happened or it is not
7 happening.

8 MS. SIMPSON: I do understand that.
9 And again we have these meetings and SBS has these
10 meetings all the time. I understand that for any
11 individual company that comes to you, it may be
12 the case that they're not getting contracts.
13 There are in fact as I just illustrated with my
14 discussion about people who sell products, goods,
15 it's very limited what anybody's able to get in
16 the goods area because no one subcontracts. And
17 so you don't have as much opportunity. We have
18 many, many companies that are certified to do
19 business and that do succeed from time to time in
20 getting small purchases up to \$100,000 but don't
21 tend to get other contracts in the goods area.

22 On the other hand we have
23 construction companies that are consistently
24 winning \$2,000,000, \$5,000,000, \$10,000,000,
25 \$20,000,000 contracts. It's a mix. We do provide

2 you, Local Law 129 has a reporting requirement in
3 it and we have met that reporting requirement
4 every six months since the law took effect. And
5 we have provided you with the data that's required
6 in there. And much of what you're asking for is
7 in those reports.

8 CHAIRPERSON SEABROOK: City
9 agencies have met their goals for MWBE?

10 MS. SIMPSON: The, again, the
11 distinction I made in discussing this issue with
12 Chairperson James is that most agencies have met
13 their goals for the subcontract participation
14 which is the, if you will, enforceable, hard goal
15 part of Local Law 129.

16 CHAIRPERSON SEABROOK: Right.

17 MS. SIMPSON: For aspirational
18 goals--

19 CHAIRPERSON SEABROOK:
20 [Interposing] I'm not interested in the
21 aspirational goals--

22 MS. SIMPSON: --which is what we
23 hope--

24 CHAIRPERSON SEABROOK: --okay.

25 MS. SIMPSON: --on the prime

2 contract side--

3 CHAIRPERSON SEABROOK:

4 [Interposing] Aspiration is not law. I'm just
5 talking about the law--

6 MS. SIMPSON: [Interposing]

7 Aspiration is in Local Law 129--

8 CHAIRPERSON SEABROOK:

9 [Interposing] No, no but--

10 MS. SIMPSON: --it's part of the

11 law.

12 CHAIRPERSON SEABROOK: --no but I

13 understand. But I understand aspirations--

14 MS. SIMPSON: --and they don't

15 make, you know--

16 CHAIRPERSON SEABROOK: --I under

17 aspirations--

18 MS. SIMPSON: --I do too--

19 CHAIRPERSON SEABROOK: --and I

20 understand statutes.

21 MS. SIMPSON: --and on those, you

22 know, on the prime contract goals which are only

23 aspirational I think in most cases the results of

24 the competitive bidding process have fallen short

25 of those aspirational goals.

2 CHAIRPERSON SEABROOK: And what
3 happens when they fall short? What happens to
4 that agency?

5 MS. SIMPSON: Nothing because
6 they're complying with the law--

7 CHAIRPERSON SEABROOK:
8 [Interposing] Oh okay.

9 MS. SIMPSON: --they're complying
10 with State law. They cannot violate state law--

11 CHAIRPERSON SEABROOK:
12 [Interposing] I--

13 MS. SIMPSON: --so as much as they
14 ar--

15 CHAIRPERSON SEABROOK:
16 [Interposing] I--

17 MS. SIMPSON: --disappointed--

18 CHAIRPERSON SEABROOK: --understand
19 that.

20 MS. SIMPSON: --they have no
21 choice.

22 CHAIRPERSON SEABROOK: I got you.
23 I heard you loud and clear. We're on the same
24 page.

25 MS. SIMPSON: Okay.

2 CHAIRPERSON LIU: Thank you very
3 much. Obviously we all understand that there's
4 still a fair amount of frustration in terms of
5 what we think should be the right thing if this is
6 truly the land of equal opportunity. And what
7 we're actually seeing happen time and time again
8 with large amounts of contract dollars, government
9 contract dollars. And we want to thank you Ms.
10 Simpson and your colleague and the rest of the
11 Administration for joining us in today's hearing.
12 Thank you very much, as always, for your time.

13 Next we'd like to call upon
14 officials of the State Department of
15 Transportation, Phillip Eng and Tina Kim.

16 Let me note that we are joined in
17 these Chambers by former Council Member Walter
18 McCaffrey, a recognized expert in these issues and
19 a leading advocate, a long-time advocate for equal
20 opportunity for Minority and Women Owned
21 Businesses.

22 [Pause]

23 CHAIRPERSON LIU: Thanks for your
24 patience. Please proceed.

25 MR. PHILLIP ENG: Thank you very

2 much. Good afternoon Chairperson Liu, Chairperson
3 Seabrook, and Chairperson James, Members of the
4 Transportation, Civil Rights, and Contracts
5 Committees and other Members of the New York City
6 Council.

7 My name is Phillip Eng and I am the
8 Regional Director for the New York State
9 Department of Transportation for Region 11, New
10 York City. With me is Tina Kim from our Main
11 Office in Albany, Tina is the Director of our
12 Office of Audit and Civil Rights. We are very
13 pleased to be here this afternoon representing
14 Commissioner Astrid Glynn on a topic that is of
15 fundamental importance to our Department, the
16 ability for historically underrepresented persons
17 to have every opportunity to participate in the
18 work that we do.

19 I would like to focus my remarks
20 today on the Department's efforts to broaden
21 opportunities for Disadvantaged Business
22 Enterprises, or DBEs, so they can work on all
23 projects including those funded by the economic
24 stimulus package. The DBE program is a Federal
25 requirement for projects containing United States

2 Department of Transportation funds. DBEs are
3 small businesses owned and operated by socially
4 and economically disadvantaged persons.

5 There are many similarities to New
6 York State's Minority and Women's Business
7 Enterprise, or MWBE program, and most highway
8 construction and civil engineering firms are
9 certified under both programs. The New York State
10 Department of Transportation, in partnership with
11 the Metropolitan Transportation Authority, the
12 Niagara Frontier Transportation Authority, and the
13 Port Authority of New York and New Jersey, form a
14 reciprocal entity known as the New York State
15 Unified Certification Program.

16 This is a one-stop shopping
17 approach to DBE certification. A firm need only
18 apply with one of these agencies for its DBE
19 certification to be accepted by all Federal
20 recipients, sub-recipients, and grantees. This
21 unified program has been in effect since 2005 and
22 has simplified and reduced redundant application
23 efforts for these small businesses, saving them
24 time and money.

25 Governor Paterson has made it a

2 priority that all State agencies seek to increase
3 opportunities and participation of minority, women
4 and disadvantaged enterprises especially as we
5 anticipate an increase in funds for transportation
6 as part of stimulus. All New Yorkers deserve an
7 opportunity to participate. We at the State
8 Department of Transportation share this belief.

9 Given the size of the economic
10 stimulus package, and the amount of funding that
11 the Department is expected to receive, we
12 anticipate that our capital program will increase
13 significantly and that this will result in
14 increased opportunities for all contractors
15 including DBEs. Given the amount of work already
16 in progress in New York City due to the
17 redevelopment of Lower Manhattan, the number of
18 large bridge projects administered by the New York
19 City Department of Transportation, and the State's
20 upcoming Alexander Hamilton Bridge project, we are
21 proactively reviewing and addressing capacity
22 concerns for all aspects of the highway
23 construction and civil engineering industries.

24 To better understand the demands of
25 such a large program and the increase on capacity,

2 we have had numerous meetings with industry and
3 plan another follow-up outreach meeting scheduled
4 with both the contracting industry and DBE
5 community for February 17, 2009. During these
6 meetings we have had open dialogue to discuss how
7 best to ensure that all of industry can share and
8 receive the full benefit from the economic
9 stimulus package, including DBEs.

10 As a result, here in the New York
11 City Region, we have developed a list of potential
12 stimulus projects that will provide diverse
13 opportunities both in work type and work size.
14 While the work types are varied, there are also
15 projects of similar nature that will provide
16 industry opportunities to bid on multiple
17 projects, thereby increasing the potential to
18 receive work. Our engineers are already hard at
19 work to have these projects ready for stimulus.

20 The Engineering, Delivery,
21 Administration, and Audit and Civil Rights
22 Divisions of our Department are engaged in
23 dialogue to develop strategies to facilitate DBE
24 utilization in stimulus projects. Several
25 strategies are presently being examined and

2 include the following:

3 The first is Targeted Outreach to
4 DBEs NYSDOT recognizes that many DBEs are small
5 firms, with limited capability to track the
6 availability of work for which they might be
7 eligible. For small single operation contracts,
8 outreach will be conducted to DBEs of such
9 upcoming opportunities, in order for these firms
10 to bid on these contracts as prime contractors.
11 This will be accomplished by direct mailings, e-
12 mail blasts, and distributing lists of upcoming
13 opportunities at industry and DMWBE events.

