

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON CONTRACTS

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October 10, 2018
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HELD AT: Committee Room - City Hall

B E F O R E: JUSTIN L. BRANNAN
Chairperson

COUNCIL MEMBERS: Inez D. Barron
Bill Perkins
Helen K. Rosenthal
Kalman Yeger

A P P E A R A N C E S (CONTINUED)

Jonnel Doris, Senior Advisor and Director
Mayor's Office or MWBEs

Greg Bishop, the Commissioner
Department of Small Business Services, SBS

Dan Simon, Director of the Mayor's Office of Contract
Services, MOCS

Bill Wilkins, Director of Economic Development Local
Development Corporation of East New York

Brian Cunningham, General Counsel, Building
Contractors Association

Lou Colletti, Building Trades Employers' Association

Melissa Chapman, Brooklyn Chamber of Commerce
Appearing for: Acting President Rick Russo

Denise Richardson, Executive Director, General
Contractors Association

[sound check] [pause] [gavel]

CHAIRPERSON BRANNAN: Alright, good afternoon procurement fans. Welcome to the Contracts Committee of the New York City Council. Today is Wednesday, October 10, 2018. My name is Justin Brannan, and I have the privilege of chairing this committee. Before we begin, I want to extend my thanks to Council Member Cornegy who is—won't be joining us as the—but he is the Chair of the Council's MWBE Business Task Force, as well as the MWBE community for joining us in this hearing today. The City Council has long supported the MWBE community in New York City, and has assisted with MWBEs making great strides towards expanding their role in both city procurement and the private sector. The city's MWBE program was established in 2005 in order to address this historical disparities in city procurement between the number of Minority and Women Owned Business available to contract with the city, and the number that are actually awarded city contracts. While we commend the hard work being done by SBS and the Mayor's Office of MWBEs via their training and networking and business development programs, I think we can all agree that more still

remains to be done. In FY18, the city's contract budget was \$19.8 billion. Of this, \$5.3 billion was for contracts subject to the MWBE program, and of that number only 16%, roughly \$835 million was actually awarded to MWBE prime contractors. When MWBE subcontractors are included in that analysis, the number jumps to 19% of eligible contracts. However, this is still woefully short of the Mayor's stated goal of achieving 30% MWBE utilization. So, how can we improve these numbers? The low-hanging fruit here is understanding each department's utilization rate in order to identify which agencies are most effective in supporting MWBEs and which are struggling. When considered on an agency by agency basis, the disparity between agency utilization is stark. Seventy-two percent of all MWBE contracts citywide were awarded by the Department of Design and Construction, the Parks Department and DEP. The department—the DDC in particular has increased its contracting with MWBEs by nearly \$92 million over FY17. It's roughly 25% of an increase in just one year. While this is certainly an impressive improvement, DDC alone has a \$2.3 billion budget for MWBE eligible contracts. So, it comes as no surprise

that they are awarding the large—the largest dollar value of contracts to MWBEs. But when considered as a percentage, DDC falls towards the middle to low end of agencies supporting MWBEs, awarding less than 20% of their MWBE eligible contracts to MWBE firms. On the other end of the spectrum, the Commission on Human Rights awarded nearly 78% of its eligible contracts to MWBEs, and Department of Small Business Services, who is joining us here today awarded almost 75% of its eligible contracts to MWBEs. Admittedly, both these agencies have much smaller budgets, but they are obviously making an effort, which is more than I can say unfortunately for some of the other agencies whose numbers make it look like they're hardly trying. DOT awarded a paltry 2% of its \$645 million budget in MWBE eligible contracts. Similarly, the DOITT, City Planning, FDNY each awarded less than 5% of their MWBE eligible contracts in FY18 to MWBEs. Instead of highlighting the agencies with the great successes in MWBE contracting, we feel the administration should hold these under-performing agencies accountable and do whatever it takes to triage and to improve the utilization rates. We on the committee do not expect

full utilization from every agency certainly, but when numbers are that low it speaks volumes to the lack of effort to fulfill the goals of the overall MWBE program. We hope this hearing will provide this committee with an opportunity to discuss some of the road blocks these under-performing agencies are having in their procurement processes, and what steps the administration can take to improve the numbers of the agencies at the low end of the list, and how the Council can be helpful. Like the Mayor, the City Council is committed to reaching 30% utilization overall. I think we should all work to improve the MWBE utilization rates of the worst performing agencies, so we can get there together. I want to thank Council Member Perkins for joining me today, and my other colleagues that will eventually show up. I have to also thank the Contracts Committee staff, my Legislative Counsel Alex Paulenoff; Policy Analyst Cassie Addison; Finance Analyst Andrew Wilbur; Finance Unit Head John Russell; and my Senior Advisor John Yedin (sp?) for their hard work in putting this hearing together, and with that, I'll give it to Alex to swear everybody in.

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2 LEGAL COUNSEL PAULENOFF: Would you
3 please raise your right hands. Do you swear or
4 affirm to tell the truth, the whole truth and nothing
5 but the truth in your testimony today, and before and
6 to respond honestly to Council Member questions?

7 JONNEL DORIS: [off mic] I do.

8 LEGAL COUNSEL PAULENOFF: Great, you may
9 begin.

10 JONNEL DORIS: Good afternoon, Chair
11 Brannan and members of the Council's Committee on
12 Contracts. My name is Jonnel Doris, and I am the
13 Senior Advisor and Director of the Mayor's Office or
14 MWBEs. Today, I will provide an overview of the
15 city's MWBE program including the progress made
16 toward our MWBE certification and utilization goals
17 set by this administration. With me today are Greg
18 Bishop, the Commissioner of the Department of Small
19 Business Services and Dan Simon, the Director of the
20 Mayor's Office of Contract Services to answer
21 question that may be specific to their work. In the
22 fall of 2016, Mayor Bill de Blasio announced the
23 creation of the Mayor's Office of MWBEs Mayor's
24 Office of MWBEs as a critical next step in the
25 administration's commitment to increase contract and

opportunities for minority and women entrepreneurs.

The Mayor pledged ambitious goals of achieving 30%

MWBE utilization by the end of Fiscal Year 2021, and

having 9,000 city certified MWBEs by the end of

Fiscal Year 2019. In 2015, the Mayor outlined a

separate citywide goal to award \$16 billion to MWBEs

over the next 10 years. This OneNYC goal, the 30%

goal covers both mayoral and nominal agencies. On

the heels of the Mayor—I'm sorry—of May 2018

Disparity Study, the Mayor announced that we were

\$1.8 billion ahead of our OneNYC goal and decided to

increase our goal from \$16 billion to \$20 billion by

2025. We are excited to have the new leadership of

Deputy Mayor Phil Thompson whose career along justice

and equity work includes increasing economic

development opportunities by calling out and

challenging structural and historical barriers in the

marketplace and within government. Under the

supervision of the Deputy Mayor, SBS and MOCS play an

integral role in implementing the MWBE program. SBS

certifies MWBEs and provides essential capacity

building services, and technical assistance to ensure

they can compete for and execute on city contracts.

MOCS tracks and reports on utilization data for all

city contracts under Local Law 1. The purpose of the city's MWBE program is to remedy the impact of discrimination in the market where the city makes its procurements. This impact is statistically analyzed in a disparity study. The most recent disparity study demonstrated that MWBE firms are underutilized in city procurements. Local Law 1 of 2013 established citywide contracting goals, which matched the disparity gaps revealed by the 2011 Disparity Data Analysis. The city will make policy changes in accordance to the key findings, and recommendations of the Disparity Study that has been published this past May. Along with my colleagues here today, my office will continue to play a strategic role in ensuring that city agencies remain focused on achieving the goals of the program. Since the start of the Administration, the number of certified firms have increased by 86%. As of the close of Fiscal Year 18, the number of certified firms was 6,829. Additionally, at the end of Fiscal Year 18, MOCS reported this MWBE utilization at 19% representing \$1.069 or \$1.07 billion in contracts to MWBEs under Local Law 1 as compared to 8% or \$4--\$465 million value of city contracts in Fiscal Year 15 at the

start of the Administration. We are also very happy to report that since 2015, over \$10 billion--\$10 billion has been awarded to MWBEs by Mayoral and non-Mayoral agencies citywide pursuant to our OneNYC goal. Since the enactment of Local Law 1, the city has implemented a number of creative initiatives to help MWBEs build capacity and obtain capital and has--and has also advanced for state legislative initiatives to give the city more tools for its MWBE program. Pursuant to Local Law 1 and the goals therein, the percentage of dollars awarded to MWBEs subject to the city's program has trended upwards from 8% in Fiscal Year 15 to nearly 20% in Fiscal Year 18. Just to put that into perspective, at the close of Fiscal Year 18 we are proud to report that in record time the city is closing in on our 30% goal, which we know we can achieve. Still, we have more to do. We are lowering and where it possible, removing structural barriers to ensuring the city's procurement marketplace provides resources for an increase in MWBEs and programming at city agencies and creating strategic initiatives to increase MWBE's ability to compete success--successfully. In accordance with the four core principles of our

program: Accountability, accessibility, capacity and Sustainability we have implemented initiatives to address these issues that MWBEs face in the private market place, namely access to capital, which is a common obstacle for many small and mid-sized firms. In order to respond to this need, the Administration launched the Contract Finance Loan Fund and the Bond Collateral Assistance Fund both administered by SBS and the Emerging Developer Fund, which is administered by EDC. Together, the initial investment from the Administration across these funds totals \$30 billion--\$30 million. Sorry. As you may know, the Mayor also convened the city's banks to begin a discussion about a partnership to create accessible capital for more MWBEs in New York City. During last September's hearing, we noted that the discussions with the banks were ongoing. Early this year on February 21st, we announced that three of those banks made the commitment to invest to MWBEs to the tune of additional \$40 million. In the spring of 2017 we were joined by many MWBEs, advocates and stakeholders including the city agencies in calling for the passage of S6513A8505. The bill proposed increasing the city's discretionary spending limit

for goods and services purchased for MWBEs and given the city the authority already provided to the state to offer MWBEs price preferences on procurements. The bill passed overwhelmingly in the Assembly and the—and the State Senate, and for that we thank our elected partners including our Council Members here today for their advocacy and support. This change provides MWBEs with access to more and larger contracts to help build capacity and succeed as prime contractors. The discretionary threshold for goods and purchases was implemented on March 5, 2018 and by June 30th at the end of the fiscal year we had 181 contracts were awarded to MWBEs in the amount of approximately \$12.5 million. We plan to return to Albany this session and advocate for state approval for innovative policy tools that the city has previously requested, but have not yet received. We understand what a valuable tool a mentor protégé program can be specifically in the construction industry setting. Many state agencies and public authorities such as the MTA have implemented this type of mentorship program pursuant to the authority granted by state legislation. We hope to be able to do the same, but meet state authorization.

Additionally, we will seek the authority to create prequalified lists exclusively for MWBEs for city-city agencies. This would enable the city to reserve certain procurement opportunities to MWBEs, the Housing, Preservation Department, HPD has been able to do something similar by creating prequalified list of MWBE developers to certain projects pursuant to state legislation enacted in 2014. HPD's MWBE prequal program established pursuant to the Authority aims to increase contracting opportunities for certified MWBEs in HPD, HPD subsidized affordable housing projects. In January 2017, the Mayor, HPD and OMWBE announced that eight MWBEs have been selected to lead construction of six new 100% affordable housing developments, 440 homes for seniors and New Yorkers with a variety of income levels including extremely low income and formerly homeless households. Although these projects were development projects rather than procurement contracts and so did not count towards the city's utilization goals under Local Law 1, they are a valuable demonstration of how prequalified lists allowed HPD to meet the double down-double bottom line here by employing many of the city's MWBEs to

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2 build its affordable housing. We want MWBEs to have
3 the opportunity to join MWBE Exclusive Prequalified
4 List in the procurement setting as well. Going
5 forward, we will continue to work closely with the
6 Council and our elected partners on MWBE outreach,
7 networking, and educational events. We will also
8 continue to meeting regularly with interested council
9 members to share updates on the program's milestones.
10 Thank you for the opportunity to testify today, and
11 your continued support and advocacy for our program.
12 W would be happy to answer any questions you may
13 have.

