



April 27, 2017

Good morning Chair Rosenthal and members of the Council's Committee on Contracts. My name is Jonnel Doris and I am the Senior Advisor and Director of the new Mayor's Office of M/WBEs (OMWBE). Also with me today are Michael Owh, the Director of the Mayor's Office of Contract Services ("MOCS"), and Deputy Commissioner Kimberly Hardy of the Division of Economic and Financial Opportunity at the Department of Small Business Services (SBS). We thank this committee for its attention to M/WBEs.

On September 28, 2016 Mayor Bill de Blasio announced the Mayor's Office of M/WBEs as a critical and much needed next step in the Administration's efforts to drastically increase business opportunities for minority and women entrepreneurs. The Mayor and the Citywide M/WBE Director, Deputy Mayor Richard Buery, pledged ambitious goals of achieving 30% M/WBE utilization by end of FY 2021, 9000 certified M/WBEs by end of FY2019, and the launch of the Contract Financing Loan Fund administered by SBS.

The M/WBE program is designed to remedy the historic effects of discrimination on our City's procurement system. Expanding opportunities to women and minorities is important to this Administration's efforts to fight income inequality. There are four core principles that guide the work of OMWBE: Accessibility, Capacity, Accountability and Sustainability. We are lowering barriers to entry, providing resources, increasing accountability and creating strategic initiatives to increase M/WBEs' ability to compete successfully in the marketplace.

The City's M/WBE program is an economic development tool meant to close the historical gap in access, the results of which are statistically demonstrable in contracting today. Additionally, the M/WBE program has positive implications for the entire local economy and workforce as M/WBEs tend to hire locally.

Pursuant to Local Law 1, which governs the City's M/WBE program, we nearly doubled our combined prime and subcontract utilization rate – the percentage of dollars awarded to M/WBEs subject to the City's Program – from 8% in FY2015 to 14.3% in FY2016. As of the close of Q2 (midyear) of FY2017 we were at 18% or \$571M in awards to M/WBEs. The utilization rate is the metric of success of the City's M/WBE program. The utilization rate is the value of M/WBE awards over the value of applicable City awards (that could potentially be awarded to an M/WBE pursuant to LL1).

As of the close of FY2016, SBS certified over 4,800 M/WBEs – a 31% increase from the start of the Administration. We are ahead of schedule in achieving our OneNYC goal which, as you know, covers non-mayoral agencies and mayoral agencies. Currently, \$3.54 billion has been awarded to M/WBEs through the end of FY2016 under the OneNYC goal which aims to award \$16B by the close of FY2025. This demonstrates the City’s commitment to a robust M/WBE program aimed at leveling the playing field and removing barriers to M/WBE participation.

On March 23rd, 2017 the Mayor’s Office of M/WBEs launched the Contracts Financing Loan which is administered by SBS. M/WBEs and small City vendors can apply for up to \$500K at a low 3% interest rate. We have also implemented systems and policy changes that improve the access and user experience of M/WBEs.

SBS has retooled the M/WBE Directory and Certification Application, including the creation of a standalone Sole Proprietor Application. Last year, along with other policy changes MOCS implemented an increase in the discretionary limit for construction purchases from \$20K to \$35K. Finally, SBS has held more than 89 outreach events in the five boroughs to attract women and minority entrepreneurs to participate in the city’s program.

We support the goal of intro. 1379 which is in line with the intent of the City’s M/WBE program authorized by LL1. This bill would essentially codify that discrimination in procurement is prohibited. Again, we want to thank the Chair of the Committee, the members, and our elected partners in the City Council and in the State Legislature who have been M/WBE champions and partners in our work to remove barriers and increase opportunities for M/WBEs.

Now I would like to turn it over to Michael Owh, the Director of the Mayor’s Office of Contracts.

**Testimony of Michael Owh,
Director of the Mayor's Office of Contract Services, and
City Chief Procurement Officer
Before the New York City Council Committee on Contracts
April 27, 2017**

Good morning, Chair Rosenthal and members of the City Council Committee on Contracts. My name is Michael Owh, and I am the Director of the Mayor's Office of Contract Services (MOCS) and the City Chief Procurement Officer (CCPO). Thank you for the opportunity to share testimony before this committee.

Int. No. 1292

The Administration shares the vision for Intro 1292 – efficient, paperless transactions which reduce burdens on vendors and Agency staff, and will ultimately accelerate invoice approval times. However, we believe additional examination of current processes and available enabling technology is necessary, and therefore recommend an implementation timeline to launch a new process in Fiscal Year 2020. This will give Agencies, potential partners and vendors time to adequately plan, articulate needs and update protocols to best achieve favorable outcomes.