14 For large contracts of \$100,000,000
15 or greater in New York City, outreach will be
16 conducted to DBEs, encouraging them to attend pre-
17 bid meetings in order to network with potential
18 bidders and to learn about the project firsthand
19 from project designers and engineers.

20 The next strategy involves
21 increasing DBE Certification and networking
22 opportunities. As I noted earlier in my
23 testimony, Commissioner Glynn has identified
24 improved DBE participation as a priority in her
25 administration, and she has presided over

2 workshops held around the State that have brought
3 large and small contractors together with agency
4 staff to help work through the process, identify
5 and remove any stumbling blocks, and, perhaps most
6 importantly, offer networking opportunities to
7 improve lines of communication among these firms.

8 We recently co-sponsored an
9 industry conference here in New York City at the
10 Jacob Javits Center last week. The conference was
11 attended by over 700 people and provided numerous
12 business-to-business networking opportunities to
13 representatives of DBEs and prime highway
14 construction and civil engineering firms. High-
15 level staff from many of the New York City
16 transportation agencies were on hand conducting
17 workshops aimed at increasing DBE participation.

18 One such workshop focused on
19 explaining the DBE certification criteria and
20 process, with Department staff providing one-on-
21 one assistance to applicants. In another
22 workshop, my colleagues from Long Island and the
23 Hudson Valley joined me in presenting upcoming
24 projects in our respective Regions, and were
25 available for questions afterward. Based on the

2 positive feedback received, the Department is
3 considering making this conference an annual
4 event.

5 Still another strategy being
6 considered would improve access to loans and
7 bonds, an expanded capital program and broader
8 outreach efforts are not enough to facilitate
9 increased utilization of DBEs. Small firms need
10 money to expand their operations and they need
11 bonding to be able to bid as a prime contractor.
12 Existing programs were presented in a workshop at
13 last week's conference, and presenters were
14 available in a later workshop to answer individual
15 questions.

16 We will continue to identify other
17 available programs, and list them in a web page on
18 the Department's web site, with active links to
19 those programs. We will notify all DBEs of this
20 new feature once it is created.

21 In conclusion, the Department is
22 fully committed to the DBE program. As Regional
23 Director of the New York City Region, I share that
24 commitment. We recognize the importance to do all
25 we can to improve opportunities for DBEs and to

2 provide support for their business growth.

3 I wish to thank Chairperson Liu for
4 attending last week's conference, and for
5 expressing his support at that event. I also wish
6 to thank the entire City Council for the
7 opportunity to speak before you today.

8 CHAIRPERSON LIU: Well thank you
9 very much for your testimony. And I do want to
10 commend the State Department of Transportation for
11 their efforts. And last week's conference by all
12 measures as far as I could see was a success. And
13 it's an example of what the State DOT does that
14 quite frankly other agencies don't do but should
15 be doing more of.

16 So I thank you for that. I do have
17 a number of questions. I think the three areas,
18 specific areas that you cited with regard to
19 efforts to increase DBE participation, they
20 certainly make sense. Targeting outreach,
21 increasing the certification and providing
22 networking opportunities, and then also improving
23 access to loans and bonds.

24 There have been a number of other
25 suggestions made by MWBEs that would help them

1
2 compete for or even apply for more contracts.
3 Those include lowering certain kinds of bond
4 requirements, making sure that all payments are
5 made promptly, and that there be no hold-over at
6 the end of a project for a long period of time
7 before the final say 10%, 15% of the project is
8 paid.

9 Are those things that the State DOT
10 has considered and maybe even changed because of
11 this express desire to increase DBE participation?

12 [Pause]

13 MS. TINA KIM: One of the things
14 that we did this year was to propose to raising
15 the bonding limit from \$250,000 to \$1,000,000. So
16 that's a proposal that's currently that we've
17 submitted basically to the Governor's Office.

18 So in regards to basically your
19 second, which is prompt payment, DOT actually
20 works with small MWBEs and basically if a
21 contractor is not paying on time, basically we
22 will speak to the contractor ourselves. So
23 basically we will actively intervene if there is
24 an issue with a contractor receiving payment.

25 CHAIRPERSON LIU: Okay. So that

2 sounds like there's an explicit recognition that
3 the prompt payment is an issue, especially for
4 MWBEs.

5 MS. KIM: Yes.

6 CHAIRPERSON LIU: Okay. But
7 increasing the bond requirement, that would, that
8 tends to make it more difficult.

9 MS. KIM: We want our DBEs actually
10 to be prime contractors. So we're trying to
11 encourage--one of the things that we had actually
12 heard, we actually did a survey last year of our
13 DBEs and we asked them what they saw as the
14 barriers to participation. And one of them was
15 actually bonding and one of them was actually
16 loans. So this was a proposal basically suggested
17 by our DBEs. So again we actively seek
18 communication with the DBE community and look for
19 their suggestions and then act upon them.

20 CHAIRPERSON LIU: Okay. I know we
21 have some other questions. My last question for
22 now would be that there's always the talk, and you
23 heard it in the earlier testimony, lots of talk
24 from City DOT and other City agencies including
25 DEP and other infrastructure agencies. And we

2 certainly hear this of the MTA. They say
3 transportation projects are just they're so large
4 that it's hard to encourage MWBEs or to actually
5 get more MWBEs participating.

6 Does the State DOT get involved in
7 a lot of little dinky projects?

8 MR. ENG: Well we have, we do have
9 our share of large projects but one of the things
10 that we--

11 CHAIRPERSON LIU: [Interposing]
12 Yeah. I was just being sarcastic--

13 MR. ENG: --could do, is we
14 mention--

15 CHAIRPERSON LIU: --a simple no
16 would have sufficed there.

17 [Audience laughter]

18 CHAIRPERSON LIU: I didn't--

19 MR. ENG: [Interposing] Through
20 communications though with industry we have
21 developed as part of the proposed economic
22 recovery projects a number of varied types of
23 projects. And they range from a few million
24 dollars to \$40,000,000, \$50,000,000, \$80,000,000
25 projects. And the idea of those projects are that

2 they have varied types of work. They range from
3 sign replacements. They range from pavement
4 resurfacing, bridge steel repairs. We have park
5 and ride expansions.

6 We have numerous types of work
7 involved in many of the contracts include
8 landscaping; they include general highway
9 construction, trenching and debris removal. It's
10 types of projects that are varied that supplement
11 our larger capital program. And I think projects
12 that are the type that DBEs and MWBEs certainly
13 should be eligible for and we should be working
14 with them to--

15 CHAIRPERSON LIU: [Interposing] So-

16 -

17 MR. ENG: --better understand that
18 they are available. And that was part of last
19 week's conference, discussing the types of
20 projects that we had that they should be
21 anticipating.

22 CHAIRPERSON LIU: So is that an
23 explicit attempt to package projects that are
24 more, more attainable by MWBEs or in your case
25 DBEs?

2 MR. ENG: I--

3 CHAIRPERSON LIU: [Interposing] Is
4 that--

5 MR. ENG: --I think there is a
6 benefit to the MWBEs and the DBE program. It's an
7 attempt to ensure that we have a program that
8 addresses our needs but also addresses the ability
9 of industry to be prepared for these jobs. And
10 the idea is that we would have multiple jobs, not
11 one large \$100,000,000 job to do steel repair
12 across the City but multiple smaller ones, thereby
13 providing more opportunity for varied contractors
14 but also for smaller contractors, the same
15 opportunity, and if they are DBEs, then even
16 better.

17 CHAIRPERSON LIU: Well I think I
18 mean I think that's a laudable sign of progress.
19 Now just to be the devil's advocate, does, when
20 the State DOT parses what could be a huge project
21 into many smaller projects, does it then incur an
22 additional cost that perhaps should not be spent
23 by the State DOT?

24 MR. ENG: Well these--

25 CHAIRPERSON LIU: [Interposing] Or

2 is it worth the, perhaps some of the additional
3 administrative expense.

4 MR. ENG: These contracts, as I
5 say, they support our larger program. A lot them
6 are preventative and corrective type needs that we
7 have throughout the City. They are in all five
8 Boroughs. So in some cases it makes sense to
9 contract them out as one contract for the whole
10 five Boroughs. But in other cases due to
11 logistics, it's better off that they could be
12 broken up by County and hence then the costs is
13 perhaps more administrative on the Department's
14 end but the actual work itself is all based on the
15 bidding and the items that are involved.

16 And logistically, if these are the
17 type of contracts that required contracts the
18 contractor to be in the vicinity, then it makes
19 more sense for us to make them smaller and more
20 localized to where the actual work is.