14 CHAIRPERSON BRANNAN: Thank you very
15 much. Let me know when you guys head to Albany
16 because I would be happy to come with you.

17 JONNEL DORIS: Perhaps a week. (sic)

18 CHAIRPERSON BRANNAN: The last--the last
19 bit of your--your testimony there was very--very
20 helpful. So, hopefully we can partner up there
21 however we can. I want to recognize Councilman
22 Kalman Yeger who has joined us, and I wanted to--to
23 jump right into the announcement that--that came today
24 on the success of the One New York City, OneNYC
25 program. Certainly appreciate that it's on track to

exceed its goals by 2025, but what I'm trying to figure out is what happens when we remove the non-mayoral agencies from that number? Is the performance of the mayoral agencies at the same level as agencies such as NYCHA or EDC?

JONNEL DORIS: So thank you, Council Member for that question. First of all, we are excited about the \$10 billion that we announced today. That's an historic number that we are very proud of, that we are able to contract with that many MWBEs for that number I mean it's historic. I don't think anyone in the nation has done that, and we are very excited about that. Are we there yet? No, but certainly that is a significant benchmark. We know that the split between mayoral and non-mayorals—I want to make sure I get to the actual number here, but the split between mayorals and non-mayors we see that the mayoral agencies actually are doing better and in our report that we do public the OneNYC Bulletin, you would see that the mayoral agencies are doing about \$4.8 billion and non-mayoral is about \$4.5 or so as of the end of the fiscal year. So, so they are doing--mayoral agencies are doing a little bit better than the non-mayoral agencies.

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2 CHAIRPERSON BRANNAN: So, what is—what's
3 the—the fundamental difference between the OneNYC
4 plan and the MWBE Program?

5 JONNEL DORIS: The OneNYC Program covers
6 some of the—the restricted procurements that Local
7 Law 1 has. We would count those. For instance, if
8 an MWBE is hired by an agency on a project that is
9 not included in the Local Law 1 Program, then we do
10 count that as OneNYC. So, it's really a volume goal.
11 How many MWBEs are actually participating in our
12 program? The Local Law 1 Program does have
13 restrictions as to what we can count on government,
14 intergovernmental contracts, various types of
15 emergency contracts, et cetera that the law prohibits
16 us from putting goals on. So, we report on where we
17 can put goals on, but our program is not just—we
18 don't want it to be confined to what—where we can put
19 goals on. Wherever we can count MWBE utilization, we
20 will, and so that number is a volume number that we
21 count. Wherever MWBEs are awarded, it doesn't matter
22 if it's included or excluded in the Local Law 1
23 Program, we will count them in the OneNYC Program.

24 CHAIRPERSON BRANNAN: So, the—the OneNYC
25 goal then does that count contracts that are awarded

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2 to any business owned by a woman or a minority or
3 only those that are in—or classified as MWBE or in
4 the program?

5 JONNEL DORIS: They are—they count. I
6 believe the certified MWBEs with the city.

7 CHAIRPERSON BRANNAN: Okay. Do you have
8 an idea of how many MWBE certified firms are locally
9 based?

10 COMMISSIONER BISHOP: I do Council
11 Member.

12 JONNEL DORIS: Oh, yeah.

13 COMMISSIONER BISHOP: So, I'll take that
14 question. When you say locally based, what do you—
15 can you be more specific because we have—our
16 certification program is one of those unique programs
17 at SBS where it's a geographic region. So, for
18 example, if you're talking about local, are you
19 talking about the five boroughs? Are you talking
20 about within the purchasing area of New City? I just
21 want to be clear on your question?

22 CHAIRPERSON BRANNAN: Within the five
23 boroughs.

24 COMMISSIONER BISHOP: So, in the five
25 boroughs, I'm just doing this math really quick about

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2 maybe—it looks like about 60 something percent of
3 our—our firms are certified from the five boroughs.

4 CHAIRPERSON BRANNAN: And how many of
5 those approximately 60% were awarded contracts in
6 FY18?

7 COMMISSIONER BISHOP: Let me get back to
8 you on that.

9 CHAIRPERSON BRANNAN: Okay.

10 COMMISSIONER BISHOP: Yes.

11 CHAIRPERSON BRANNAN: Are non-local
12 businesses considered in the OneNYC numbers as well?

13 COMMISSIONER BISHOP: So—so—sorry. For
14 OneNYC we count certified firms. So, if—if the firm
15 is certified, then they are counted OneNYC.

16 CHAIRPERSON BRANNAN: Okay, but they
17 could be from Wisconsin?

18 COMMISSIONER BISHOP: No. So—so when we
19 talk about the—the catchment area--

20 CHAIRPERSON BRANNAN: [interposing] Yeah.

21 COMMISSIONER BISHOP: --they have to have
22 some type of intent to do business with New York
23 City.

24 CHAIRPERSON BRANNAN: Okay.

25

COMMISSIONER BISHOP: So, when we look at sort of—when we try—when we look at, you know, when the company is certifying, they have to show some type of intent that they are looking to do business in New York City. If they're headquarters happens to be in Wisconsin, they have a presence in New York City and, therefore, they're looking to do business in New York City and, therefore, they are, and as long as their—the control, it's controlled and operated by the eligible group member, then they're—they're able to certify.

CHAIRPERSON BRANNAN: So, what would constitute doing business, having an interest or doing business in the city?

COMMISSIONER BISHOP: It could be a number of things. They could have employees here. They can have—they can look to actually registered to do business with the city. So, you know, apply for a—an F-M-S number. There's a number of ways that you show intent of doing business with New York City. So, there's—there's a number of things that counts in that particular area.

CHAIRPERSON BRANNAN: I guess sort of the overarching things is that it seems some agencies

outperform others in contracting with MWBEs. How-how do you guys—how does the administration measure an agency's success rate?

JONNEL DORIS: We—thank you for the question. I think we—we do that in several ways, and—and one I think we have to look at every agency, and when we look at every agency, every agency, you know, sort of procures certain types of services or goods, and you have to look at our available MWBEs in that space, their ability to perform the work, and to do the scopes that are required of that work. And if they are available, it just means that not that they are just on the list, but are they available? Are they busy? Are they working? Are they interested? And that's sort of part of the procurement process. And so, I—we like to keep in—in context here in the sense that some agencies have very difficult and challenging areas or scopes of work and, you know, we are developing our MWBEs to help meet those needs, but other agencies have MWBEs who are readily available to do certain scopes of work that are a bit more available at the time. And so, it's a—it's a—it's a—it's a fluctuating scale, if I may, as to it pertains to who's available when, when procurements

roll out. Every agency put out a procurement plan. We use that plan to get the MWBE community ready for the upcoming opportunities, and also they put out a Utilization Plan where they think opportunities will actually match. Part of that process is what we call a Performance Improvement Plan, which we submit to the Council every year of the work that the agencies will do on a monthly basis and a quarterly basis. We do meet and assess who is meeting goals and where the challenges are, and help to work with those agencies to actually get them to where they need to be. So, that's the general construct and how we hold agencies accountable, but also check on their utilization throughout the year.

CHAIRPERSON BRANNAN: So, is success then based on the total dollar value awarded or the percentage of eligible contracts? Like someone like DDC they have awarded a large dollar amount, \$467 million to MWBEs, but that only represents 20% of their \$2.3 billion budget. Is that a success?

JONNEL DORIS: I-I think if-if we look prior to this Administration and at the beginning of this Administration where we started at 8% utilization. We had 11.4% last year when we started

our office, and now we're at 19% almost 20%. That tells me we are going in the right direction, Council Member. However, I do feel that, you know, we're not satisfied because we didn't reach our 30% goal. Now, the Mayor set the goal for 2021, and we did that very thoughtfully because we understood that availability of the firms, also the workload that we anticipate as a city, and the development that we have to do with our firms and the services that we have to provide and resources that we have to provide to the firms to actually help us to get to the 30%. So-so, yes. I mean there is significant improvement as we-as you mentioned with DDC in particular, and some other agencies, but also there's work to be done, and we know that and that's why we estimated about 2021 where we know we will get to that 30%--30% goal.

CHAIRPERSON BRANNAN: One or two more things. I want to hand it over to my colleagues, and recognize Councilman Brad Lander who has joined us. I know I have personally heard, and other members have heard from several representatives of various industries who all sort of are singing the same song as far as a difficulty in gauging with MWBE contractors. And when performance rates are as low

as we've seen for some of the agencies, is there a plan or a strategy to leverage or better engage more with private industry to try to get those numbers up? I mean, you know, we hear it quite a bit. I meaner I ran into some folks last week in the Rotunda who are dying to do business, you know, and are just having trouble just getting in the door I guess. So, what--what strategies are--especially with the agencies that are--that are--that are very in comparison sort of under-performing, what is being done to leverage private industry, the private sector?

JONNEL DORIS: So, I'll start it and then Commissioner Bishop can talk a little bit about their--their programs that they're running. So, from the Mayor's Office and the--the One-Stop Shop for--for the program, and we have actively been engaging with the private sector or what we call our prime-prime contracting committee because ultimately they--they subcontract out to MWBEs and/or join in joint ventures for future opportunities. So, we have been in communication with--with those and the organizations and--and that actually represent those prime contractors to talk about how we can possibly work with those particular agencies. Now, there is

some outreach that—that we do and which the commissioner can talk a little bit about specific outreach with specific agencies, and also industries but we feel that if—and if someone that you may run into and MWBE do not, or it feels like they're not getting any kind of traction in our program, that's why our office was created, and certainly we've had several hundred over the last two years interactions with actual MWBEs and helping steer them in the right direction, and so we are happy to hear from you. When you get those requests, please send them to us so we will help them to navigate that process, and Commissioner Bishop can talk a little bit more of the outreach efforts.

COMMISSIONER BISHOP: Yeah, so, and just to be clear, if—those companies were they MWBEs or—or if they were prime contractors, either way they are—

JONNEL DORIS: They are MWBEs.

COMMISSIONER BISHOP: Okay, so MWBEs, certainly I have and—and the team at SBS has been very aggressive in reaching out to MWBEs for a number of reasons. One, we have a goal of certifying 9,000 firms by the end of this fiscal year, and we want to make sure that we certify the firms that are looking

to do work with the city. So, certainly we have worked with Council Members to get the word out about our programs. At SBS we have a number of capacity building programs and assistance. For—for example, we have put our application on line. We made it easier to actually start the process of getting certified. We do a number of workshops where individuals who are not—are not clear on what we are asking can come in and get one-on-one assistance. Through our network of NYC Business Solutions Centers we have staff that's specifically responsible for helping MWBEs put the package together. So—so we're trying to eliminate the barrier there in terms of getting the company certified. Once they're certified, we have re-energized our net—now it's—it's called I'M Certified, Now What? Program where once they're certified, we bring them back in, and we help them develop a business development strategy. So, what that means is that if you are selling widgets, we want to make sure that you are connecting to the right agencies that need to buy widgets. So, we have a team that's solely responsible for analyzing the buying power of the city, and figure out where we actually should connect those MWBEs. If you're a

prime contractor and you are having problems finding firms with the capacity to do the—the type of work that you need them to do, we certainly need to know about that. One of the things that we can do is look at our database and look for additional information that you may need before you engage an MWBE or if we are lacking in that area, we want to make sure we reach out to our regional partners. For example, there are MWBEs that are doing work with the Port Authority, with the MTA, with the State of New York and they're not certified with us. They are not doing work in New York City. So, we want to know, and we've been working with our partners to understand who those companies are, identify those companies, reach to those companies aggressively and find out why they are not doing business in New York City. We've worked with other entities like MSDC and WPO. These are private sector certifying bodies that the private sector uses to find MWBEs, to also encourage those firms, and we have a fast track relationship with those eight entities to actually bring more companies in. So, there's a number of things that we can do to make it not only easier for MWBEs to start participating, but if an MWBE even

hasn't bid on city work, we have a service available where we will review their bid submission before they submit because that's one of the challenges in terms of the back office support. So, we at SBS we provide a lot of resources for the back office to help that MWBE become successful.