In Fiscal 2016, City agencies procured \$15.3 billion worth of goods, services, and construction through more than 41,300 transactions. The number of invoices and payments that stem from these transactions are exponentially higher than the number of contracts. Furthermore, the complicated nature of the City's portfolio of projects extends to the payment process. The invoicing and payment process for an afterschool program is going to be very different than the invoicing and payment process for the construction of a building.

The exact nature of the electronic voucher and invoice system is critical in deriving value from a citywide electronic process. For instance, while the City could mandate receipt of electronic invoices, if this requirement was met simply by accepting documents by email, that process by itself, would not necessarily add any value to the City or vendors and may actually create additional issues related to document types, size, retention, etc. If the City was to implement a more comprehensive technology solution, we would need to initiate a detailed analysis of the requirements, necessary process changes and the technology architecture. This will require considerable time and resources – as it should when dealing with such an important task.

We appreciate the Council's efforts to modernize the contracting process in New York City. To realize the important goal of electronic invoicing and payments, we would like to continue to partner with you to examine solutions and outline a plan of action. This would allow us to identify the requirements as well as the investments needed to achieve the intent of Intro 1292.

Thank you again for the opportunity to testify. We will now answer any questions you have at this time.



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NEW YORK CITY COUNCIL
COMMITTEE ON CONTRACTS

Int. No. 1292-2016

A Local Law to Amend the New York City Charter

Requiring City Agencies to Accept Procurement Invoices Electronically

April 27, 2017

My name is Steven J. Levy. I am a Managing Director of Sprague Operating Resources LLC, a wholly owned subsidiary of Sprague Resources LLP. Founded in 1870 as the Charles H. Sprague Company, Sprague is one of the largest independent wholesale suppliers of energy and materials handling services in the Northeastern United States. In addition to owning the largest fuel storage terminal in the City of New York, Sprague owns and operates more than twenty fuel storage terminals, leases tanks, and maintains throughput positions at multiple third-party terminals in New York. Sprague-supplied terminals provide critical heating, transportation, aviation, and power generation fuels to City and State agencies, utilities, and public and private entities. Over many decades, Sprague has supplied City agencies with renewable fuels, heating fuel, gasoline, diesel fuel, marine fuel, aviation fuel, and fuel management services.

Sprague has been a consistent, long-time advocate for cleaner, lower carbon, renewable fuels while seeking paths to increase efficiency and reduce costs for its customers. The City's objectives to reduce greenhouse gas emissions and establish innovative sustainability measures parallels the goals of Int. No. 1292-2016. Over the last decade, companies like Sprague have not only had the wherewithal to encourage and accept customer electronic payments for goods and services, but have also initiated electronic delivery and invoicing practices that increase efficiency while dramatically reducing the costs of paper delivery documents, invoicing, express and snail mail postage. For the customer, in this case City agencies, electronic invoicing reduces the many hands that each delivery receipt and invoice touch every day to reconcile delivery and payment data and reduces the labor costs of receiving, sorting, processing, and archiving documents, as well as managing the recycling process. It's interesting to note that Sprague alone has individually invoiced between 20,000 and 34,000 deliveries annually to City agencies—and we are just one vendor.

Having the City adopt electronic invoicing is a winning strategy for the City and its vendors. But we think Int. No. 1292-2016 could be even better. The legislation should also include mandatory City acceptance of electronic delivery receipts similar to those already used by carriers like UPS and Federal Express. If desired, a supplier like Sprague could also print an



electronically-captured signature acceptance receipt at the delivery point. A fully electronic system would reduce the use of paper, eliminate most mistakes, permit rapid electronic reconciliation of deliveries, and afford designated City personnel the ability to review deliveries, invoices, and payments from a mobile device or desktop anywhere at anytime.

Enactment of this bill will significantly increase agency efficiency, reduce reconciling costs, and encourage more competitive pricing from suppliers whose own costs are reduced as well.

Thank you for the opportunity to appear today. We eagerly look forward to this bill's passage with the added inclusion of electronic delivery receipts.