21 CHAIRPERSON LIU: Thank you very
22 much.

23 CHAIRPERSON SEABROOK: Thank you
24 Mr. Chairman. Just a couple of questions that
25 perhaps, if you don't have the information you

1
2 could probably get it to us. A listing of those
3 MWBEs or DBEs that have actually been successful
4 in terms of receiving contracts and as part of
5 that, because one of the issues and concerns that
6 we have is that a lot of minority and women
7 publications and trades and papers feel that they
8 don't get their fair share of ad dollars that
9 actually go, that's being spent out of the
10 Departments. And so if you can see the
11 possibilities of providing us with that
12 information, if you can.

13 And what are the goals of the State
14 as it relates to the Department of Transportation
15 and its participation of these DBE, Minority and
16 Women Owned Businesses?

17 MS. KIM: It's currently 12%.

18 CHAIRPERSON SEABROOK: 12%. And
19 has the agency reached that 12%?

20 MS. KIM: For the first 6 months of
21 this Fiscal Year we're at 11% but we actually
22 think we're underreporting. So we think we're
23 very close to our goal.

24 CHAIRPERSON SEABROOK: And
25 previously has that goal been met?

2 MS. KIM: The goal has not been met
3 in the recent past but we've been making progress.
4 This year, again, we're very close to our goal
5 this year.

6 CHAIRPERSON SEABROOK: And so what
7 is it or what would be the response to the agency
8 for not meeting its goal?

9 MS. KIM: We hold our people
10 accountable. One of the things that we do in
11 terms of procurements on a quarterly basis we
12 actually provide all of the people in the Region
13 what they've actually done for that quarter. And
14 again there is an expectation that you'll do
15 better next time. So we think that, again,
16 providing people with information, knowing where
17 they stand, and basically that reporting system
18 helps.

19 CHAIRPERSON SEABROOK: So in
20 relationship to this stimulus package, it should
21 give a tremendous opportunity to reach those goals
22 that have basically been set by the State.

23 MS. KIM: Yes.

24 CHAIRPERSON SEABROOK: Thank you
25 very much.

2 CHAIRPERSON JAMES: Is a
3 representative still here from MOCS? Okay. So
4 you're taking notes? Okay just checking. First
5 let me acknowledge someone who I used to work for
6 and someone who is a very close friend of Council
7 Member Larry Seabrook, the former Assembly Member
8 from Long Island, former Assembly Member Charlie
9 O'Shea. Thank you. Who used to work with then
10 Council Member Koppell, I think Van, who was an
11 institution in the State Legislature. It's
12 wonderful to see you.

13 Leadership comes from the top. And
14 clearly the fact that you have reflected this as a
15 priority of the Governor of the State of New York
16 is, says a lot. And it speaks volumes. And which
17 is why I'm glad MOCS is here taking notes.

18 And I do know that in the State of
19 New York the Governor is reviewing Article 15(a).
20 I do know that you are, the State is conducting a
21 Disparity Study. I do know that in all of the
22 State agencies it is a priority. And one of the
23 things that I believe it was Governor Cuomo
24 instituted was access to loans and bonds. And I'm
25 glad that we have reinstated access to loans and

2 bonds which was a major hurdle for WBMEs.

3 Do you also provide technical
4 assistance, which is also critical?

5 MS. KIM: One of the things that
6 we've already received funding for this year is
7 we're basically going to provide technical
8 assistance. We're actually going to be hiring CPA
9 firms to basically assist our MWBEs.

10 CHAIRPERSON JAMES: That's really,
11 that's critical. And I believe following up on my
12 colleague Council Member Liu's question, are you
13 considering breaking down the contracts to smaller
14 contracts so that MWBEs are in a position to
15 obtain contracts?

16 MS. KIM: In our consulting program
17 we're actually--in our consulting program we're
18 actually looking at that--

19 CHAIRPERSON JAMES: [Interposing]
20 Very good.

21 MS. KIM: Yes.

22 CHAIRPERSON JAMES: And last but
23 not least, in your technical assistance, do you
24 also provide assistance on bid packages and
25 actually what is required? Do you break down the

2 bid packages?

3 MS. KIM: One of the things that
4 we're actually doing, because again we've actually
5 already received funding from FHWA. So we're
6 actually looking for suggestions. So if you would
7 like to provide us with any information, we would
8 be happy to look at it. And basically we could
9 consider adding it to our program this year.

10 CHAIRPERSON JAMES: And I
11 apologize. I could not attend your conference. I
12 had all intentions to do so but something happened
13 in the District and I had to stay locally but I,
14 from all my conversations with representatives
15 from the industry, they've indicated it was a
16 great success. And I--oh, waivers, at some point--
17 -oh, is there reciprocity with the City WMBE? If
18 you're certified as a WMBE under, in New York
19 City, do you accept that?

20 MS. KIM: Currently we do not do
21 that. We actually have--there was an MOA signed
22 between the City and the State, I mean between the
23 State and our--the UCP, so basically, any DBE can
24 basically get an expedited review from the State's
25 program. 90% of our DBEs are already MWBEs and

2 the remaining 10%, we've actually already provided
3 their names to the STC [phonetic] so they will all
4 get an expedited review.

5 CHAIRPERSON JAMES: Excellent. And
6 are you considering, I know you're considering,
7 you have increased the waiver limit, are you
8 considering any waivers for smaller contracts or
9 are all of your contracts, do all of your
10 contracts require bonds?

11 MS. KIM: That's another--again,
12 that's another area that we would actually have to
13 look at. So--

14 CHAIRPERSON JAMES: [Interposing]
15 Okay. Thank you and congratulations on your
16 success and thank you for your commitment.

17 CHAIRPERSON LIU: Thank you.
18 Thanks very much for bringing good news to these
19 chambers.

20 MR. ENG: Thank you very much.

21 MS. KIM: Thank you.

22 CHAIRPERSON LIU: We'll next hear
23 from a panel consisting of Sandra Wilkin, Arthur
24 Kindred and Carol Kleinberg.

25 [Pause]

2 [Witnesses getting settled]

3 [Pause]

4 CHAIRPERSON LIU: Thank you very
5 much for taking part in today's hearing. Ms.
6 Wilkin would you like to proceed?

7 MS. SANDRA WILKIN: Good afternoon.
8 Good afternoon. I'm President of Women Builders
9 Council, Sandra Wilkin. I wish to thank
10 Chairpersons Liu, James and Seabrook for this
11 opportunity to testify before the Joint Committees
12 on the issue of how the stimulus funding program
13 will impact women and minority business
14 enterprises. I would like to say that the Federal
15 dollars given to New York City will have a major
16 positive impact for WMBEs. But, I can not.

17 While the Women Builders Council
18 enthusiastically supports President Obama's plan
19 to re-start the national economy, we are forced to
20 conclude that WMBEs will not be part of that
21 economic renewal. This conclusion is based on the
22 simple fact that there are no provisions to
23 include us in the programs to rebuild our
24 transportation infrastructure. The fact that
25 Federal and State regulations use the concept of

2 Disadvantaged Business Enterprises means that
3 MWBES are prevented from fully participating in
4 the stimulus programs.

5 DBE provisions automatically limit
6 the scoop of our involvement in new projects. It
7 is that simple. Let me first note the severe
8 limitations of the DBE concept. As you know,
9 under the Federal DBE requirements, the net worth
10 of a firm is limited to only \$750,000. Projects
11 under the stimulus plan will have substantial
12 bonding and insurance costs attached to any
13 project. This \$750,000 limit virtually guarantees
14 that firms could not grow. This choking of
15 capacity expansion runs contrary to the
16 President's intent to add new jobs to the economy.

17 Each of you fully understands the
18 importance of MWBES in providing new employment
19 opportunities for New Yorkers. Our rate of
20 creating such new jobs is superior to large
21 construction firms without question.
22 Additionally, I along with other WBC members have
23 testified before the Council on the infuriating
24 sexist standards that firms need to meet to become
25 eligible for DBE status. The idea that a Woman

2 owned firm is required to list a husband's, even a
3 divorced husband's, assets is just plain wrong.

4 The stimulus package also has
5 another major flaw and that is called bundling.
6 Bundling is the aggregating of the project and its
7 cost into one large venture. Few WMBEs could
8 finance a \$100,000,000 project. With the already
9 severe limitations for us to secure bonding and
10 insurance, there is no realistic way for WMBEs to
11 participate in this recovery plan.

12 The DBE process deters firms from
13 participating in an easy manner from the start. A
14 company would need a team of top flight, high
15 priced accountants to merely fill out the
16 application. This process has proven to be
17 hostile to any WMBE becoming eligible as a DBE.
18 Is it any wonder then that so few firms are DBEs
19 in New York City? When you research the numbers
20 of companies in New York City that are qualified
21 as DBEs, in particular for DOT work, you are
22 stunned by the low number.