CHAIRPERSON BRANNAN: So, proactively, I guess what are--what are--what are we doing to target, you know, businesses that are owned by women of color? How are we getting to them and telling them what's--like that Now What? Program is fantastic, but it sounds fantastic. How are we--how do we wake up on the morning and target these businesses?

COMMISSIONER BISHOP: So, we've been working a lot with organizations that have either women of color business owners or entrepreneurs. For example, I have attended a number of sessions with sororities for example. So, these are Black led or Greek organizations who have entrepreneurs who are thinking about doing business or who have a business and may not have thought about growing their business thorough government contracting. Certainly, we've worked with organizations in New York City like the Women's Chamber of Commerce or any organization that

has a specific—their constituency is women entrepreneurs. We could do a lot more. We continue and through the assistance of the Office of MWBE, we've been very aggressive in our outreach campaigns. So, we've been running not only digital advertising, but also working on targeted advertising through social media, but we've done traditional media advertising. We've focused a lot on ethnic publications. So there's a number of things that we've done, but certainly would love to—if there is any—if the Council has any suggestions on where we should be putting our efforts, happy to continue, you know, the conversation, and figure out ways we can increase that pool.

CHAIRPERSON BRANNAN: Okay. I—I wanted to—something that we found while we were preparing that I wanted to bring up, and put on the record we found that as of FY18, the city awarded 50% of all prime contracts to firm—firms owned by Asian men. Of all subcontracts, the city awarded roughly 43% of all awards to white women. So, while we certainly applaud these successes in MWBE contracting, I think we would argue that there's now a disparity within a disparity. Hispanic women were awarded just 2% of

prime contracts. Black women were awarded just over a half percent of all subcontracts. So, those are, you know, concerning for a myriad of reasons. You know, as—I'll give you a chance if you want to respond. I'm not, you know, I'm just kind of putting that out there, something we found that was startling.

JONNEL DORIS: So-so thank—thank you, Mr. Chair. I—I—I—we, too, are concerned with those numbers. You know, while they are, you know, and sort of all, you know, minority communities doing better in our program because we're doing more contracting, the challenge still remains and this is a challenge that we have. How do we engage women of color in our program to move women of color to what we believe they can be? We noticed challenges not just limited to us, in the private sector market it's the same situation that we're seeing because, as you know, markets are, you know, discriminatory to certain groups, and even in the venture capitalist market for instance less than 1% of venture capitalists was actually given to women of color, and who have been really successful over the last decade or so in actually building businesses, and so forth.

So, there's structural issues that they face. You don't want say they--the--the women of color face in the--in the marketplace those are challenges that we're--we're working to address on our end. For instance our--our--access to capital programs such as our Contract Finance Fund, our bond fund and our EDLF Fund, Emerging Development Loan Fund, all geared to addressing some of those real life challenges that those entrepreneurs face in the marketplace that we don't control. And so, when they do come to--to us there's the remaining challenges that City Procurement is--have some more challenges in the sense of what we require because it's tax dollars we're using. Obviously, it's a bit more in the private sector, and so those firms as they've transitioned over to city procurement we have, you know, trying to ensure that they get all the services that SBS provides, and the targeting that the Commissioner just spoke about, but are those numbers--are we happy with those numbers? Absolutely not. You know, we know that African-Americans about 12% Hispanics, Americans around the same or so in our program overall, but particularly with out women entrepreneurs that is something that we are working

on very intently, and it's something we are not looking at lightly, but again, it's a very complex phenomenon in the sense of what we have faced in the marketplace, who are—are the firms that are actually signing up with us, and what they actually do, and what we actually require and need as a city in breaking some of those barriers down or for us to address it. So, we do concur and we look forward to working with you some more on—on those—those—that particular issue, which is a—which is a stubborn for us that we're working on diligently.

CHAIRPERSON BRANNAN: Yeah, and I—I certainly appreciate the complexity. I mean it's hard for me as—I'm not a guy who likes to point at something and say that's a problem unless I have a solution, but I'm also not the MWBE guy right. [laughs] So, we want to support you however we can but—tut, you know, seeing some of these numbers was—was startling. I wish I had the answer how to make I better, but that's—but—but that's your job, right?

COMMISSIONER BISHOP: So, I—I—I think collectively what we can do is talk about the program itself in terms of now is the best time if you are a Minority and Women Owned Business to actually certify

with the city of New York because there is true commitment from the top down to actually engage. I was at a conference in Boston, and met a black woman who owned-a heavy civil engineering company who is very successful in other cities, and my first question to her was why are you not in New York City? And she had a number of reasons why she was not operating in in New York City, which I won't get into in this hearing, but certainly we are--

CHAIRPERSON BRANNAN: [interposing]

Anything--anything related to what we're talking today?

COMMISSIONER BISHOP: No, it's-it's literally just doing business in-in terms of, you know, access to the workforce, access to the--there were certain things and--and the mis-and--and her misunderstanding of the marketplace itself. I think we need to do a job-a better job in positing the city of New York as a city of opportunity especially for firms that have looked to grow their businesses, and want-and put-and New York City could be a potential next frontier for them, and certainly the firms that are here building their capacity. So, certainly there's-that when Janelle talks about it's complex,

there's, you know, we have to walk and chew gum at the same time, which we are doing, but certainly we are want to—we share the same concern that—that you have in terms of figuring out how to do more targeted recruitment of some of the firms that we need to see more of, right. So, black engineering companies, for example, is one of them.

JONNEL DORIS: So, at—can I just add one thing, Council Member. So, you know, we have seen some successes in this area in our work, right. EDC has a Construct NYC Program and essentially manages all of the construction and improvements to their facilities and other facilities, et cetera across the city, which is, as you can imagine, is pretty extensive. They went out for a prequalified list of service—of construction managers, CM firms to actually manage all the projects, and out of the three, out of the five—sorry—three were actually African-American owned businesses, and two were WBEs meaning blacked owned Women Owned Businesses, and they are managing significant projects around the city to the tune—it's about \$80 million or so, are projects that they are managing. So, you know, we—while we're not there yet, I mean we do have some—

some light at the end of the tunnel where we see that some of our work and sort of how we approach this because EDC could have went with one or two, but they chose to make it five, right. And so, by expanding that, and changing the way that they went about that procurement, we were able to include more MWBEs in the process, and now we have three out of the five who are actually conducting that types of services. And again, too, a very, very, very accomplished MWBE Black Women Owned Businesses, and so, you know, there are challenges ahead, but we are seeing some—some light in—in sort of how we do that procurements. Meaning if we break them up more, if we advertise or work with our office and SBS in certain ways, the agencies, you know we can be successful, and—and so that's some of the things that we are working on.

CHAIRPERSON BRANNAN: Okay. I have a couple more things, but I want to give some time to the former Chair of this committee Councilwoman Helen Rosenthal.

COUNCIL MEMBER ROSENTHAL: Thank you, so much, Chair Brannan. I know I turned it off to someone who was going to give fresh perspective on this and that's exactly what it needed. So, I'm

really glad that you're chair of this committee. I had a couple of questions and maybe you've already answered them. Good to see you guys. Great to see your staff again, too. I sort of miss the whole new team. Just sort of, but I wanted to ask a couple of things. First of all, congratulations on the number of MWBE firms that you've certified. That's a big jump. It's a jump of over a thousand I think since last year. So, that's really great, and also that under Local Law 1 you're up to 20%. That's extraordinary. Congratulations on that. I mean I know it's just a point in time, but that's—that's really great. Your efforts, which you've laid out here are really paying off, and it would be—actually, that reminds me it would interesting to sort of analyze each of those efforts, and think about what impact they had. Like which was the most successful component part. You know, is it access to capital? Is it access to loans? You know, and you sort of go through the list of things that you specifically worked on, and talk about whether or not, you know, there's great demand for that access to capital if you had more that you could be bonding or whatever that that would be even more helpful. That would be

interesting to learn. I don't know if you have that as part of your report, but that would be cool. I guess I'll stop there. That's a question. Could you identify that and identify which programs you'd like to expand?

JONNEL DORIS: So, so, Council Member, thank you so much for that question. The—the short answer is yes. The more long answer is we—we find that our program has been successful for many reasons, but one of the major ones is the fact that we are compensating for some marked challenges that firms face that are outside of our purview, and when I say outside of our purview, we don't control the—the financial markets as a city, right. And so, what we're finding is (1) the Mayor's sort of aggressive goals we've put out there very vocally, very visibly and so the community is beginning to see that there is real change happening. I would go as far as to say the creation of our office, and—and making this a mayoral priority. Again, the community is seeing and so the interest is rising and rising that here we have opportunity. Come to come and do business with us. The city is a place for you to do business, and then we also provide a suite of services that you can

get in order to do business with us such as how to do business with the city or contract with the city, you know, various capacity building programs at SBS.

COUNCIL MEMBER ROSENTHAL: Yes.

JONNEL DORIS: So, I-I do believe that, and-and-and we agree that expanding the initial \$30 million investment was important. That's why we went to bank-city banks and worked with them to add an additional \$40 million to those funds, and so, yeah. I think that as we put them all together, it's probably why we're seeing the increased utilization amongst other things where that we do agree.

COUNCIL MEMBER ROSENTHAL: It would be interesting to track the-some-if there were a tracking mechanism for that. It would help the city together advocate. So that would, I think, be helpful. Is there any one particular area that-where you've seen that growth given that it's doubled the number of awards from 465 to over a billion. Is there one-is it in construction that that happened? Because now we have those goals specifically for HPD.

JONNEL DORIS: Yeah, so-so, I-I think-so construction is-we do a lot of construction and so I-I think you would see some changes and more drastic

changes in the construction side than we would elsewhere because I mean our capital program is almost \$100 billion in the next ten years, and certainly we as the Council Member mentioned earlier, DDC puts out a lot of work, and our construction and capital agencies do as well. So, we would generally see sort of movement in that area that will reflect a bit more on what procurements are happening right now, and the investment the city is making. So, yes, I think that's a tie-in there. Also, if you look at DDC in particular, they went and they strategically broke up the contracts in micro, small, medium and large.

COUNCIL MEMBER ROSENTHAL: [interposing]
ECD?

JONNEL DORIS: The DDC.

COUNCIL MEMBER ROSENTHAL: The DDC, but that's ole news. That's from two years ago they started doing right, right?

JONNEL DORIS: Correct. So, we're seeing the results of that now. So, we're talking about trends--

COUNCIL MEMBER ROSENTHAL: [interposing]
Still great.

JONNEL DORIS: --and why--why, yeah, why we're moving in that direction, a positive direction.

COUNCIL MEMBER ROSENTHAL: [interposing]
And are you asking any other agencies to do that?

JONNEL DORIS: Oh, yes. So, we have spoke to other agencies about doing that, but particularly, what we really want to do where we can see the real results, and I mentioned in my--in my testimony is having an actual prequalified list where we can set aside projects--

COUNCIL MEMBER ROSENTHAL: [interposing]
Yes.

JONNEL DORIS: --specific for MWBEs, and I think that is the type of approval from the state that we need because we recently got the approval for the--raising discretionary, and we see that agencies are using that at--

COUNCIL MEMBER ROSENTHAL: [interposing]
Yep.