Steven J. Levy
Managing Director



**Statement of
The American Council of Engineering Companies of New York**

Regarding Int. No. 1292 – Committee on Contracts

April 27, 2017

Good morning Chair Rosenthal and members of the committee. Thank you for the opportunity to speak before you today. My name is Angel Vazquez and I am a representative of ACEC New York. The American Council of Engineering Companies of New York (ACEC New York) is the voice of the professional engineering community, representing 280 member firms throughout New York State that collectively employ close to 24,000 people statewide, with a concentrated presence of firms located within the five boroughs of New York City. Of those 280 firms, 50 are MWBE firms certified by the Department of Small Business Services. Our members are involved in all aspects of engineering for the public sector. We plan and design the structural, mechanical, electrical, civil, environmental, plumbing, fire protection and technology systems for the city's infrastructure, including transportation, energy, and wastewater treatment facilities, as well as public buildings. Our members are also involved in a host of planning, resiliency and environmental issues.

As an association representing the firms that design the infrastructure systems in New York and throughout the world, we know that implementing solutions to improve the way the City does business is necessary to its long term growth and success. ACEC New York and our member firms are ready and able to help New York accomplish this.

ACEC New York supports Int. No. 1292 in concept. Electronic voucher and invoicing would be a significant improvement over the current system and would allow for timelier processing for entities doing business with the City. As it currently stands, the City's constant delays in processing change orders, payments and closing out projects create cash flow and other issues for our members – particularly small-to-medium size firms, including MWBEs. In addition to reducing paper waste, a laudable goal for the city, it would bring the City in line with the current Federal Government practice of Wide Area Workflow, which functions to improve procurement and contracting by providing more transparency and efficient payment and accountability.

ACEC has several recommendations to streamline the overall procurement process that include; expediting registration of task orders and payments for on-call contracts, adopting NYSDOT's Consultant Out-of-Scope Work request methodology for change orders, eliminating salary caps on all personnel, processing partial payments on invoices, among other recommendations. Electronic invoicing is an important part of our procurement agenda, therefore we appreciate the Members of the Council addressing this important issue.



**THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
SCOTT M. STRINGER**

TESTIMONY OF NEW YORK CITY COMPTROLLER
SCOTT M. STRINGER

BEFORE THE NEW YORK CITY COUNCIL
COMMITTEE ON CONTRACTS

APRIL 27, 2017

Thank you Chairwoman Rosenthal and members of the Committee for the opportunity to testify at today's hearing. My testimony begins with a discussion of Int. 1379-2016 sponsored by Councilmembers Torres, Cornegy, Rosenthal, Crowley, Mendez, Johnson, and Richards and concludes with my views about Int. 1292-2016 sponsored by Councilmembers Constantinides, Rosenthal, and Gentile.

Each year since 2014, my office has conducted an independent assessment of the spending associated with the City's minority- and women-owned business enterprise (M/WBE) programs titled Making the Grade.ⁱ The most recent version, published in October 2016, reaffirmed that the City continues to fall short when it comes to actual spending with M/WBE firms. According to the report, despite comprising just over half of all firms in New York City, in Fiscal Year 2016, only 4.8 percent of the City's procurement spending went to M/WBEs. Put differently, in 2016 the City procured \$15.3 billion worth of goods and services, but only \$728 million went to M/WBEs.

Not only did less than 5 percent of City procurement spending go to M/WBEs, but relatively few of the certified M/WBE firms received any spending at all. In 2016, out of the 4,527 certified M/WBEs, only 994 received City spending on goods or services. This means that 3,533 certified M/WBEs, or nearly 80 percent of certified M/WBEs, did not receive any City dollars.

These findings are consistent with the statistical and anecdotal studies underpinning the existing M/WBE programs that have documented disparities and discrimination in procurement. For example, a 2005 Council-commissioned disparity study that led to the modern version of the M/WBE program documented the statistically significant disparities in City contracting based on race and gender.ⁱⁱ A 2011 analysis conducted by the Mayor's Office of Contract Services reaffirmed these findings, stating that "disparities still exist between the availability of M/WBE firms and the extent to which they are performing City contract work."ⁱⁱⁱ Finally, a 2010 New York State study found "both statistical and anecdotal evidence of business discrimination against M/WBEs" seeking both public and private business opportunities in New York.^{iv}

Addressing this challenge requires a multifaceted approach that must include the adoption of Int. 1379.

Last year, my office conducted an analysis of anti-discrimination laws and determined that City and State agencies are not expressly prohibited from discriminating against companies owned by minorities, women, or LGBTQ individuals as they bid on contracts. While our human rights laws protect these New Yorkers from discrimination in housing and hiring, they do not apply to the procurement process itself. This shortcoming leaves a gap in our anti-discrimination laws that, given the historic underutilization of M/WBE firms, should be addressed.