23 I went to the state list and found
24 the shocking numbers that exist. There are only
25 96 firms in Manhattan. There only 71 in all of

1
2 Queens. Only 17 in the Bronx. And Council Member
3 James, I am sorry to have to tell you that the
4 number for Brooklyn is 0. And I would hasten to
5 guess that even out of these numbers, few firms
6 have been successful in getting work. And we know
7 that the Emerging Business Enterprise program has
8 been very ineffective at best in the City of New
9 York.

10 We unfortunately return to the
11 subject of the need to address the historic lack
12 of legal inclusion of Women and Minority Business
13 Enterprises. The disparity is obvious to anyone,
14 even the most casual observer. The City continues
15 to take a passive policy in addressing the
16 disparity process.

17 The State Disparity Study needs to
18 get done. Also, the City's report to the City
19 Council during the past two years demonstrates a
20 deficient record of including women and minorities
21 in the capital construction programs. WBC is also
22 mindful that the City DOT has not aggressively
23 reached out to WBEs. In our years of existence,
24 WBC has never even been contacted by DOT to
25 discuss involving us in their programs. That does

2 not exactly inspire confidence that the stimulus
3 package will include our community.

4 The strongest advocate for Women
5 and Minority Business Enterprises has been the
6 City Council. The Council understands so well the
7 economic importance of our community to the future
8 of New York City. We ask you to stand strong in
9 fighting to include us in the Federal dollars that
10 will be coming to the City. Thank you.

11 CHAIRPERSON LIU: Well that was a
12 little bit of a rude awakening. Very, very much
13 appreciated. It gives us all a reality check in
14 terms of what the agencies are saying to us.

15 Mr. Kindred?

16 Mr. ARTHUR L. KINDRED: Good
17 afternoon Mr. Chairman, to the Members of the
18 Committee, specifically Councilman Seabrook and
19 Councilperson Ms. James.

20 I am taking a different posture. I
21 represent E. G. Bowman Company. E. G. Bowman
22 Company is the largest African American Woman
23 Owned insurance brokerage firm in the world. We
24 insure any and everything ranging from advertising
25 agencies to the Alaskan Pipeline. And in some

1 cases we have participated in transit,
2 municipality transportation authority projects in
3 other cities. It always seems to amaze me when I
4 sit and listen to statistics how well agencies are
5 doing. And it reminds myself that it seems to be
6 the contracts awarded, similar to taking a feather
7 off a duck's back.
8

9 There are some experiences that I'd
10 like to offer. First we support Local Law 129.
11 But it ought to be strengthened to an extent. And
12 before I tell you about these experiences, I'd
13 like to refer you to your page 6 on your brief. I
14 didn't prepare a statement so it's by lines.

15 There is a page on page 6, on the
16 news, media material, on page 6. There's a chart,
17 boxology [phonetic]. And going back to our
18 experiences, we believe at E. G. Bowman, that the
19 law ought to be clearly defined. If you note
20 there, it says Black Americans, Asian Americans,
21 Hispanic Americans and then boom, it's right in
22 front of you, in a very insulting way, it says
23 Caucasian Females. Well aren't there Asian Women?
24 Aren't there Black Women? Aren't there Hispanic
25 Women? E. G. Bowman is a woman owned insurance

2 brokerage firm. We can insure, as I mentioned
3 earlier, anything that you can imagine.

4 So the law first ought to clearly
5 define, so if your task and standards or your
6 tools to measure contracts awarded or your bid
7 notices, then if I looked at this chart, and I go
8 down to Caucasian Women, and I look at the
9 category construction, it says no goals. And then
10 I go back up to Black or Asian and see the number
11 of contracts, subcontracts that have been awarded.
12 If you pulled out Women Owned Businesses that
13 number would go even lower. That is the 9.4%,
14 9.47% Asian, 12.63% in Black American. Where are
15 the women there? Where are the women?

16 Now I'm going to tell a story. Two
17 stories, and then I would yield the floor to my
18 colleague to my right. It reminds me of a story,
19 and you've probably heard this story, and you are
20 familiar with the steam ship era in our country,
21 particularly in the New York City.

22 The steam ship captain picked the
23 microphone up and announced that the steam ship
24 was about to sink. And in those days only the
25 rich take those kind of cruises. And he had one

1
2 Black man on the ship and one Asian on the ship.
3 And both were in the kitchen.

4 So they recognized that when they
5 came to the top of the deck and realized what was
6 happening they said, you know, only the Black
7 man's prayer, know where to go, know where to
8 reach the right place. White people don't know
9 how to pray. So we'd better get this Black cook
10 from the basement and we'd better get also the
11 Asian for washing the clothes up on the deck. So
12 they asked the Black man to pray.

13 And this is something, how it went:
14 He said oh Lord, he said the other day I went to
15 get a bite to eat at a restaurant and take my
16 family, and it said For Whites Only. And oh Lord,
17 I went to find an apartment for my family and it
18 said For Whites Only. And then I went to use the
19 restroom and it said For Whites Only. He said
20 Lord I know you can fix everything. And now that
21 the captain has said that this ship is sinking I
22 hope it's For Whites Only.

23 Now there's a story behind that.
24 There is--we are in this together, stimulus
25 package, have to reach everybody that it should

1 reach. And we believe that first the law, the
 2 laws, not only the Federal but the Disadvantaged
 3 Businesses or the Minority and Women Business,
 4 first should clearly define, clearly define,
 5 Women, Black Women, Asian Women, and you begin to
 6 clearly see how many contracts have been awarded
 7 fairly, that's number one.

9 And number two, every time I hear
 10 this big story about all agencies are doing well,
 11 Federal City, State, and as I mentioned earlier
 12 that's like taking the contract awards and
 13 comparing it with taking a feather off a duck's
 14 back. More, you know, we could do a lot. Every
 15 bit counts.

16 The law ought not to look at
 17 contract amounts, aggregates, total amounts. It
 18 should look at the profit. That is the example if
 19 there's a cap at \$100,000 or \$1,000,000, that
 20 vendor whether he or she is a Female, Caucasian or
 21 Black or Asian, that \$1,000,000 the profit may not
 22 only be \$5,000 or \$6,000.

23 So to amend and strengthen the
 24 programs, first you have to look at those two
 25 areas of consideration. The last consideration,

2 obviously, and this is referring to my last story,
3 is looking at who writes the specifications. Who
4 in those agencies will sit down and say to their
5 Commissioners or their MTA or the Department of
6 Transportation, look, here--these specs have to be
7 written in a way that it will allow Minority and
8 Women Businesses to be considered in the bid.
9 Those specs, if you do not put a handle on
10 specifications, bid notifications, then we're
11 wasting time.

12 From our experience with the School
13 Construction Authority for example, we insure,
14 been around for 70 years. And when we received
15 the specs from the School Construction Authority,
16 it said, you have to have had 10 years in
17 experience in risk management. Well that's one of
18 the functions that we do. But you should have the
19 experience with another School Construction
20 Authority. Well you only have one in New York
21 City. So I've said three things.

22 In summary, clearly define your
23 definition of minority businesses. And clearly
24 define it when it comes to Caucasian Women, Asian
25 Women, African American Women. The other area,

2 obviously to make sure that the specs are written
3 by people that understand that an opportunity
4 would be made available to a particular group.
5 And that's not quotas.

6 Lastly, to make sure that the cap,
7 the amount of contracts be based not on the total
8 amount of the contract but be based on the profit.

9 Ask what is the percentage of profit this firm
10 will derive from being awarded the contract.

11 Thank you.

12 CHAIRPERSON LIU: Thank you Mr.
13 Kindred. Thank you. Ms. Kleinberg.

14 MS. CAROL KLEINBERG: Thank you for
15 hearing me. I'm sorry I didn't prepare a written
16 statement. I just found out about this very
17 recently and unlike my two predecessors, I have a
18 different story.

19 I was a DBE. I have been an
20 electrical contractor for more than 30 years. I
21 am a Local Union Number 3 Shop. I have to adhere
22 to union rules. I have to adhere to probably
23 paying the highest labor in New York City. And
24 I've had to endure the fact that I am a Woman
25 Owned Business.

1
2 And when I became, when I started
3 certification it took me 12 years to be certified
4 with the MTA. That's how prejudiced they were
5 regarding my company and me being the owner. I
6 used to get letters such as the woman in this
7 company is nonexistent. She doesn't exist. I put
8 in the same amount of hours as anybody that worked
9 in my company. I put up my inheritance to start
10 my company.

11 It didn't matter how much money my
12 company had or the size. I was still socially
13 left out of doing the work, that they always asked
14 where is the man of this firm? Where is the
15 Mister? And the part for me was even joining
16 Local Union number 3, I had to convince them that
17 as a woman I was worthy of being a union
18 contractor.