JONNEL DORIS: --a rapid rate (laughs) and they're very excited about it, and so is the community. So, I think once we see those changes, policy changes, the fact that we are very aggressive with these goals, we are vocal about them, and the

services that we provide either with access to capital and/or the other services that SBS provides.

COUNCIL MEMBER ROSENTHAL: Great and that's exciting. Do you--of the--if we could just take a snapshot in time, of the 6,829 MWBE certified firms, how many have contracts with the city?

COMMISSIONER BISHOP: If you take a snapshot in time? So, so on--on average, about 20--about 26% of the certified pool wins contracts per fiscal year, and of those firms that win contracts, about two-thirds have utilized one of our services that I mentioned earlier.

COUNCIL MEMBER ROSENTHAL: Sure, sure. Now, what's happening with the other 75% of firms that don't have contracts with the city? Does this--is this 26%, you know, usually draw from the same MWBE firms, or is it that there are a cadre? I've always wondered are there a cadre of firms that are getting certified and sort of what--do they ever get a contract? So, maybe that's another way to ask the question, too. How many of the 600 and 800 have never gotten a city contract at all?

COMMISSIONER BISHOP: Well, I wouldn't say never. I would say any fiscal year, the percentage that we see--

COUNCIL MEMBER ROSENTHAL: [interposing] Sure, over the last five years?

COMMISSIONER BISHOP: So, I mean so for example a construction company, an MWBE that won a contract so let's two fiscal years ago could still be working on that--

COUNCIL MEMBER ROSENTHAL: [interposing] Yeah.

COMMISSIONER BISHOP: --contract. So, I-- the--that breakdown we don't--I don't have in terms of the totality of, you know, over a snapshot of five fiscal years how many MWBEs are currently working on a contract.

COUNCIL MEMBER ROSENTHAL: [interposing] the opposite.

COMMISSIONER BISHOP: We just looked at-- we--we look at how many MWs have won per fiscal year.

COUNCIL MEMBER ROSENTHAL: Yeah, yeah.

COMMISSIONER BISHOP: Yeah. So, certainly--I mean that's an interesting way of--of looking at--at the pool. What we're looking at as well

is how many new firms are winning, and—and we've seen a 20% increase of new firms winning. So, that means that—and especially in where agencies have discretion what saw was the—the increase in discretion. Firms—agencies were able to try out new firms.

COUNCIL MEMBER ROSENTHAL: [interposing]

Yep.

COMMISSIONER BISHOP: So, we total—we totally were sensitive to the fact that you don't want a situation where there is just one company monopolizing on a particular area. You want to be able to, you know, spread—sort of spread the wealth, as you would say, but you—we also want to make sure that—that the newer companies are prepared, and that's the work that we do.

COUNCIL MEMBER ROSENTHAL: I guess what I'm—that's awesome. Congratulations. That's really cool. I guess what I'm trying to get at is I think you could say that given the expanded number of services that the city offers through the MWBE program, more access, more capital loans, and more classes, and more specific classes and, you know, sort of making the classes more robust, everything

that you've done. All of those things have happened, and have led to good things happening.

COMMISSIONER BISHOP: Uh-hm.

COUNCIL MEMBER ROSENTHAL: I still am wondering for-is getting certified the right thing? Getting certified, which is sort of an additional step to taking all the classes or doing whatever, is getting certified—are there firms who get certified because they think oh, it's got to be a good thing to be certified as an MWBE, but then nothing happens after that. And the reason it's important is because over years I keep hearing from firms that say I went through all the work. I got certified and then nothing happened--

COMMISSIONER BISHOP: [interposing]

Right.

COUNCIL MEMBER ROSENTHAL: --and I do think that over time you've done an amazing job shortening the amount of work, lessening the amount of difficulty to become certified, but I'm just sort of wondering, okay, now you've lessened it. That's still—that's great because we want to make it easier, but again, our—what we don't want is the word on the street to be why get certified.

COMMISSIONER BISHOP: So, I—I think the metric the—the metric that I use is our recertification rate. So, a couple of years ago our recertification rate was hovering about 59%.

COUNCIL MEMBER ROSENTHAL: Okay.

COMMISSIONER BISHOP: The last fiscal year, our recertification rate was 80%. So, that tells me that people see the value in the certification—in being certified, and I—I think it's opposite. I've heard a lot of people, and when I go out and I speak at events, a lot of people said hey, I think I'm certified. It was really—there was nothing for me, but I'm hearing other people win contracts, and I see the Mayor talking about, you know, all the efforts that happening. So, I want to—I need to figure out how to get recertified.

COUNCIL MEMBER ROSENTHAL: Yeah.

COMMISSIONER BISHOP: So, we have seen a tremendous spike in our recertification rate. So, I think that is probably the—the metric that I would use to determine whether, you know, whether or not people feel that certification has value, and I would say that it's a resounding yes.

2 COUNCIL MEMBER ROSENTHAL: Yeah. It
3 would be interesting to track that. I forget if
4 that's in the procurement indicator report or not.

5 COMMISSIONER BISHOP: It's—it's part of
6 our Mayor's Management Report as part of the agency
7 in terms of our recertification rate.

8 COUNCIL MEMBER ROSENTHAL: Okay, and is
9 there a way to identify the firms that never get
10 contracts, and maybe, therefore, drop out and don't
11 get recertified.

12 COMMISSIONER BISHOP: Yes.

13 COUNCIL MEMBER ROSENTHAL: But I think
14 that would be interesting to see.

15 COMMISSIONER BISHOP: [interposing] And—
16 and that is something we are—because we obviously,
17 you know, if a firm wants to get certified, there's
18 nothing I can do to stop that firm from being
19 certified.

20 COUNCIL MEMBER ROSENTHAL: Oh, sure.

21 COMMISSIONER BISHOP: So, even if the
22 city doesn't buy any of their goods, sometimes people
23 just want to have the label that they are a Minority
24 and Women Business Enterprise, and so we try to be
25 very deliberate in our outreach efforts, but for

example if, you know, I'm trying to figure out some random firm. Because we buy so many things I'm going to say something that we actually buy, but-but if there is like a-a beauty salon for example that just for-just wants to get certified, you know, that will-that number will be in our-in our--

COUNCIL MEMBER ROSENTHAL: [interposing]
sure, yeah, yeah.

COMMISSIONER BISHOP: --and that firm may not ever win a contract because the city wouldn't need their services, but that is the-I-I hear what you're saying, and certainly we are very sensitive to the fact that that is why our certification-our strategy-out reach strategy is very targeted because we don't want to just certify--

COUNCIL MEMBER ROSENTHAL: [interposing]
Yea.

COMMISSIONER BISHOP: --certify any and all firms.

COUNCIL MEMBER ROSENTHAL: That's great.

COMMISSIONER BISHOP: Yes, yes.

COUNCIL MEMBER ROSENTHAL: I think it was-the industry was restaurants and catering services.

COMMISSIONER BISHOP: So, even a restaurant if they have a catering arm, we will certify them because there's--there's catering services that's necessary that agencies procure.

COUNCIL MEMBER ROSENTHAL: Got it.

COMMISSIONER BISHOP: Yeah.

COUNCIL MEMBER ROSENTHAL: Okay, thank you very much. Thank you so much. Keep up the good work Chair.

CHAIRPERSON BRANNAN: I want to acknowledge Councilwoman Inez Barron who has joined, and I want to allow Councilman Perkins to ask a question.

COUNCIL MEMBER PERKINS: I just want to follow up on the recertification. So, who--who does not get recertified and why?

COMMISSIONER BISHOP: So, there's a number of reasons why firms don't recertify. So, we have an aggressive strategy in terms of reaching out to firms 180 days before the certification is up. Typically, what we find is it is firms either forget to send back the information. I mean it's as simple as that, which is why we're very aggressive in not only emailing, but calling and sending actual post

1 letters to make sure that they know that the
2 certification—the recert—the certification is
3 expiring. So, there—there isn't any one reason why a
4 firm may not recertify and we either follow up after
5 the certification has expired. We've been aggressive
6 in terms of calling up firms to remind them that
7 their certification has lapsed. So, some firms, like
8 I said, you know, may not think there is any value,
9 but once we talk to them about all the efforts that's
10 been made, you know, they change their mind. So,
11 that's why you've seen that increase in the
12 recertification rate.

14 COUNCIL MEMBER PERKINS: Thank you.

15 CHAIRPERSON BRANNAN: Councilwoman Barron

16 COUNCIL MEMBER BARRON: Thank you, Mr.
17 Chair and thank you to the panel for being here. I
18 believe that the FY18 utilization numbers are \$835
19 million in prime contracts that were given to MWBEs.

20 DAN SIMON: Correct

21 COUNCIL MEMBER BARRON: And the data that
22 I have says that black males received 9% of that
23 amount or of the contracts that were awarded. Black
24 females received only 3%. So, my question is why is
25 that figure so low for black women in particular and

what can we do, and what amount of money, it is 3% of the contracts? Is that 3% of the dollar amount that they received?

JONNEL DORIS: So-so the 3% is of all MWBE prime awards.

COUNCIL MEMBER BARRON: Right.

JONNEL DORIS: I think that's--yeah. So, so that's--that's--that's the percentage of where they sit in sort of all groups in the MWBE program where they sit, and the particular prime awards--

COUNCIL MEMBER BARRON: [interposing] Right.

JONNEL DORIS: --that's the total. So--so--so Council Member thank you--

COUNCIL MEMBER BARRON: [interposing] So, is it 3% of that 8- \$835 million that they received black women?

JONNEL DORIS: Correct. That's the 3% of the overall number. Correct? Okay. So, you know, we--we sort have been--we--we addressed in part some of this a bit earlier in our testimony, but--

COUNCIL MEMBER BARRON: [interposing] Okay,

JONNEL DORIS: --it is certainly a challenge for us and--and I thank you for that question because it is a challenge for us and some of the issues we--we--we identified was (1) we are doing strategic outreach, and the Commissioner talked a little bit about that. We could probably reiterate a little bit of the outreach, repeated outreach we are doing and sort of direct outreach to women owned businesses who are black women owned businesses, and then we talked about some of the structural and the market issues that these types of businesses are faced with when they are trying to grow their business and scale their businesses such as access to capital if they go to the private sector market. I mentioned that we know that venture capitalists for instance only did less than 1% to Minority and Women MWBEs who are women--black owned women firms, and that challenge is, of course, for them to actually grow and expand, and to do business with the city because ultimately the city's requirements are more than the private sector. So, we also talked a little bit about the--the work that we've done in such as providing capital for those types of businesses, and the work that we continue to do. Are we there yet?

No, but this is a challenge that we have faced head on and we'll continue to go farther.

COUNCIL MEMBER BARRON: And do you find that there's a concentration of these black female owned industries in a particular concentration of areas?

COMMISSIONER BISHOP: Yes. So that's—that's a great question because that—that is one of the concerns that we have, and when we are talking about doing targeted recruitment for our certification, most of the black firms, black owned firms are heavily concentrated in what we call standard services. So, this is

COUNCIL MEMBER BARRON: Standard?

COMMISSIONER BISHOP: Yes. So, this is like your trucking, your janitorial, your landscaping, et cetera where you—the dollar value of those contracts while it's—it's—it's—it's a large amount, it's not as high as for example in construction. And then the other area where a lot of black firms are—are concentrated is actually in human services, and I—the human services is not part of that number where you're looking at LL--Local Law 1. So, for example, you know, if—if for—if one of our

agencies let out a contract to something in the human services and not capture that number. So, what we're trying to do is focus on areas where we're seeing high dollar value in-in contract awards, but low percentage in terms of representation. So, we're working for example with the Minority Supplier Diversity Council, MSDC, which focuses a lot on certifying black owned firms to not only increase the amount of firms that are fast tracked into our program, but we're also looking at our regional partners who working with successful black firms on their projects to understand why they're not actually operating in New York City. So, we have taken a very targeted approach to not only increase the pool of black owned firms that's-that's black, you know, male and female and women owned firms, but we're also looking at why they're not participating, and-and what we can do in that area-in that area.