Currently, an M/WBE firm that believes it was the victim of discrimination is left with an inadequate set of options to address such potential harm. The means currently available to an M/WBE firm contesting a contracting decision include submitting a bid protest to the agency responsible for the alleged discrimination or bringing a constitutional claim on equal protection

grounds. Those options provide the opportunity for oversight but are all potentially flawed. Submitting a protest to an agency that may have been responsible for the discrimination in the first place fails to create the opportunity for an independent review of the allegations.

These challenges are solved by Int. 1379, which prohibits any City agency from denying a person a public contracting opportunity because of their race, creed, color, national origin, age, gender, disability, sexual orientation, or alienage or citizenship status. If the legislation were adopted, firms alleging discrimination could bring an allegation to the City's Human Rights Commission, which has a well-established process for investigating discrimination allegations and enforcing local law, or can file a petition in State court seeking relief.

Laws similar to Int. 1379 already exist in other municipalities across the country. For instance, the law establishing Chicago's Disadvantaged Business Enterprise program clearly states that "the City will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract ... on the basis of race, color, sex, or national origin."^v Similarly, the Metropolitan Development and Housing Agency of Nashville, Tennessee, "prohibits discrimination against any person or business in pursuing of [contracting and purchasing programs] on the basis of race, color, sex, religion, disability or national origin."^{vi} New York City should join these cities by adopting Int. 1379.

Finally, adopting this legislation will only help the City further its goals of doubling the number of certified firms and awarding 30 percent of the dollar value of contracts to M/WBEs by enshrining in law that discrimination in the awarding of contracts will not be tolerated.

Simply put, there is no good reason to leave such a gaping hole in our City's anti-discrimination laws. For this reason, I commend Councilmember Torres and the many cosponsors for introducing this legislation and call on the Council to adopt it without delay.

I would also like to comment briefly on Int. 1292. Currently, Section 332 of the New York City Charter stipulates that the "procurement policy board promulgate rules for the expeditious processing of payment vouchers by city agencies and departments." Int. 1292 would amend this provision by requiring City agencies to accept procurement invoices electronically.

Currently, each City agency uses a paper-based system to process invoices based on a host of on procedures internal to each agency. This paper-based system is arcane, lacks standardization, and fails to hold agencies accountable to the prompt payment guidelines.

Int. 1292 would reform this system and bring the City's processes into the 21st century. Doing so has a number of advantages. First, by moving to an electronic system, it would reduce the risks inherent in a paper-based system. Second, it would increase transparency and accountability by providing contractors and subcontractors visibility into the review process from the moment the invoice is submitted all the way to when the payment is issued. Finally, an e-invoicing system

would decrease cycle times between invoice submission and payment disbursement and open up financial opportunities to the City such as discounts associated with early payments.

Recognizing the potential benefits of an e-invoicing system, in 2015 my office issued a Request for Information to obtain input from the vendor community regarding options for modernizing the City's contract invoicing process. I am pleased to inform the Committee that we endeavor to have our own pilot system for the Comptroller's Office up and running by the end of the calendar year.

I appreciate Councilmember Constantinides' work and the Committee's interest in this issue and, given my Office's role on the Procurement Policy Board, look forward to working with the Council and Administration on this legislation as it moves forward.

Thank you again for the opportunity to testify on these important issues.

ⁱ <https://comptroller.nyc.gov/wp-content/uploads/documents/Making-the-Grade-2016.pdf>

ⁱⁱ The findings of the study are explained in the Council's Committee Report dated 10/4/12 available at: <http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=1189797&GUID=2729B38A-BC05-4393-9857-3295E345C694&Options=&Search=>

ⁱⁱⁱ The report is included as Appendix A of the Council's Committee Report dated 10/4/12 available at: <http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=1189797&GUID=2729B38A-BC05-4393-9857-3295E345C694&Options=&Search=>

^{iv} https://cdn.esd.ny.gov/M/WBE/Data/NERA_NYS_Disparity_Study_Final_NEW.pdf

^v <https://www.cityofchicago.org/content/dam/city/depts/dps/Outreach/Chicago-DBE-Program-8-03-2016.pdf>

^{vi} <http://www.nashville-mdha.org/diversity-business-enterprise-program/>

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1292 Res. No. _____
 in favor in opposition

Date: _____

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I represent: ACEC New York

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I represent: MAYOR'S OFFICE OF CONTRACT SERVICES

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Name: Kimberly Hardy

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I represent: Department of Small Business Services

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