19 So now I finally get to be a DBE 12
20 years later and what happens is that I did 2 jobs
21 and then I was eliminated. So the lesson to be
22 learned here was I need to learn how to do public
23 works, didn't have any teachers to teach me, the
24 union didn't teach me, the people that worked for
25 me didn't teach me, it was getting into these

2 agencies that taught how to do the work.

3 We worked for other electrical
4 contractors that charged me more money than I
5 would charge out as an electrical contractor just
6 to learn how to do the work. I took my, I took
7 tremendous beatings, I succeeded through a
8 bankruptcy and my company survives as Kleinberg
9 Electric, continually for 30-some odd years.

10 And what angers me more than
11 anything is that I do this bridge work that we
12 were talking about. I do this transit work that
13 we were talking about. But I can only do it as a
14 sub. I can't do it as a prime. My company never
15 could have afforded to do a \$200,000,000 job or a
16 \$100,000,000--when indeed the electricals may be
17 \$9,000,000 or \$5,000,000. It took me years to get
18 bonding. I had bonding and my bonding company
19 went out of business. My bank went out of
20 business. And it took me 10 years to get bonding
21 again.

22 And yet I am better than most of
23 the contractors that do this work. Remember that
24 tunnel work they were talking about before, that
25 there's only a few good contractors. I'm one of

1
2 them. I'm one of the few good contractors that do
3 the bridge work. But yet, I cannot become a prime
4 because I am not big enough to take on those jobs.

5 But yet I should be a DBE and I'm
6 not any longer. I should be one of those DBEs
7 because I did do the program the way they provided
8 it. The way a White Woman and a White Man wrote
9 the program, going back into the years when the
10 program began.

11 And that woman, WBE, was only put
12 in as an addition. That's why you see WBE. It
13 wasn't, it wasn't Black, Latino, Asian, it was
14 Woman last. And now it's WBE/Minorities. We're
15 not considered a minority but yet we don't get the
16 majority of the work. And I did go to Marla
17 Simpson a few years ago when they did that
18 Disparity, the survey around New York City.

19 Do you know that three-quarters of
20 our women and minorities were not even called up
21 or talked to? That something went through the
22 Council and that laws were passed that when they
23 were doing work down at the World Trade Center
24 that they weren't going to include Women and
25 Asians to do the work downtown? Nobody fought

1
2 that. I went to Marla and I asked her, how did
3 you get the job? Do you think because you were a
4 terrific lawyer that you got that job? I don't
5 think so. I think you got that job because you
6 are a Woman, and you were the minority working for
7 the Mayor.

8 And the truth of the matter is that
9 it may be insulting what I'm saying, but I've had
10 to endure these insults for 30-some odd years.
11 And if you ask any of the general contractors that
12 I work for or if you were to ask any of the
13 agencies that I beg them to allowed me in, after
14 spending countless dollars of legal fees, okay,
15 countless dollars of my time going to these
16 agencies and explaining to them that it really is
17 my company. I am 51% but it really is my company.
18 It was very difficult.

19 And I think that the DBEs now are
20 being--that's a prejudicial situation. That it's
21 saying that you're disadvantaged and you only have
22 \$750,000 worth of assets. And even though it can
23 be combined or it can be, you know, somehow you
24 own a home or it's over the home price, it doesn't
25 matter. You're still being prejudiced against.

1
2 It doesn't matter if you're Black, White, Latino
3 or Woman. If you are Slash that woman anyhow.
4 I'm sorry to, you know, make it sound like you're-
5 -what you said is not true, but it is true.

6 A woman in construction is probably
7 the most beaten up woman there is. It's this--
8 there's no words to say for that. But an
9 electrical contractor is the first on the job and
10 the last off the job. No other trade begins the
11 job or ends the job. And yet we're not considered
12 a DBE if we're a woman. I don't get that. I'm
13 amused by the fact that they don't think that's an
14 important situation here.

15 And the fact is that they really
16 don't want the program to work. That's why they
17 have not increased the dollars. I had to leave
18 the program and because I never wanted to come up
19 on the computer as saying--them turning me down,
20 because they would never look for the reason why
21 they turned me down. It would just come up and
22 say turned down. She can't be a DBE any more.

23 The problem was is that I wanted to
24 be able to enter the program should my company not
25 do as well. Should I meet the dollar requirements

1
2 at a later date. And so what happened is I asked
3 them, I thanked them for allowing me to be in the
4 program and asked to withdraw so that there would
5 never be a no next to my name or that I was turned
6 down.

7 A man wouldn't have to do that. A
8 minority wouldn't have to do that. My gender
9 hasn't changed. I'm still a woman and I still go
10 through all the processes of being a Woman
11 Business Enterprise. The last I looked I was
12 still a woman. I don't get that either. But the
13 point is that we have a lot of prejudices here.
14 And it's not just being a minority by color or
15 race. It's by being a gender. And I don't get
16 that either.

17 Thank you for listening to me.

18 CHAIRPERSON LIU: Can you explain
19 why is that, why is it that you're no longer a
20 DBE? You--because you wanted--

21 MS. KLEINBERG: [Interposing] No,
22 no, no.

23 CHAIRPERSON LIU: --that status
24 removed?

25 MS. KLEINBERG: No that's not the

2 reason at all.

3 CHAIRPERSON LIU: Okay.

4 MS. KLEINBERG: There's a dollar
5 value. If you look at the rule--

6 CHAIRPERSON LIU: [Interposing]
7 It's because of the \$750,000 threshold that Ms.
8 Wilkin was talking about--

9 MS. KLEINBERG: [Interposing] Well
10 it was lower when I was--actually it's a
11 combination of three years' worth--

12 CHAIRPERSON LIU: [Interposing] So
13 you outgrew the DBE--

14 MS. KLEINBERG: [Interposing] Yes I
15 did.

16 CHAIRPERSON LIU: --criteria.

17 MS. KLEINBERG: It was three years'
18 worth of jobs. And they go over your--the IRS
19 forms that you send in every single year. And if
20 you are--at that point it was I think I believe
21 \$21,000,000 total work.

22 It doesn't mean that that was my
23 profit. It was \$21,000,000 worth of work. And
24 this gentleman said before you should look at the
25 profit line rather than to see the job size. It

1
2 doesn't make a difference. Sometimes I take a job
3 and I'm just taking it because I need the work in
4 my shop so I'll take it for a lesser profit.

5 At the end of the day I still took
6 a \$21,000,000 job--I'm just giving an example, I
7 took a \$21,00,000 job, at the end of the day if I
8 made \$.10 or I made \$1,000,000 I still made a
9 profit and I still got a \$21,000,000 job. I was
10 still awarded that job. So they take that away
11 from you.

12 CHAIRPERSON LIU: Yeah.

13 MS. KLEINBERG: I think that's more
14 socially that we need that DBE status, socially,
15 just so that we can at least have an ability to
16 bid. That's all I want, the ability to bid.

17 MS. WILKIN: The \$750,000 is a
18 number that here in New York and in most, across
19 most urban areas just doesn't work. The SBA
20 indicates that general building and heavy
21 construction, a small business, for gross receipts
22 is \$33,000,000. If the gross receipts of
23 \$33,000,000 is a small business and that never
24 have a net worth of \$750,000 that not only
25 includes your pension but includes your ex-

2 husband's pension if that's the case. It includes
3 the--any other revenues that you may realize of
4 any of your siblings in the application process.

5 CHAIRPERSON JAMES: If you look at
6 profit versus--the criteria that you just
7 described goes not to profit but goes to
8 eligibility?

9 MS. WILKIN: It goes to the net
10 worth.

11 CHAIRPERSON JAMES: The net worth.

12 MS. WILKIN: The net worth.

13 CHAIRPERSON JAMES: That's no
14 indication of profit. So if one looks at profit
15 as opposed to the number of contracts that one
16 received previously, the argument is that profit
17 would give you a better indicator of the status of
18 the company.