COUNCIL MEMBER BARRON: And do you have the number of black female owned businesses that have been certified? Do you have that number?

COMMISSIONER BISHOP: Yes. So, in-in FY18, we have 727 black women-owned firms certified. That's a-that's a-we've increased that number by 250

firms from the last Fiscal Year. So, I think Council Member Rosenthal was--was alluding to that, and--and the chair was alluding to that. So, we have made specific efforts. For example, I've made presentations at Black Greek Sorority organizations to talk about our program, and to talk about the fact that if you're thinking about growing your business, government procurement might be one of the ways we do it, and we're also as part of our outreach strategy with the Office of MWBE we are actually taking--we have a procurement fair every year where we bring all the buyers together. We're actually taking that on the road. So, we're going to different parts of the city because people may not have had the time--

COUNCIL MEMBER BARRON: [interposing]

Okay, when are you--when are you coming to East New York?

COMMISSIONER BISHOP: Whenever you want us to come to East New York.

COUNCIL MEMBER BARRON: Okay.

COMMISSIONER BISHOP: And that's one of the things we'd love to work with Council, and we have an outreach team that will be--and anywhere to talk to businesses about how--how easy it is, and I

have a mobile unit. So, we don't even need an office, and we've done it in other parts like Central Brooklyn and et cetera.

COUNCIL MEMBER BARRON: Uh-hm.

COMMISSIONER BISHOP: So, I'd be happy to follow up with your office. We'll bring a team out. We'll have a cell intergovernmental class either in the unit or in your facility so people understand how to actually start the process.

COUNCIL MEMBER BARRON: And lastly, you said there was 721--

COMMISSIONER BISHOP: [interposing] 727--

COUNCIL MEMBER BARRON: [interposing]
727--

COMMISSIONER BISHOP: --at the end of last fiscal year. Yes.

COUNCIL MEMBER BARRON: That was certified.

COMMISSIONER BISHOP: Yep.

COUNCIL MEMBER BARRON: And how many--of the 3% that were awarded as prime--prime awards, prime contractors how many businesses does that represent? I understand 3% of the total went to black female

businesses, but how many businesses does that represent?

COMMISSIONER BISHOP: Thank you, Council Member. So, we—I can get back to you on the number of firms that is, but it represents 254 prime contracts.

COUNCIL MEMBER BARRON: 254. Okay.

COMMISSIONER BISHOP: I'll have to get back to you on the number of firms that represents.

COUNCIL MEMBER BARRON: I would appreciate that. Thank you, thank you Mr. Chair.

COMMISSIONER BISHOP: Thank you.

CHAIRPERSON BRANNAN: Council Member Perkins.

COUNCIL MEMBER PERKINS: The outreach strategies what are—what do the outreach strategies look like?

COMMISSIONER BISHOP: It's a number of things from—so there's paid media. So, we've done aggressive campaigns on the—our transportation system. So, subways, buses. We've done social media. So, that includes Facebook, which we've actually—we've had great success because we could do very specific targeting, but we've done all types of

social media from Instagram to Twitter. We do email. We work with—so the Council also funds leadership associations. It's a—it's a number of organizations within the community, and Harlem Business Alliance is one of them where they are also tasked with doing outreach to get more firms certified in the local community. We have—we at SBS we do a number of events across the city as I mentioned, and we also have our mobile unit where we've done working in partnership with Council Member offices—with Council Members to come into the community, and actually do workshops from our unit. So, it is very aggressive. It's grassroots, you know, and—and certainly any ideas or any other ways you think we can get out—get the word out that now is the best time to be certified, we would be happy to work with your office.

COUNCIL MEMBER PERKINS: So, I'm particularly interested in the Harlem Business Alliance and such groups that are more or less in my district, but I'm also interested in who else is out there outside of my district that you might have some kind of alliances with that—that you seem to know about.

2 COMMISSIONER BISHOP: Yeah, we—we work--

3 COUNCIL MEMBER PERKINS: [interposing] If
4 you have sort of a publicly available listing of such
5 groups, I'd like to have it.

6 COMMISSIONER BISHOP: [interposing] Sure.
7 We can—we can send you the—the long list, but it's
8 everything, every group that you think of, we are
9 probably working with them especially groups that are
10 specific for the different group-groupings. For
11 example, you know, in—when we look at Asian-owned
12 businesses, we want to make sure that, you know,
13 Chinese owned businesses, Korean owned businesses
14 they also know about the program. So, we work with
15 groups that are within those communities. So we have
16 a very--

17 COUNCIL MEMBER PERKINS: [interposing]
18 But promoted within each other's communities as well.

19 COMMISSIONER BISHOP: Correct, correct.
20 So, and, of course, all the chambers across the city
21 or any group that works with businesses we probably
22 have a relationship with, and we'll be happy to send
23 that list.

24 CHAIRPERSON BRANNAN: I want to finish
25 asking some—some of the stuff from this disparity

study. You guys are familiar it. Okay. My favorite chapter is Chapter 5 the Anecdotal Analysis. I think it's sort of good to hearing from the people on the ground who are—who are trying to access the MWBE world. One of the things here that—a couple of things that jumped out: Asian-American male owner of an engineering firm says: Construction management firms use MWBE certified firms on their proposal and during presentation to the agency. Then they get dropped afterward—after the award of the contract. So, is there—is there any way to prevent that from happening, or—or to know if—if folks have done that in the past?

JONNEL DORIS: So—sorry about that. So, that's something we call bait and switch. We—we have certainly—I know that's in some parts of the industry. From time to time we do hear about that. We, of course, discourage that. We—we let the MWBE community know, and also our prime contracting community know if we want to use an MWBE to actually win a bid, and use their numbers, I mean it's unethical for you not to go ahead and use that—that—that MWBE. So, so that is a real thing in our world. It's a real assessment of some of the challenges that

we do face in monitoring for that, but the challenges, you know, we don't as a city we don't know what happens when we put a goal out, and the contractors are amongst themselves negotiating back and forth, we're not privy to that, right. And when the BID comes to us we also are not privy to how the contractor actually came up with that number, and sometimes we find out after the fact that a firm actually participated with that prime contractor to get a number, and then that prime contractor ultimately does not end up using that contractor. Also, in fairness to some contractors who actually are doing the right thing, you know, the scope of work may change as well. You know, once the project gets started where a particular firm may not be needed any more or that particular work may have changed. So, they have to do--change the particular MWBE or subcontractor that they have engaged in. So, we want to be fair to--in that--in those cases, too, that there is some of that, but--but certainly we have flagged this, and have talked to some firms who have said they have experienced that, and we have addressed it to--as best as we can, but certainly the market, things happen before the BID gets to us, and

we—that we do not know of, and we hear about it after the fact. You want to add something?

COMMISSIONER BISHOP: And I would just add that once we've agreed upon a goal for our particular contract, they can't then, you know renegotiate that goal, and so after the award of a contract, you've identified the MWBE firm upfront, you've agreed on the percentage for goal for that contract, switching out a subcontractor doesn't make the goal go away. And so, what's important for us is to hold the agency and the vendor accountable for the goal that they had on the contract from the beginning so that if you're swapping out a vendor, you're swapping it out for another MWBE.

CHAIRPERSON BRANNAN: Another thing that jumped out at me was so it's a Hispanic-American female owner of a trade contracting firm said, Primes contact you to submit numbers. Then you don't hear from them. They use your number and you have to pay for the drawings, insurance estimators, but then you don't get the work. Is there any way to prevent that from happening?

JONNEL DORIS: I think it's—it's generally the same scenario of the previous

statement. Yeah, I mean there's--there's a lot of activity happening in the private sector before they come to us. We assess what is before us, and sometimes we don't get access to all that activity until a--a MWBE and/or subcontractor speak to us concerning that. And so, you know, it's--it's something that we're working on to see how we can better educate the MWBEs about their--their rights. Also when they submit information to the primes, their agreement that they have with the prime contractors, which again we're privy to, it's very important that they actually speak to them about, you know, if you are going to submit a--a scopes of work that you think you can do, and you have to go out and do, of course, estimates and so forth and--and come up with your proposal to the prime, that the prime doesn't--you know, they're sort of a bind in there I mean so we--we are educating them on--on sort of how to ensure that they are astute where that is concerned, but for us, again the bait and switch issue and the fact that swapping out MWBEs continues to be something that we are looking at.

COMMISSIONER BISHOP: Yes, sure, and--and maybe just to put in another pitch around Passport,

this is the purpose of the system or one of the purposes of the system is to provide more accountability on both the city and the vendor's side more transparency into who those sub-vendors, who those subcontractors are, the status of payments to them. The city needs better tools in order to track these thing post-award, and that's one of our goals.

CHAIRPERSON BRANNAN: I mean I—I understand we can't be cognizant or aware of everything that's happening before or during whatever it may be, but I'd assume that these firms feel like look I was trying to do business with the city—I don't think they're blaming ultimately then the prime contractor. They're saying yeah, I was trying to do business with the city, and I got screwed.

COMMISSIONER BISHOP: Well, I—I think the-the-so-so this is—we have a program called NYC Teaming where we—we talk about, you know, how to team up with each other or-or prime/sub relationship. I think what Jonnel has alluded to is that it-it's doing business, and so it's a relationship, right. So, if you're the prime contractor, you have a number of subcontractors that similar to like when we put our RFP, we have a number prime contractors that will

respond. When you're a prime contractor you have a number of subcontractors that will respond, and you have to make a business decision as that-that-that MWBE that's now building that relationship with that permanent contractor if you are going to bid for that work. Now, if you bid for that work, and this is what we're talking about and you're the prime contractor and you tell that MWBE that yes I'm going to use your BID, then there's an ethical dilemma there if you decide not to unless something happens, and so we have at SBS, you know, we have a whole team where MWBEs have, if they complained to us, we will go to that prime contractor and figure, and try to at least resolve the issue, but I think it's education and it's really when we have-when we do our mentorship programs, et cetera, we help MWBEs determining-looking at their financial position whether or not they should actually bid on certain work, and if a prime contractor ends up having a reputation of, you know, doing that bait and switch, then, you know, that's one of the things that we would educate MWBE on. But I think, you know, at a certain point it's the cost of doing business and you have as a MWBE you have to make a determination

whether or not you want to actually bid on that subcontract. But certainly, you know, if they are using our services, then they know how to actually to—because we want to see more MWs being in the prime contracting position actually. Not in the subcontracting position. So, certainly, we want to make sure that we point them to the right agencies so they can have direct relationship with the City of New York.

CHAIRPERSON BRANNAN: Council Member

Barron.

COUNCIL MEMBER BARRON: Thank you, Mr.

Chair. Just to follow up on that line of questioning. So, you don't have check points? Once you grant the award, you don't have checkpoints to make sure that they're on track with what they had said they had intended to do to reach their goals, and if they don't reach their goal, what are the consequences? Is there a call back? Are they put on a, you know, a list—the second hand list or do not return list? What happens when they don't come anywhere near their goal, and what do you see as a reasonable range for reaching the goal? How far off the goal do you say is acceptable?

