

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON CONTRACTS AND SMALL BUSINESS

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November 24, 2009
Start: 10:25 am
Recess: 1:03 pm

HELD AT: Council Chambers
City Hall

B E F O R E:
LETITIA JAMES
Chairperson

COUNCIL MEMBERS:
Robert Jackson
Annabel Palma
Kendall Stewart
Michael C. Nelson
Melissa Mark-Viverito
David I. Weprin
John C. Liu

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

Robert Walsh
Commissioner
NYC Department of Small Business Services

Marla Simpson
Director
Office of Contract Services

Andrew Schwartz
First Deputy Commissioner

Colleen Galvin
Assistant Commissioner
NYC Department of Small Business Services

Sandra Wilkin
President
Women Builders Council

Quenia Abreu
President
New York Women's Chamber of Commerce

Josephina Nidea
Certification Specialist
New York Women's Chamber of Commerce

Edna Hastick
Roy Hastick
Caribbean American Chamber of Commerce and Industry

Regina Smith
Executive Director
Harlem Business Alliance

Wendell Niles
President
Niles Advertising and Display Solutions

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

Henry Chan
Wilson & Chan

Frank Garcia

2 SERGEANT-AT-ARMS: Quiet, please.

3 [Pause]

4 COUNCIL MEMBER JACKSON: Good
5 morning, thank you all for coming today for this
6 very important oversight hearing regarding the
7 Department of Small Business Services' compliance
8 with Local Law 129 and administration of the MWBE
9 program.

10 As this is such an important topic,
11 today's hearing is a joint hearing with the
12 Committee on Small Business. I would like to
13 thank the Chair of the Committee Council Member
14 David Yassky for his interest in the MWBE program,
15 and I also would like to acknowledge the rest of
16 Council Members that are here or that were here,
17 and obviously Annabel Palma was here and myself,
18 Robert Jackson, I'm a member of the Committee.
19 Our Chair of the Contracts Committee Letitia James
20 is on her way, but we'd like to make sure that
21 business moves forward. Finally, I'd like to
22 thank the staff of all the committees for their
23 work in preparing us for this hearing today.

24 And the main goal of Local Law 129
25 is to increase participation in the city's

2 contracting for companies owned by a minority and
3 women owned businesses because these groups have
4 been systematically kept from accessing such
5 opportunities. The Council created the MWBE
6 program in order to address those disparities.

7 This law was passed in 2005, I
8 believe, somewhere around December 27th or
9 December 28th, 2005, and today we meet
10 approximately four years later in order to
11 determine the status of the program, a way it has
12 been successful to determine the ways that it can
13 be improved.

14 The data shows a number of factors
15 that have shown improvement since the law first
16 passed. First, the number of certified firms has
17 increased, this shows that more companies are
18 learning from the MWBE program and are seeking to
19 do business with the city of New York.

20 Secondly, the numbers also show an
21 improvement in the number of subcontracts that are
22 awarded to MWBEs. And though we are making some
23 progress, we must do better in the area of prime
24 contract awards.

25 There are many factors that are

1 contributing to why the number of contract awards
2 are so low. First and most importantly, we are
3 bound by a very restrictive state law that
4 requires all city contracts to be awarded only to
5 the lowest responsible bidders, and I know many of
6 you have heard that saying or that phrase. The
7 City Council of New York has been working to
8 change this and we have introduced legislation in
9 the state that would allow the city of New York
10 and any other political subdivision in the state
11 to give a 10% price preference to certified MWBE
12 firms that have submitted a competitive bid. The
13 Council also passed a resolution supporting the
14 passage of this state bill. So if the state bill
15 passed, this would give the city of New York the
16 tools to adequately address some of the
17 disparities affecting MWBEs in city contracting.

18
19 Another factor that contributes to
20 the low MWBE utilization on prime contract awards
21 that advocates have cited is a lack of effective
22 technical assistance and capacity building
23 services. This is why we are here today.

24 The Committee seeks to learn from
25 the SBS, the Small Business Services, what

2 technical assistance programs they have in place
3 for certified firms and how many firms are taking
4 advantage of these services. Are these training
5 sessions resulting in prime contract awards to
6 MWBEs? Are the technical assistance programs that
7 are administered by SBS enough to help MWBEs be
8 more competitive when doing business with the city
9 of New York? Can SBS be doing more to help MWBEs
10 obtain more city contracts? If so, what more can
11 SBS do? These are a lot of questions that we
12 would like to have answers for.