19 MS. KLEINBERG: \$750,000 is the net
20 worth of the individual applying. So it doesn't--

21 CHAIRPERSON JAMES: [Interposing]
22 Right.

23 MS. KLEINBERG: Right, right. So--
24 but the profit is the company. It's two separate
25 issues--

2 CHAIRPERSON JAMES: [Interposing]
3 Right.

4 MS. KLEINBERG: --okay.

5 CHAIRPERSON JAMES: [Interposing]
6 \$750,000 is the net worth--

7 MS. KLEINBERG: [Interposing] Is my
8 net--let's say for instance it's my net worth--

9 CHAIRPERSON JAMES: [Interposing]
10 Right.

11 MS. KLEINBERG: --the \$750,000. I
12 have a net worth. I inherited money. I had money
13 in the bank--

14 CHAIRPERSON JAMES: [Interposing]
15 Right, right, right.

16 MS. KLEINBERG: --well number one
17 they want to know how you got the money for this
18 business in the first place. They ask you
19 question that are very proprietary, is that the
20 word--

21 CHAIRPERSON JAMES: [Interposing]
22 Um-hum.

23 MS. KLEINBERG: --to use? That
24 don't make sense with the program in itself. The
25 program is meant, was meant so that people could

2 learn how to do other areas of work so that it
3 becomes a variation in the work we all do that
4 we're not all going after the same work. That
5 people that never had opportunity, it was like the
6 big, good old boys. The big guys, the Turners,
7 the Tishmans or whatever. They could get the work
8 but--

9 CHAIRPERSON JAMES: [Interposing]
10 Right. But you, you're--

11 MS. KLEINBERG: [Interposing] As an
12 individual, I would not be able to get the work
13 from them because number one they would say they
14 didn't know my company. I didn't have the
15 experience. And then also being a woman--

16 CHAIRPERSON JAMES: [Interposing]
17 But now that you're not in the--now that you're
18 not a DBE, you cannot even apply for, apply for a
19 prime contract because you're going up against the
20 Tishmans of the world--

21 MS. KLEINBERG: [Interposing]
22 Exactly.

23 CHAIRPERSON JAMES: --and therefore

24 MS. WILKIN: [Interposing] And--

25 CHAIRPERSON JAMES: --you're

1
2 disadvantaged. One because you're small and two
3 because you're a woman--

4 MS. WILKIN: [Interposing] And--

5 MS. KLEINBERG: [Interposing] I'm
6 not so small. And I want to emphasize that--

7 CHAIRPERSON JAMES: [Interposing]
8 Compared to them.,

9 MS. KLEINBERG: --because anybody
10 that knows my company, I do bridges and tunnels--

11 CHAIRPERSON JAMES: [Interposing]
12 Okay.

13 MS. KLEINBERG: --I get big
14 contracts. But at the end of the day, I may get
15 ten--let's just say I get five jobs a year--

16 CHAIRPERSON JAMES: [Interposing]
17 Right.

18 MS. KLEINBERG: --if somebody does
19 20 private jobs, it might be at the end of the day
20 the same profit--

21 CHAIRPERSON JAMES: [Interposing]
22 Um-hum.

23 MS. KLEINBERG: --okay it doesn't
24 make the difference of the size of the contract as
25 much as the profit at the end of the day.

2 MS. WILKIN: Right. And under
3 Local Law 129--

4 CHAIRPERSON JAMES: [Interposing]
5 Right.

6 Ms. WILKIN: --Women owned and
7 Asian owned firms, if you're a general contractor
8 and a subcontractor, as we know, cannot provide,
9 you can get certified, but you cannot get any
10 work.

11 CHAIRPERSON JAMES: The disparity
12 didn't cover you. And Mr. Bowman, you, I'm
13 familiar with your company. I believe you have
14 some relatives in my District. You have benefited
15 under Local Law 129?

16 MR. KINDRED: No.

17 CHAIRPERSON JAMES: No.

18 MR. KINDRED: No, it's Arthur
19 Kindred. If I was Mr. Bowman--

20 CHAIRPERSON JAMES: [Interposing]
21 I'm sorry.

22 MR. KINDRED: --I think I would be
23 down in Barbados--

24 [Laughter]

25 MR. KINDRED: Although I've been

2 with the company for about 23 years.

3 CHAIRPERSON JAMES: I apologize.

4 MR. KINDRED: It's quite alright.

5 We believe the stimulus packet will benefit the
6 City. I've noted that there is over
7 \$850,000,000,000. And if we were to insure all of
8 that money, obviously we would have a nice profit.
9 We have not been successful in being awarded
10 contracts by the City of New York.

11 We insure the Boston Cleanup for
12 example.

13 CHAIRPERSON JAMES: Hum.

14 MR. KINDRED: We also know that the
15 City of New York is cleaning up the Quoins
16 [phonetic] River.

17 CHAIRPERSON JAMES: Yes.

18 MR. KINDRED: And they refused to
19 even allow an appointment to discuss, just to make
20 an introduction of our company--

21 CHAIRPERSON JAMES: [Interposing]
22 Hum.

23 MR. KINDRED: --access to allow us
24 to bid. And it's performance, when it all comes
25 down and said. So to answer your question, no we

2 have not been successful although we insure some
3 areas of City public dollars.

4 CHAIRPERSON JAMES: When was the
5 last time you received a public contract in the
6 City of New York?

7 MR. KINDRED: It's been a while.

8 CHAIRPERSON JAMES: Under this
9 Administration?

10 MR. KINDRED: It's been a while.
11 I, if I, if my, if my recollection bears me well,
12 I don't think we have received any contracts by
13 this Administration.

14 CHAIRPERSON JAMES: Thank you.

15 CHAIRPERSON LIU: Thank you. So.

16 CHAIRPERSON SEABROOK: Just some
17 points here that needs to be raised. Because I
18 think it's very important with the contract, as
19 successful as you may be, you can be punished for
20 being successful. So this is a Catch 22 situation
21 as it relates to that.

22 And I relate, the point of bridge
23 and tunnel and this whole issue, and the young
24 lady prior said that there were three companies
25 that do all of the contracting. Well they made it

1
2 that way. And they've allowed it to happen. And
3 I constantly have said this to the Mayor. When
4 you have decided who is going to be what and who's
5 going to get what, you've made a decision that the
6 big companies take everything.

7 And just a point, Minority and
8 Women Owned Business hire those in our communities
9 who need to be hired, otherwise they won't be
10 hired. So they actually do the hiring in our
11 community. And this is what I've been saying to
12 the Mayor. That they know how to hire people who
13 are in need and the stimulus package is certainly
14 supposed to be about those people in need. So
15 they know how to do that.

16 Bowen Procope has been in business
17 and have done contracts with this City probably
18 before this Mayor came to this City. And that I
19 know. And the level of their reputation which the
20 company has, there are companies and this whole
21 idea that I hope and you're absolutely right this
22 MWBE, DBS (sic), in all of this, it's just a form
23 of not doing business. And I'll tell you why.
24 And I have to say this Mr. Chairman.

25 After 9/11 the cleanup of the

1
 2 grounds at Ground Zero, was \$5,000,000,000 worth
 3 of contracts just for the cleanup. \$5,000,000,000
 4 just for the cleanup. Four companies divided
 5 \$5,000,000,000. No bids. No notice, sole source,
 6 given out to the main contractors in this City,
 7 four of them. No bids. At all.

8 So all of this about transparency
 9 and all of this about integrity and all of this is
 10 nonsense. \$5,000,000,000 to clean it up. And
 11 found out that even the Mob was involved. So
 12 people do what they want to when they want to do
 13 it. When they want things to happen, it happens.
 14 'Cause people came and said how come and so we
 15 asked the question. Well how is it that you gave
 16 \$5,000,000,000 away and there were no bids. And
 17 he says, well you know, it was an emergency. And
 18 we made a decision. In Design and Construction we
 19 made a decision and that's what we did.

20 Well when you've got unemployment
 21 at 50% for a minority communities and you've got
 22 businesses that are suffering and going out of
 23 business, that's a hell of an emergency. And no
 24 one has ever talked about well maybe we should
 25 decide to do something different. 'Cause that is

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2 a tremendous difference to give somebody
3 \$5,000,000,000 with 4 companies. But when we talk
4 about the lack of having this for Minority and
5 Women Owned Business, and when we're looking at
6 the amount of money, this is nothing that they're
7 talking about as a success rate with minority and
8 women--this is no money. When you look at the
9 budget of the City of New York. That's nothing.
10 It's an embarrassment. Yes.

11 [Off mic]

12 MS. KLEINBERG: I'm sorry. The
13 reason that there's only three general contractors
14 that can do the tunneling work is because over the
15 years they spent a lot of money on equipment and
16 the City did not pay on time or the State,
17 wherever the contract came out. There's a
18 terrible misunderstanding that the contractors are
19 all rich and that the City, State, Federal
20 government don't have to pay their bills on time.

21 That's the reason that you have so
22 few of those big contractors on the bridges and on
23 the tunnels that do the signal work for the MTA.
24 The signal work, only a few contractors can do it.
25 The other work that's on the MTA is very viable

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2 work. I learned as a small, small contractor that
3 was just learning how to do the work, I learned it
4 and I do better than most. Okay. And I do get
5 paid. I don't have any lawsuits with the MTA.
6 They're very happy to give me the work.