JONNEL DORIS: So, Council Member, thank you for that question. I think a few things. First, yes we do track utilization of our contracts. Agencies are responsible to do so. We have MWBE officers who are at Deputy Commissioner level at every single agency. Our ACCO staff are also available to make sure that that's happening and also the—the General Finance staff and procurement staff of the agencies all are and the program staff all are empowered to ensure that MWBE utilization is being met. We—from MWBEs who are participating in contracts and those contracts do not reach the goals, you know, there—there are processes where in some instances where that is actually viable in the sense again, which is change of scope or something happened where their MWBE may not be available any more. That's something that happens with—with MWBEs. For instance, if you are an MWBE on multiple contracts, and then one contract gets going and you get busy and another one is getting ready to start, and you're not able to do so that does bring some challenges. So, so yes.

COUNCIL MEMBER BARRON: So, if that happens, does—does that subcontractor—subcontractor

say, oh, listen, I can't do it? Do we have something on record that documents that the person that was intended to be involved in this contract said, listen, I can't do it? So, if--

DAN SIMON: [interposing] So, I'm sorry.

COUNCIL MEMBER BARRON: No.

DAN SIMON: If-if a-if a goal is to be modified--

COUNCIL MEMBER BARRON: [interposing] Right.

DAN SIMON: --post-award or during the-- during the execution of the contract--

COUNCIL MEMBER BARRON: [interposing] Uh-hm.

DAN SIMON: --they have to come back to the agency to get that approval--

COUNCIL MEMBER BARRON: [interposing] Oh, okay.

DAN SIMON: -and that modification comes all the way up to MOCS, and our office we work together to ensure that this is legitimate--

COUNCIL MEMBER BARRON: [interposing] Okay.

DAN SIMON: --and then if there's a challenge, SBS is also at play in the sense they say we can't find folks to replace them, et cetera. They provide the services to connect to it. So, we're not speaking of--

COUNCIL MEMBER BARRON: [interposing]
Okay.

DAN SIMON: Instances of where there's a lot of activity as such, but we just wanted to give a scenario that the possibilities are there, but certainly we don't--

COUNCIL MEMBER BARRON: [interposing]
Okay.

DAN SIMON: Yeah.

COUNCIL MEMBER BARRON: Thank you.

DAN SIMON: You're welcome.

COUNCIL MEMBER BARRON: Thank you, Mr.
Chair.

CHAIRPERSON BRANNAN: One-one thing I just picked up on, what-we were talking before about the bait and switch, right. So, if-if a prime had subbed out to an MWBE, and then drops off, wouldn't you be able to have folks contact the prime to say what-what happened there?

JONNEL DORIS: Contact the sub? So, the—
a sub—the prime—

CHAIRPERSON BRANNAN: [interposing]
Contact both of them and say what—what happened? You
guys are on track and now you're no longer part of
the project.

JONNEL DORIS: Yeah. Absolutely. So,
again when the agencies, you know, they monitor the
contracts. So the execution of the contracts and so
again they have the responsibility to go to the
particular contractors, and their management of that
particular project or contract to figure out what
happened, and why they're not making (sic) their
goals. Now, ultimately, they—they report up to us
and so, when they come to us on a quarterly basis
when we meet with directors and commissioners, our
Deputy Mayor and the ACCOs who meet on a monthly
basis with—with Dan and his team these discussions
happen at that point, and some of them they happen
more frequently in the sense that we—we are in more
communication or frequent communication with the
agencies just because of the maybe the types of
projects or the sensitivity of those projects or
challenges that they have in MWBEs on those projects.

So, yes we would know that or at least the agencies who are managing their projects are required to know that.

COMMISSIONER BISHOP: I think it's just important to reiterate that the goal is still the goal, as-as--

DAN SIMON: [interposing] Yeah.

COMMISSIONER BISHOP: --Jonnel pointed out before, in order to change the goal whether or not the sub said I can't do the work or the prime said I don't want to work with you, the goal is still the goal, and so they have to find another MWBE to replace the one that's dropped off. Otherwise, they have to come all the way up to us to modify the goal.

CHAIRPERSON BRANNAN: Right. So, they can't say well, I tried to work it out with those guys. It didn't work. So, I'm just going to pick a regular firm.

COMMISSIONER BISHOP: No, correct.

JONNEL DORIS: No, they can't do that.

CHAIRPERSON BRANNAN: Okay I want to wrap up, but one of the things I wanted to ask because some of this stuff I'm seeing is anecdotal stuff is firms, MWBEs who are struggling with scale, growing,

you know, growing their business and competing with larger, you know, larger companies and, you know, they can't grow if they don't have the same level of resources. With the SBS lending and financing, can you say how many certified MWBEs have received loans from the programs that SBS offers, and—and do you think financing programs help with more solvency in helping these businesses to grow?

COMMISSIONER BISHOP: Yeah, so it's a—there's a combination of things, and I think not only is it access to capital, but it's also the back officer, strictly in the back office. So, where we see a lot of, and I think Council Member Rosenthal was—was pushing on this, a lot traction is actually on our mentorship programs because our mentorship programs goes into the day-to-day operations of that business. We teach those businesses how to be smarter in terms of their ability to price out jobs, et cetera. So, in total we have four our contract financing we have awarded about 46 loans, about \$8.4 million, \$8.4 million. I will have to get back to you in terms of the number of firms that represents, but what we have—what I usually say is that these programs that we have is a response to what we heard

from the community. So, it's not necessarily sort of how fully utilized the program is. It's the fact that we have the program. So, for example, there are firms that have multiple contracts that have the financial capacity to actually bid on--not only work on one contract, bid on another contract, but if they wanted to grow their business and wanted to actually, you know, bid on another contract, they now have a-a program through contract financing where they can draw down some money to actually do that. So, that is reason why we build these programs is to make sure we address some of the--the barriers what we've heard, but I would say that, you know, access to capital is one. I think access to a workforce is another, and certainly one of the things that we've been working with our partners, you know, whether it's through a PLA agreement, et cetera, you know, a lot of MWBEs are--are trying to figure out which way they should go, and--and certainly access to a workforce that could work on city jobs is one of the barriers we have seen. Insurance is another one of those barriers, and these all go into sort of on the state level, right. So we have a situation where with the scaffolding law if anything happens on a job,

whether, you know, someone goes out and decides to have a liquid lunch and comes back, even though this company has trained the person, you know, ad nauseam, if the person is hurt on the job, there's a--there's a certain liability that that company faces, that has increased the cost of insurance for everyone including MWBEs. So, we are looking systematically at different barriers that is preventing MWBEs from being successful, and tackling them piece by piece and, of course, with you support and, you know, and our partners on the state level, we want to make sure we tackle some of those areas.

CHAIRPERSON BRANNAN: Okay. My colleagues, anything else? Otherwise, I'm going to-- Okay. Yeah, I mean it's--it's sort of tough love coming from our side, right? Like we want this to succeed. So, we need to know how we can help you. Obviously, fighting in Albany to create some of these, you know, pre-qualified lists would be certainly be a game changer. So, you know, feel free to--to engage us however we can help with that, and, you know, hopefully, you know, some of your staff will stick around to hear testimony from--from other folks because I think that's where, you know, you

really get into what people are feeling on the ground, you know, and making sure that it's not all peaches and cream if, you know, if that's not what folks are hearing or feeling, you know, but thank you guys very much.

JONNEL DORIS: Thank you.

CHAIRPERSON BRANNAN: Okay, so our first panel is going to be Lou Colletti, Bill Wilkins and Brian Cunningham. [background comments, pause] Okay, you can start, whoever wants to start whenever you're ready. Thank you.

BILL WILKINS: Hello. Okay, good afternoon. As was stated, my name is Bill Wilkins. I'm the Director of Economic Development for the Local Development Corporation of East New York. We are experiencing our 40th anniversary of working in economic development. Our tag line is growing businesses, strengthening communities, and changing lives in three program areas: Industrial Development, Commercial Revitalization, and Entrepreneurship. By way of giving you an historical perspective, in the mid-90s I was working as loan administrator for the Minority and Women Loan Trust Fund. This is from the Urban Development Corporation

before there was Empire State Development, and I ask like why is there a need for capital targeted to minority and women, and I realized that at my birth my parents being of color could not vote. So, the work in this space is vitally important. I think the problem from an historical perspective is that we've had 20 years of Republican Mayoral control, and with that the impetus has been on growing certifications, the number of businesses certified, which is important, but the line I'd like to draw in the and is on the back end. It's the procurement. That's what's important. One of the points that was raised in all of the questions from the Council very insightful, very granular, and I think it deserves a deeper dive to really look at the numbers, but my Council Member--because I'm a resident of the 42nd--asked how many women, black women, certified businesses are there, and the response was 727. Out of the 727 the follow-up question was how many were able to secure contracts? And the answer was 254. So, I'm challenging those numbers. If it is true, that means one out of every three certified black women businesses are able to secure a contract. If that is the case, then that would be an excellent

marketing tool, but I don't know if it's one in three. So, that's one of the takeaways. Also, on page 7 if we're able to flip the chart because the majority of the entities from DOT all the way down to Homeless Services that's a majority of the money. Up top great percentages, but they're not a major factor in the overall budget. So, I would say the line in the sand, the X axis is the overall 50--\$5.3 billion where it's 16%, which is \$853 million. We are moving in the right direction, SBS and the Office of Minority Women Business Contracting is pushing it, and we are going in the right direction, but at the end of the day, I think if money were designated to community based organizations, strategically and talkative, not only for the certification, because now as the ED--as an Economic Development Corporation I have to certify 12 MWBEs a year. But one of our metrics or deliverables should then also be in those businesses that we certify procuring work, and how can that be done if there is some sort of incentive on inducement with CBOs. Then I think we can start to get the numbers that all of us would be very proud of. Thank you.

CHAIRPERSON BRANNAN: Yeah, that's a great point, Bill. I mean one of the things they had mentioned—I think it was SBS that some businesses just want to be qualified, but then they have no interest even or no real compatibility in bidding for these contracts. So, it's great if we have those numbers, but if they're not getting awarded contracts then we shouldn't be having a parade for those numbers.

BILL WILKINS: Exactly and then we reach the 9,000 and, you know, I think what's important and it was brought that 80% will be certified because those are—you're sort of removing the fluff from the deck because those businesses are interested. Some just want the asterisk, and to the Commissioner's point that we do have a lot of businesses of color, and I'm speaking black women that are in the maintenance business, in the security business, and—and we also have to think of other areas of our opportunity for us to bid in, and in some instances it is capital, and it is difficult for business especially back office to go through the certification process--

2 CHAIRPERSON BRANNAN: [interposing]
3 That's right.

4 BILL WILKINS: --even though it has been
5 streamlined, but you're the owner and you're also
6 having to put in bids and monitor jobs and monitor.
7 So that time away from the business is very valuable,
8 and then if you're not successful in securing a
9 contract, it becomes very difficult. I mean even
10 working with MWBEs to procure contracts on the
11 federal level. After you make the widget, then you
12 have to go to a subcontractor even to package it, to
13 send it to the federal government or you won't be
14 paid. And one of the takeaways that if you are
15 certified through SBS and you're going to Albany,
16 then you should be grandfathered into state
17 certification, and if you have--are state certified,
18 you should be grandfathered into city certification,
19 and also into SCA or into MTA. You--you can't really--
20 it's too burdensome for this population to go through
21 multiple certifications. If you're able to achieve
22 one, it should be one and done.