7 I'm not talking--I didn't come here
8 to speak just for myself. I'm speaking in regard
9 to the fact that we have a lot of small
10 contractors that really can't do that work. You
11 know why? 'Cause they can't learn it. And what
12 happens is they don't update the data as to who is
13 a DBE, who is an MBE, who is, you know, in
14 general, out there. So what happens is the, like
15 for instance me, I'm an electrical contractor and
16 I'm not a DBE any more. I couldn't find an
17 electrical contractor to do the work as a sub to
18 me that was a minority--as a DBE.

19 CHAIRPERSON SEABROOK: Right.

20 MS. KLEINBERG: And why is that?

21 It's because there wasn't anybody that was
22 capable. And they were being dismissed by the
23 Transit Authority as not being expert enough to do
24 the work. In my case I transferred all the work
25 to a company that did material. That's what I had

2 to do but you have to implement that before the
3 contract starts. Otherwise, then you've done--
4 you've broken your contract.

5 So the unfortunateness of this
6 program is DBEs, it's a misnomer, there aren't
7 any. And when you were getting the numbers from
8 Sandra, she was giving it to you exactly the way
9 it is. And out of those numbers see how many of
10 them do public works or are capable of doing--

11 CHAIRPERSON SEABROOK:

12 [Interposing] Right.

13 MS. KLEINBERG: --public works.

14 You can't just say oh I want to give this minority
15 a little piece of this work because they're a DBE.
16 You have to be able to give it to somebody that
17 knows what they're doing. You need to have a
18 certified apprenticeship program throughout the
19 State that's the same. So that there's not non-
20 union and union. Everybody should have the same
21 certified program. Everybody should be paying the
22 same prevailing rates, whether you're a WBE or a
23 DBE--

24 CHAIRPERSON SEABROOK:

25 [Interposing] Right.

2 MS. KLEINBERG: --or whatever.

3 None of these things are watched. There is no
4 watch dog. They say they are. I turn in
5 certified payroll every day. I make the bet with
6 you that they don't look at my certified payroll
7 every single week. I promise you that.

8 But the issue is here is what we
9 have done to the smaller contractors. We're
10 making them less and less here because they're
11 just not being taught. You just can't have a
12 program and say okay you go out and do transit
13 work. Go out and do bridges. You can't do that.
14 You have to really teach a contractor if you
15 really want. And they're saying they're
16 implementing a program. You tell me one job that
17 comes out under \$1,000,000 for a bridge or a
18 tunnel or school construction or DDC for instance.
19 You could only be--you have to be a DBE in order
20 to get that work. You can't get any of that work
21 because you can't get the bonding. You can't go
22 in as a prime. There's no such thing. The law is
23 wrong--

24 CHAIRPERSON SEABROOK:

25 [Interposing] I know but--

2 MS. KLEINBERG: --and it has to be
3 fixed.

4 CHAIRPERSON SEABROOK: --but let me
5 just say this here to you. There are minority
6 contractors in this City who have reached that
7 level of what you're talking about. Who have done
8 work ten years ago in this City but they made a
9 decision as to who was going to do what, and who
10 was going to receive, and the same old boy network
11 gets. But these are people who are capable of
12 doing the job.

13 I can give you a for instance, and
14 I hate to digress with this, but the School
15 Construction Authority, School Construction
16 Authority was created on the basis of minority
17 legislators feeling that there was a need to have
18 a construction entity that allowed real
19 participation, otherwise it was a closed shop.

20 And so when we decided to create
21 the School Construction Authority and we said that
22 there would be minority and women participation in
23 every level and in every capacity that it had to
24 be. And in the beginning if you go back and get
25 the history of what was done there, and it was a

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2 reality and that was actually taking place--not
3 today, but it was. And so here, now, what you
4 have is the lack of participation by minorities in
5 the School Construction Authority now. And to see
6 that that has taken place.

7 What I'm saying is there are
8 lawsuits against some of the same contractors that
9 was in that 4 that got the \$5,000,000,000. You
10 got \$2,000,000,000's worth of contracts right now.
11 One of them. \$2,000,000,000's worth of contracts
12 right now, and going to get more from Willets
13 Point. Same ones.

14 MS. WILKIN: Councilman, you are
15 correct about that. There are--you hear what the
16 Administration has said. You almost feel what a
17 sinking feeling that they've given up. And that
18 you look at programs such as the School
19 Construction Authority or across the country for
20 instance in other localities, that the programs
21 are successful with the same requirements as a DBE
22 program. And the same requirements for MWBE
23 programs. And yet theirs are successful.

24 It depends on who is doing the
25 asking and it depends on how the model is of a

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2 program. If the SCA programs are successful, take
3 those models and bring them over to the other
4 agencies. It's not that difficult to figure out.

5 CHAIRPERSON SEABROOK: That's my
6 point. When you want to do it, you can do it. It
7 has been successful and it has shown that when you
8 want these things to happen, they can happen.

9 MS. WILKIN: Right.

10 CHAIRPERSON SEABROOK: 0.2%, 0.2%
11 was the Minority and Women Owned Business that was
12 done in the City of Atlanta prior to Maynard
13 Jackson, you hear me?

14 MS. WILKIN: Right. That's right.

15 CHAIRPERSON SEABROOK: We can't
16 find them. They can't do it. We don't know
17 nobody. Nobody can dig a hole. We ain't got
18 nothing. The only thing they got is a shovel.
19 They can't do this. Guess what? It reached a
20 different level. And he decided that we're not
21 going to have an airport until it was done, until
22 it was 20% of the work in every capacity was done.

23 When you want to do it, it can be
24 done. When you want to find them, they can be
25 found. That's the bottom line. If they want to

2 find people, they know how to find people. If
3 they want to. They know successes. They know
4 what's happening. But it's got to be the will to
5 make this happen. They found 4 guys to give
6 \$5,000,000,000.

7 MS. WILKIN: These are billion
8 dollar--

9 CHAIRPERSON SEABROOK: [Interposing]
10 Billions.

11 MS. WILKIN: --billion dollar
12 programs.

13 CHAIRPERSON SEABROOK: Yeah.

14 MS. WILKIN: And we get such
15 insignificant--

16 CHAIRPERSON SEABROOK:
17 [Interposing] Yes.

18 MS. WILKIN: --paltry, there has to
19 be something that we could do about that and
20 really look at that.

21 CHAIRPERSON SEABROOK: This City
22 should be ashamed of itself. That they can't say
23 that they have given \$100,000,000 combined, that's
24 an insult.

25 MS. KLEINBERG: I would like to ask

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2 you something. I asked this of Sandra before.
3 And it still disturbs me. When the money comes
4 into the State, I know that I've done work before
5 where it said in the front of the transit books,
6 you know, the MTA certif--you know, the whole book
7 we get before we do it, the take off, it says in
8 the front, participation, if it's by the State or
9 the City, then they could use participation of
10 WBE, DBE, MBE, whatever. Okay.

11 The point is we have that in our
12 specification books. All right? How is it that
13 this money, this Federal money is going to come to
14 our State but yet our State is not going to
15 appropriate the money in the proper places. Why
16 is the Federal money going directly to the jobs?
17 Is it going directly to the jobs or is it going to
18 the State? Because there's an issue here then.

19 Because if it's coming--if it's
20 being deposited into the State's account, that's
21 State work, why shouldn't that be put into these
22 public bid documents that are coming out? I don't
23 get that. I asked, not acting, trying to be
24 stupid or--

25 CHAIRPERSON LIU: [Interposing] It

2 will go into these, into the budgets of these
3 agencies whether it be the DOT at the City level
4 or the State level or MTA or the Port Authority.

5 MS. KLEINBERG: Because if you look
6 in the books, I can show you--

7 CHAIRPERSON JAMES: [Interposing]
8 Until we get a list of the project.

9 MS. KLEINBERG: Well. Well I could
10 tell you right now, that two of the projects, one
11 is going to be the one, the job, the tunneling
12 going underneath the Hudson--

13 CHAIRPERSON SEABROOK:
14 [Interposing] Right.

15 MS. KLEINBERG: --we know that to
16 be one. And that's going to be a joint venture of
17 New Jersey and New York City. There's going to be
18 the 7 Ave--the 7 Line. There's going to be the--

19 CHAIRPERSON SEABROOK:
20 [Interposing] The 2nd Avenue line right.

21 MS. KLEINBERG: --2nd Avenue line.
22 So we know that those are going to be some--I know
23 than I'm doing bridge infrastructure right now.
24 I've been working on Willets and Hamilton Avenue.
25 I don't get all those jobs but we get a piece of

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the contract--

CHAIRPERSON SEABROOK:

[Interposing] Right.