23 CHAIRPERSON BRANNAN: Yeah. Thank you.

24 BILL WILKINS: You're welcome. Yes, go
25 ahead.

BRIAN CUNNINGHAM: Good afternoon. My name is Brian Cunningham. I'm General Counsel to the Building Contractors Association. The Building Contractors Association being one of New York's largest union based construction contractor membership associations. The BCA specific--there are specific purposes to negotiate collective bargaining agreements for the various trades that our members do business with. To pick up on a couple of points mentioned by my fellow speaker here, we would love to see the streamlined certification process. The fact that are--are tiers and levels of different certifications with different entities is frankly ridiculous. If you meet the threshold of qualifying as a--as an MWBE for the State of New York, you should certainly qualify in the city for the SCA for the Port Authority. There is no reason that you have to go through multiple certification processes, and that's something that I think that everyone can certainly agree on, and--and rough those--smooth out those waters to make it easier for everybody, but basically, our comments, and the reason we are here today is because we did see the notice on the--on the calendar as an oversight review hearing. We weren't

sure what we were going to be hearing from the Mayor's Office if there were specific recommendations that were going to be made based on the disparity study that was recently published. We have submitted a written report for you, all of the members of the Council, to the committee to review. I don't want to—I don't want to read it to belabor it. I want to make this as quick as possible for everyone to get a chance to speak, but we do think that—we do have some problems with the way that the—the Disparity Study categorized what they call significant under-utilization. One of our problems is the fact—simply the fact that the Disparity Study, the review period 2006 through 2015 I believe it was is—I don't think it reflects current market situations, and we point to, and the state will refer to the SBS Compliance reports, the Court Compliance Reports, and we copied the reports—the breakdowns for your review. And what we see in those reports is that the city is making substantial progress in the MWBE utilization rate specifically to the construction category, and that's where we are. So, we'd like you to take a look at those numbers because I think the numbers do present good news, right, and one of the questions is, you

know, when you have good news, what do we do with the good news? So, that's something that we'd like the committee to think about, but some of the comments that we heard, and some of the issues that were brought up by the—the members of the Mayor's Panel, you know, I would like to address some of those concerns or questions and see if maybe as a representative of—the industry, you know, whether I can—I can answer some of those questions. And what's going on currently right now, the New York State Senate is conducting statewide MWBE essentially what we're doing right now, talking about the issue of MWBEs, and what's happening throughout the State of New York, and this is happening throughout the State. New York City is a little different than Watertown, New York obviously, but what we're hearing from a lot of the regional contractors is they're having to dip into the New York City area contractor lists to get their MWBE contractors to come up to meet their goals. So, a contractor up I Albany who's got a 30% goal, right, is—is looking to the New York City contractors and pulling some of those New York City contractors upstate, right, because (1) unfortunately, what happens in the market, right?

There's a need, right? You can make money, right. So contractors are representing a need, and they're saying so I can make more money if I go to this project up state than I can if I try to bid down here. So that's—that's a real—that's what's—that's what's happening currently out in the marketplace, and that has an impact on the utilization rates down here because the pool gets smaller as—as more MWBE contractor—contractors have to go elsewhere in the state to help other outfits meet their goals on their public contracts. That's one thing that's happening out there, and that's those—those—those MWBE Senate transcripts are available, and they're interesting to read. As a matter of fact, there's a hearing scheduled for October 16th I believe here in the city so—and one thing that was brought up, and I think that's an interesting—something that the City Council and the Mayor's Office should look at, and I saw this on a—on a research paper, and I believe the author of the paper—I don't have it with me, but I believe the author of this report actually is in the—the Mayor's MWBE Office, and he talked about redefining categories of minority based on actual, you know, levels of historic discrimination to actually

reflect. I think there was some discussion earlier about, you know, the 40% contracts going to an Asian contractor versus a 3% utilization rate for a black woman. You know, is there—is there a need to—to, you know, to make some changes within the groupings to, you know, to give the groups the—the groups that have some more significant levels of historic discrimination and better opportunity to get their chance to step up to the plate. So, that's one thing that I think should be considered. I was a little concerned when I heard the Mayor's office refer to "drastic changes" in the construction industry. I have no idea what that means. I'd like for the, you know, hopefully, you know, that was just a term of art that was being used in the discussion, and—and I'm not sure if the Mayor's office has specific referrals that they are going to submit to the—to the City Council to change Local Law 1. The participation goals. I was a little concerned to hear that and I was, you know, I was a little concerned to hear about—and I am not sure how this works specific set-aside projects --taking specific projects in their entirety and just placing them purely in an MWBE category. So that the only—the

only competitive bidding going on there is within the MWBE categories. So, I don't know—I don't know how that works legally. That's something that will have to be—to be looked at. One of the comments or one of the concerns is that once MWBE contractor become certified, quote/unquote "nothing happens." Well, it is construction, and I'm speaking to the construction industry specifically. Construction is a very competitive business. Once you get that certification, you know, it's not going to drop in your lap. You have to get up and you have to make the bid and you have to be the—you have to be the competitive bidder, right. You know, if you're bidding to prime contractors, you're going to have to make sure that you're contract is better than your competitor. So, there's no guarantee just because you're an MWBE that you're going to win contracts, right. You have to be able to compete in the marketplace. So, that's-- As far as the—the getting dropped after the awards process question, if there are bad apples, and there's bad apples in any industry, those bad apples there's sufficient enforcement mechanisms within Local Law 1 to—to weed out those contractors. So, if a contractor tries to

pull a stunt, they're certainly not going to win any more city contracts once that reputation gets to the agency that they're talking about, and as far as the city creating programs to increase financial security, where that is—that is a perfect issue for the city to focus on because increased financial security increase capacity, which increases our ability quote/unquote the non-MWBE contractor world to have capable, qualified and able contractor base to go to, right if they can supply the bonding, if they can pay their payroll, if they can—for us we're union contractors. If they can make their pension contributions that need to be made. These are all reality questions that have to be dealt with on a day-to-day basis. So, the only program that—that the city creates to increase financial security for their MWBE contractors helps us. It helps everyone. So, on behalf of the BCA, we appreciate the opportunity to—to—to speak for a few minutes. Thank you.

CHAIRPERSON BRANNAN: Thank you, Brian.
I definitely will take a look at this. Thank you.
Lou.

LOU COLLETTI: [off mic] Good afternoon,
Mr. Chair. Oh, is this on? [on mic] No. [off mic]

Is that on or--[pause] [on mic] I hit it off. Sorry about that. Thank you for the opportunity to be here to testify on a program that's very important to all the of the BTA contractors. Before I begin to talk about the program, I-I hope that you will bear with me a minute because I think it's important to describe a little bit about who we are, and who my members are. The Building Trades Employers' Association represents 26 individual trade contractor associations, BCA being one, the GCA who is here is another one. We all have Collective Bargaining Agreements and employ the building trade unions. There's 1,300 construction managers, general contractors and specialty trade subcontractors who in 2017 working with the building trades put in place some \$50 billion worth of public and private construction work last year. Attached to the back of my testimony there is--is this little document because I think it is important to tell you who we are. We have the largest number of MWBE contractors of any contractor organization in New York okay. We have 383 certified Minority and Women Owned Business construction companies. Almost half of them you can see by the chart are doing \$5 million of business or

more. The rest you can see. It is the BTA contractors who are employing the--the diverse workforce that the building trade has. Sixty-five percent of the 8,500 active union apprentices today are African-American, Latino and women. Over 2,000 New York City high school graduates have been placed in BTA contractor job sites through our Construction Skills Program, and there you can see the breakdown by race and by borough. BTA contractors are employing over 900 returning military veterans from active duty through our Helmets to Hard Hats Program that labor and management work on together. We are also employing over 1,500 women through the Non-Traditional Employment for Women Program. Let me say this about apprentice programs as I think they often get mischaracterized. They are not temporary jobs. They are full-time permanent jobs. They get a salary, health benefits and pension while they're being trained. The cost of that training is about \$35,000 a year for--for anywhere from three to five years depending upon the trade. That training is paid for by all the contractors. There isn't a penny of public subsidy in that program. In 2017, to try to get our arms around this program, the BTA and its

members and put out two reports. One, which I think I've—we've given you both. One is a real groundbreaking report. It's the first of its kind in the nation, and it talked about the capacity of MWBE contractors here in New York City. What Dr. Thomas Boston did was went to the City Comptroller's office and took the number of actual contract awards by race, by size of contract, by trade and compared them to the capacity of the industry. There a much shorter version. I have the Executive Summary in there for you to look at, and came to the remarkable conclusion that it was virtually impossible to attain the 30% MWBE goal the city set. We have our own MWBE Leadership Council who then put together a report with a series of recommendations that we've included for your review. Now, several of them require state authorization. So, what I'd like to do now is just to talk and really zone in on what we believe you can do in the City Council. We would ask you to amend Local Law 1 and first of all eliminate the liquidated damage clauses in city contracts for failure to—when goals are not met. Financial penalties are illegal. If you look under the U.S. Supreme Court Case Croson V. Richmond, the MWBE program is—is to attain

aspirational goals, and our worst fear is that someday soon, if there's continued liquidated damage and financial charges against our contractor, somebody is going to challenge that, and if that gets challenged, then the entire program could be at risk. We don't want that to happen. So, we would ask you to put in the legislative language or a requirement that eliminates liquidated damages. Second of all, the city has an MWBE Advisory Council. Many of us used to be on it. We're not any more. We don't know why. If-if our members are given out \$50 billion worth of work, wouldn't it make sense to bring us together with the MWBE Advisory Council to talk about ways to do it? So, we would ask you to amend Local Law requiring members of my organization to be on that committee. Third, we would ask you to consider legislation that defines exactly what a 30% goal is, and that 30% goal should be based on the hard costs of construction not soft costs, but not architectural and engineering fees. That makes it more difficult for the city to hit its goal, and it makes it really unrealistic. We're interested in 30% of the construction costs. Capacity Building: We-the BTA has been working with the Small Business Services to

develop a curriculum, and that would help provide capacity building training to MWBE members. Our members would gladly volunteer to teach those course if we were given a 10% credit toward the goal for spending our time and money in helping contractors grow. You know, we cannot by law provide training or help to MWBE subcontractors who are working for us on a particular job. We tried that in the past, and all we did was get the federal government in, and fined us hundreds of millions of dollars for violating the Commercial Use from (sic) Function Standard. So, right now the position we've taken with MWBE contractors that work directly for us: You can't do the job, terminate the contract. There should be a closer relationship with us, with SBS. We work with them, but I wish it was closer. Another recommendation we would have, and I'd love to see this in legislation period is that the city needs to reform its contractual policies in a way that it's going to help MWBEs grow their businesses instead of impeding their growth. Eliminate the no damages for delayed contract language. Improve your change order and payment provisions. If we don't get paid, they don't get paid. Last, I-I would suggest to you if

you're looking for a model program, look to the New York City School Construction Authority. They have a program that we work close in partnership with, but the way they address the commercial useful function process is they pay consultants. If one of our contractors sees an MWBE firm having trouble on a job they're performing with them, they go back to the project manager for the SCA, and they say, Listen, this firm needs some financial help, it needs some insurance help, it needs some bonding help, and then an independent consultant is hired by the School Construction Authority, not by the contractor performing the work, that then go and can help that MWBE contractor grow. The way it's structured now, we just cannot do it. To give you a size of the opportunities that we have over the next couple of years, last year the New York Building Congress reported that there were \$61 billion worth of public and private construction put in place in the city. They are projecting that over the next two to three years, \$50 billion in construction capacity in the public and private sector is going to happen. If we— if we don't do reform now, then when? When the economy collapses? It doesn't make any sense. So,

I'll close by giving you a Confucius saying that I came across many years ago that I—I continue to—to use: When goals can't be reached, don't adjust the goals, adjust the actions steps. And that's what we need in the city's MWBE Program to really achieve what everybody wants to achieve. Don't make it harder for prime contractors to—to provide contracts to MWBE firms. Don't make it harder for contractors to do work in the city of New York. So, I thank you for the opportunity to—to speak here, and I'd be glad to answer any questions you may have.

CHAIRPERSON BRANNAN: Thank you very much, Lou. You are the Confucius of the industry.
[laughter]

LOU COLLETTI: [laughs] Some people say I'm the confused of the industry.