MS. KLEINBERG: --and I know that those, those--if they're not done, they're going to fall apart. I know that the DEP work is coming out. I know that the Croton has to be connected to Upstate otherwise there's going to be a--we have since 1983, or 1986, there was a study done on Newburgh, that our water from the Delaware River Gap was leaking out somwheres. Well now it's under the City of Ellenville.

CHAIRPERSON SEABROOK: Right.

MS. KLEINBERG: So that has to be connected to New York City's Croton, because if they don't do that, then you're not going to have water somwheres someday down the line.

CHAIRPERSON SEABROOK: Well here, all of this, this money's going to come through the State and local municipalities. And that's what, one of the concerns that we have, that it should follow those regulations that the State already have in place, such as the Dormitory Authorities and there is 15% that, a minimum of

2 what--

3 MS. KLEINBERG: [Interposing]

4 Right.

5 CHAIRPERSON SEABROOK: --is

6 supposed to be Minority and Women Owned Business,
7 that's in the statute with the Dormitory Authority
8 that has to take place. The problem that we have
9 in the City of New York is that they're not going
10 to follow that which is on the State level in
11 terms of dealing with it, or the City. So there
12 has to be some amendment that has to be made to
13 talk about the level of participation that's going
14 to take place.

15 And we need to be very vigorous.

16 We talked to Congressman Rangel and others about
17 having that put in play so that that level of
18 participation in terms of minority and women is a
19 part of this.

20 MS. WILKIN: Councilman, as far as
21 DBEs are concerned, other states, if we look to
22 New Jersey and we look to their participation,
23 they require if you are to become a small business
24 in New Jersey as a Minority or Woman Owned
25 Business, you're required to, number one, have a

2 business, a domicile in New Jersey. And secondly
3 you have to have 50% of your employees are
4 required to be New Jersey residents.

5 So I don't not want other firms not
6 to get work, but where is the thinking here for
7 the DBEs and the MWBEs, where is the thinking here
8 that why not bring businesses here to New York?
9 If New Jersey has that structure and the cost of
10 doing business here in New York, especially for
11 small businesses, are greater and you have more of
12 an advantage of getting work in New Jersey, maybe
13 the sensible thing is for businesses to look to do
14 and be in New Jersey rather than here in New York.

15 We really don't look to our local
16 businesses here for businesses that have been here
17 for many, many years.

18 CHAIRPERSON SEABROOK: Well that's
19 where we, again, it comes back to those who are
20 writing these specifications and for us having
21 this belief that well we're going to low bid. Low
22 bid could be a guy from Georgia that comes in that
23 has no workers in the City of New York but he wins
24 the bid. And he comes back in and the trick of
25 the trade is, with the low bid, well I might have

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2 you bidding for this at a certain price, but then
3 we can do some changes later.

4 And so those cost overruns and
5 changes and everything else, you're actually
6 paying more than what you actually bid it for.
7 And then the service contract outweighs that which
8 you actually bid it for in the first place. So
9 that's how we're getting caught up in these major
10 corporations who are outside. You know, the City
11 of New York is now getting its boilers and
12 everything else from a Georgia company. A Georgia
13 company when we got companies here who were
14 manufacturing boilers in the City and workers who
15 are not being laid off in the City.

16 CHAIRPERSON JAMES: In the Bronx
17 you have--

18 CHAIRPERSON SEABROOK: In the
19 Bronx. Exactly. It's crazy.

20 CHAIRPERSON LIU: Well I have a
21 simple question for you which is I understand what
22 you're saying about how the DBEs, that the DBE
23 requirements basically render it useless for many
24 of the MWBE firms here in New York, does that
25 basically undercut most of what State DOT is

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trying to do? Because they focused on DBEs?

MS. WILKIN: You're absolutely correct. The Federal guidelines are so difficult because of the DBE requirement, the standards that are there, and that they're really as much as they're trying to see how they can work with Minority and Women Owned Businesses, there aren't many DBEs that are minority or women owned businesses that are there.

MR. KINDRED: Let me comment about that Mr. Chairman. From our experience at E. G. Bowman, when the allocation is given from the Feds to the State, there's a loophole in the distribution. And that as, as my colleague on the right was explaining earlier, the discretion is given to that jurisdiction to include or exclude or to ignore.

So the loophole is determined by the agency. So if the State Department of Transportation receives an allotment for its operation from the Feds then it can operate under Article 15(a). It can ignore the Feds. Why? Because the work, the scope of work has been performed in the jurisdiction. So there are legal

2 questions obviously, but it still does not
3 alleviate the fact that opportunities ought to be
4 given to a full house and not just the same old
5 boys.

6 MS. WILKIN: But just to make a
7 point, currently the plan under the stimulus plan,
8 everything must go through the Federal guidelines
9 and not the State.

10 CHAIRPERSON LIU: So there is, so...
11 \$750,000 just doesn't seem like a very large
12 threshold for a business owner. So does...

13 [Off mic]

14 CHAIRPERSON LIU: Right. Even
15 personal.

16 MS. KLEINBERG: The company itself-

17 -

18 CHAIRPERSON LIU: [Interposing] I
19 mean even someone's house, they...

20 MS. WILKINS: But they do exclude,
21 they do exclude your primary residence.

22 CHAIRPERSON LIU: Okay.

23 MS. WILKINS: But a 700--could you
24 imagine a \$750,000 net worth? There isn't any
25 project, any bond rather that you can get with a

2 \$750,000 net worth and be a viable company. The
3 numbers, the metrics just don't work out. And--

4 CHAIRPERSON LIU: [Interposing] So,
5 so--

6 MS. WILKINS: --and--and--

7 CHAIRPERSON LIU: --does the DBE
8 requirement at the Federal level, does that
9 essentially preclude most of the capable MWBE
10 firms?

11 MS. WILKINS: That's precisely
12 correct. So if you have a net worth of \$750,000
13 or lower, that net worth is the same whether
14 you're in Podunk, Iowa, you're in some other area
15 of a small area in a small locality, it doesn't
16 work, and it shouldn't be one-size-fits-all
17 because if you're a construction firm for
18 instance, and you have to have the bonding
19 requirements that you have to meet, you won't be
20 able to get a bond.

21 MS. KLEINBERG: Right.

22 MS. WILKINS: Now it's the same net
23 worth if you are--

24 CHAIRPERSON LIU: [Interposing]
25 Because that bond is in part due to your own

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personal net worth.

MS. WILKINS: It's very much so because--

MS. KLEINBERG: [Interposing] It's collateral.

CHAIRPERSON LIU: Right.

MS. WILKIN: Correct. And if you have, for instance, you have a paper company, well it may work for certain smaller kinds of companies similar to what trying to work with the Emerging Business Enterprise, but it definitely doesn't work for any of the stimulus, any of the Minority or Women Owned Businesses effectively are out of business as a result of the DBE program, the Federal DBE program. There is effective--no work for us.

MR. KINDRED: We provide what is called performance bonds, bid bonds, bid bonds, performance bonds, labor and material bonds, these bonds obviously are submitted at the time of the contract negotiation, obviously. The point I was trying to make earlier about the notion that you have to append to the DBE requirement on the Federal levels, it ought to be looked at harder

2 because once that allocation is given to the State
3 and the City, yes, the requirement has to be met,
4 but at the same time there is a loophole where
5 that jurisdiction can implement its own laws
6 jointly, collaboratively. And that's what I'm
7 basically encouraging to--

8 MS. WILKIN: [Interposing] Excuse
9 me, but not under the stimulus plan. It is all;
10 everything is guided by Federal, no state, no
11 City.

12 [Off mic]

13 MS. WILKIN: I'm sorry?

14 [Off mic]

15 MS. WILKIN: Well.

16 CHAIRPERSON SEABROOK: --that
17 issue.

18 CHAIRPERSON JAMES: It's not over.

19 CHAIRPERSON LIU: It's a good thing
20 that this issue, you're fleshing this issue out
21 now before the final package is signed sealed and
22 delivered. Well we want to thank you for being
23 part of this hearing. Mr. Kindred, well please
24 give my best wishes to Chairman Procope, hope
25 she's doing well.

2 MR. KINDRED: Thank you.

3 CHAIRPERSON LIU: And we want to
4 thank everybody for participating in today's
5 hearing. On behalf of Chairperson James and
6 Chairperson Seabrook, we thank everybody for
7 attending today's hearing and with that this Joint
8 Hearing of the City Council's Committees on
9 Contracts, Civil Rights and Transportation is
10 adjourned.

11 [Gavel banging]

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C E R T I F I C A T E

I, Laura L. Springate certify that the foregoing transcript is a true and accurate record of the proceedings. I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

A handwritten signature in cursive script that reads "Laura L. Springate". The signature is written in black ink on a light-colored background.

Signature _____Laura L. Springate_____

Date _____February 20, 2009_____