CHAIRPERSON BRANNAN: [laughs] No, this is great stuff, and this, you know, this is, you know, I think, you know, what we were trying to get into before is some steps to fix the problem. You know, like I said, I mean I'm not a type of—I don't think any of my colleagues are the type of people who point at something and say that's a problem, and go, well, I don't—you know, you deal with. Like we want

to be partners in fixing this. So, having the ideas of where we could tighten stuff up legislatively and where the city can—can act now is very important. You know, we sort of throw up our hands, and say well, got to wait, you know, to go up to Albany and fight. I get it. It's—it's—it's got to happen, but I don't know if we're—you know, if we're sort of exhausting all our options on the city level.

LOU COLLETTI: No, I—I really believe-- not to interrupt you—that these are mechanisms that were—if it were in local legislation, you can control. You can make the program better. You don't have to worry about the state. Whenever we go up to the state, I don't have to tell anybody here, there's a whole lot of other dynamics that go into it, and s we've—we've advocated with the city for changes they wanted and, you know, they fell on deaf ears. So, why not find a way to control what we can control here, and I think some of the suggestions we gave are things that you can control by amending the law, and making the program better for everybody.

CHAIRPERSON BRANNAN: Okay. Councilwoman Barron.

COUNCIL MEMBER BARRON: Thank you, Mr. Chair. Thank you to the Committee. Mr. Colletti, I just have a couple of questions. So I guess I wasn't really pay close attention, but did I hear you say that the 30% goal is not realistic or it should not be because--

LOU COLLETTI: [interposing] No. (sic)

COUNCIL MEMBER BARRON: --because at the end it seemed to contradict what I thought I had heard you say in the beginning.

LOU COLLETTI: No, in-in terms of 30% of say a city's capital budget, construction budget, it's not attainable. They--right now we do not have the MWBE contractor capacity to achieve consistent 30% goals. You might get it a project here or a project here. It depends on what kind of project it is. You know, there's a big difference in how you do a civil project--I know Denise will get into that--than if you do a building project. A very big difference. So the--

COUNCIL MEMBER BARRON: [interposing] So, I did hear you say that?

LOU COLLETTI: Yes, so you did.

2 COUNCIL MEMBER BARRON: But then it seems
3 to contradict your closing, which is don't change the
4 goal, change your action steps.

5 LOU COLLETTI: No, I don't think it's
6 contradictory at all because I don't think--

7 COUNCIL MEMBER BARRON: [interposing]
8 Okay.

9 LOU COLLETTI: --the problem is the 30%
10 goal if it's conducted within the legal framework of
11 being an aspiration goal. If you're going to tell us
12 it's a mandated goal, my--my comments are very
13 different, but the law requires that the--the goal be
14 aspirational whatever the number is. So, I don't
15 want to--I don't want to focus on the number. I want
16 to focus on how you build the capacity to achieve
17 whatever the number is.

18 COUNCIL MEMBER BARRON: Okay, moving onto
19 your testimony, you said that of the 8,500 active
20 apprentices--so there are 8,500 active apprentices,
21 65% are African-Americans, 33 Latino, 27 Asian and
22 other nationalities is 5%. How many inactive
23 apprentices are there? Because what I have heard
24 from those who are in apprenticeship programs is that
25 yes they have a job, and they get paid and they get

benefits. They're permanent jobs for as long as the job lasts, but then once the job ends, they're no longer employed and they've got to wait for another opportunity, but if they want to stay a part of the union, they've got to pay union dues, and-- So, that's what I've heard as a complaint for those who were in apprenticeship programs--

LOU COLLETTI: [interposing] I think it's--

COUNCIL MEMBER BARRON: --and they don't the opportunity to get enough time to get into the union. So could you speak to that?

LOU COLLETTI: I think that's correct. Okay, okay but no one--in our industry, no one is guaranteed a job. You come through the apprentice program, and that's why I'm saying the opportunity over the next five years. If you go into the union halls today, there are no workers. None. Zero and our members are going to take the most productive members. We're not required just to take anybody out of the hall. We need productive workers because we have low bid especially in public work, low bid numbers that we have to make. If somebody is not being productive, we have the absolute right to fire

1 them like in any other industry. So, if they're on
2 the bench now, they perhaps need to go for some
3 retraining, but-but that's the nature. That's the
4 way this industry is structured. During good times,
5 everybody is working whether you're an apprentice or
6 a journeyman. When times are bad, our members—we
7 have to lay people off. They go back to the hall.
8 They start to after contractors in their own. They
9 do what they need to do. That's jus the way the
10 industry is structured. We're very, very sensitive
11 to economic times. That has happened. We just
12 happen to be in some good ones right now.

14 COUNCIL MEMBER BARRON: Thank you, thank
15 you, Mr. Chair.

16 CHAIRPERSON BRANNAN: Thank you guys very
17 much.

18 LOU COLLETTI: Thank you.

19 CHAIRPERSON BRANNAN: Thank you. [pause]
20 Okay, our next panel, Denise Richardson and Melissa
21 Chapman. If you guys are here, come on up. [pause]
22 Thank you guys for coming, and you can start whenever
23 you're ready.

24 MELISSA CHAPMAN: Hi. Good afternoon,
25 Chair Brannan, and members of the committee and

guests. Melissa Chapman with the Brooklyn Chamber of Commerce. I'm commenting on behalf of our Acting President Rick Russo. The Brooklyn Chamber of Commerce has over 2,000 members and we promote economic development across Brooklyn. Since 2003, the Brooklyn Chamber has operated SBS NYC Business Solution Center in Brooklyn. This location serves as a walk-in center for small businesses and startups to help them succeed and become viable by accessing information and direct services including MWBE certification. In addition to MWBE Certification, we also offer programmatic and financial support services to MWBEs including finance assistance, accessing capital, business planning, navigating government and a host of other programs and services. We also have an active MWBE Committee at the Brooklyn Chamber that meets regularly to address the unique challenges of MWBE Chamber members and advocates on their behalf with the goal of eliminating disparities in the procurement process. Based on their feedback, and our extensive experience assisting and certifying MWBE businesses, we have four recommendations that will help these businesses thrive. First, as some of the-my colleagues alluded to earlier, one of the

largest concerns raised by MWBEs is how challenging it can be sometimes to be certified for all city, state and federal government entities and authorities. Therefore, we join them in recommending a unified MWBE certification application for all city and state government entities and authorities including New York City and New York State, the Port Authority of New York and New Jersey and the Metropolitan Transit Authority. This application should tie into the federal certification process including that done by the Federal Small Business Administration. We understand that certain addenda might be required in addition to the basic certification application. However, the application of itself should be concise, and ask for legal requirements in a language that is accessible to all MWBE firms including small and micro businesses.

Number 2: In addition to regarding—I'm sorry. Information regarding the timeframe for MWBE certification should be communicated to applicants in a clear manner, and should be publicly available. This would enable businesses to anticipate the timeframe to receive certification and for government t and other certifying entities to measure the

efficiency of their respective processes. Third, MWBE procurement opportunities should be presented in a digital user-friendly format that is updated regularly and easy to navigate. This will help businesses seeking MWBE firms to have better access to available services, and in so doing, expand contracting prospects. Finally, the state should increase New York City's discretionary spending for MWBE firm to \$200,000 from \$150,000 to mirror the \$200,000 ceiling—ceiling already in place for New York State. In June 2017, Governor Cuomo and New York State Legislature—Legislature enacted legislation increasing New York City's discretionary spending from \$250,000 from \$20,000. We recommend it be increased further to \$200,000. I thank you for the opportunity to comment in this matter, and we look forward to working with the Administration, the Council and all of our partners to ensure increased access for procurement opportunities for MWBEs.

CHAIRPERSON BRANNAN: Thank you, Miss—

DENISE RICHARDSON: Good afternoon.

Thank you for the opportunity to speak today. I'm Denise Richardson, Executive Director of the General Contractors Association. In the interest of time, I

will summarize my comments and touch on something that has not been talked about today, and that is the SBS directory of certified MWBE firms. There's a big disconnect in the whole process between a firm becoming certified and the manner in which the firm identifies the type of work that it performs. And so what happens is in SBS, the focus is on certification of the firm. Is it a Minority and Women Owned Business? What is its finances? Where is it located, et cetera. Then in a completely separate process that's not really overseen by anyone, there is an information system called the Payee Information Portal in which the MWBE firms select from over 70,000 National Institute of Government Purchasing codes to indicate the type of work that it performs. However, there's no real oversight within SBS or within the Mayor's Office of Contracts or anywhere where an MWBE can go to get guidance on which codes to select, which codes are most appropriate, and most importantly, there's no real systematic review of the system to make sure that firms have, in fact, selected codes. So, we did our own analysis of the SBS Directory, and it's--some excerpts of our analysis are attached to my testimony, and one of the

things that we discovered was that 14—over 1,400 firms, which is approximately 25% of all of the certified MWBEs have no codes associated with their businesses. This is a significant problem because when prime contractors or when agencies are looking to direct solicitations to MWBE firms, they select by codes. So, if someone is looking for landscaping services or someone is looking for someone to supply office furniture or whatever, they are going into the system, and selecting the pertinent NIGP code that matches. If a firm has no code associated with them, they get no solicitations. So, this is a big disconnect that needs to be solved that's enormously painstaking work. Similarly, there are a number of firms that have checked off hundreds of codes for work that they do not do. That also needs to be systematically reviewed. What we're recommending is that SBS be given the resources to bring in some consultants that have experience with the NIGP Coding System to work one-on-one with the MWBE community to sort out their codes. We did it on a limited basis two years ago for firms and the heavy civil codes in particular so that we could get a handle on what was going on, and we gave the information over to SBS,

and they were on a-on a limited basis. Again, ours was a very limited survey. We were able to help those firms, you know, resolve their coding issues, and what we would like to see is have that done on a much broader scale. One of the complaints that—that you probably get as Council people, and as we get all the time is that MWBE firms get solicitations from prime contractors for work that they—they don't do, and that's driven by the problems with the coding list. The other thing that needs to happen is that in New York City there is a requirement that if you do plumbing or electrical work you must be licensed. Overwhelmingly the list of firms that are listed as providing elect-electrician work or providing plumbing work do not have licenses, and that's because again they are in the wrong codes. So, our recommendation today, there's a lot of issues that we agree with that others have talked-talked about. But the thing that I wanted to bring to your attention today is the need to sort out this SBS Directory to make sure that the right firms have the right codes so that firms can start to get the right solicitations. And more importantly, SBS can then use their Mentoring Program resources and their

financial resources to more efficiently target the firms that need help because right now with list being in what I will call disarray, and I don't mean that in a negative way toward SBS. It's a function of the system. They're not in a good position to really be able to pull out firms that are bidding firms that are bidding firms that, you know, mean—should be candidates to participate in the programs because the directory is so scattered, and that's my recommendation. Thank you.

CHAIRPERSON BRANNAN: Thank you. It's very helpful. Do you—who is telling these firms to apply to every code under the sun? Are they being led to believe that that would somehow make them more likely to get picked for a bid?

DENISE RICHARDSON: I Think that that's a—that's kind of an outdated reflection. I think in the early years of the program, absolutely there was a mindset of get certified, sign up for everything so that you can know what's going on. Now, with so much more outreach and a higher goal is leading to higher solicitations. So, now it really—for the firms that are doing business, it really is time to be more focused on making sure that you get the right

solicitations for the right work you do. So, for example, someone who is roofing contractor should probably not—also not be in a plumbing code. Because roofing is a specialized, you know, contracting field, it's unlikely that that same firm also does plumbing. So, those are the kinds of things that should be looked at.

CHAIRPERSON BRANNAN: Okay, thank you. That's very helpful. Thank you very much, and I'll take a look at all this. [pause] Okay, I guess we're going to let everyone out on good behavior. Thank you all for joining us, and this meeting of the Contracts Committee is adjourned. [gavel]

C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date November 6, 2018