13 The key to success for any
14 legislation or program is oversight. We need
15 oversight to make sure that the spirit and the
16 letter of the law are being complied with. The
17 committees are very anxious to hear from
18 organizations and businesses who have had
19 experiences with the MWBE program. Hopefully
20 after identifying the issues today, we can make
21 changes to this program that will make it a
22 success.

23 I thank all of you for coming
24 again. As you know, the Administration will
25 testify first and after the Administration's

2 testimony, we will open it up to the public. If
3 anyone would like to testify today, please make
4 sure you sign up with Jerry in the back at
5 Sergeant-of-Arms so we can begin.

6 And so we have Robert Walsh, the
7 Commissioner for Small Business Services and Marla
8 Simpson, the Director of the Mayor's Office of
9 Contract Services--is that what it is?

10 FEMALE VOICE: Yes.

11 COUNCIL MEMBER JACKSON: Okay,
12 which is commonly called what?

13 FEMALE VOICE: MOCS.

14 COUNCIL MEMBER JACKSON: MOC.

15 Welcome this morning, and I don't know who's going
16 to begin first, but please identify yourself for
17 the record and your position of your agency or
18 department and you may begin your testimony.

19 MARLA SIMPSON: Thank you and good
20 morning. I am Marla Simpson and, as the city's
21 chief procurement officer, I am the Director of
22 the Mayor's Office of Contract Services.
23 Commissioner Walsh and I are here today to present
24 a progress report to you on the three-year ramping
25 up period that was created under Local Law 129.

2 Commissioner Walsh will speak to
3 the many accomplishments, as well as the
4 challenges of the program, but I will first
5 highlight for you four very exciting and recent
6 developments that benefit the MWBE community and
7 we believe will enhance our ability to administer
8 Local Law 129. I'll also provide you a brief
9 summary of the results of the first three years.

10 The first of the milestones is
11 really exciting in that we determined that with
12 the fiscal year 2009, certified MWBE companies
13 crossed the threshold of \$1 billion in business
14 since the outset of Local Law 129. Although we
15 had a 25% decrease in procurement spending during
16 FY 2009, MWBE contracting continued to rise and we
17 officially topped 1.2 billion last July. Agencies
18 have awarded nearly 19,000 contracts and
19 subcontracts to certified MWBEs in the first three
20 years of the LL 129 program. We remain fully
21 committed to meet all of the ambitious goals of
22 the law, but we want to recognize and give credit
23 to our certified companies for this tremendous
24 start at the \$1 billion mark.

25 Second, as Mayor Michael Bloomberg

2 will announce later today, and he will be joined
3 in that announcement by Speaker Christine Quinn,
4 as well as representatives of the building trades,
5 construction industry, and the minority business
6 advocacy community, we are about to embark as a
7 city on a series of landmark project labor
8 agreements that cover city construction work over
9 the course of the next four years. Thanks to the
10 willingness of representatives from labor and from
11 the MWBE community to roll up their collective
12 sleeves and work with us, the PLAs that we will be
13 announcing later today contain provisions that
14 dramatically enhance MWBE ability to compete for
15 and win city PLA work.

16 The third recent development that
17 will have a major impact on participation is the
18 city's new bond form that applies now for
19 contracts and subcontracts valued up to \$5
20 million. As you know, the city requires
21 performance bonds for construction projects that
22 are greater than \$500,000. As part of this
23 program, several years ago we raised the minimum
24 from 250 to 500 and so the city has been
25 guaranteeing on its own small jobs below 500,000,

2 but above that, the need for a bond sometimes acts
3 as a barrier for small vendors. Because of the
4 terms that exist in the city's bond, the United
5 States Small Business Administration had declined
6 for more than 10 years to allow the city's Small
7 Business Services to participate in the SBA
8 Guarantee program, this helps companies secure
9 bonds by providing federal guarantees. Under the
10 stimulus act, or the American Recovery and
11 Reinvestment Act, Congress increased the SBA
12 program limit from \$2 million to \$5 million, so
13 obviously it became critical for us to bring the
14 SBA back into the New York City market. Last
15 month, the Mayor announced that we have reformed
16 the city's bonding policy, we've eased
17 requirements and will be able to now increase
18 opportunities for small and minority-owned
19 businesses. The SBA has approved our new bond
20 form and it will be used for all prime contracts
21 valued at up to \$5 million, so it should enable
22 more companies to bid on those contracts.

23 And we are also embarking on an
24 education and training program to encourage our
25 prime contractors who win larger contracts above 5

2 million to use the SBA bond for qualifying
3 subcontracts. So that, again, this would open up
4 subcontracts to MWBEs that they might not have
5 been able in the past to secure bonds for. In
6 total, we believe this will open up more than \$500
7 million worth of new business to companies that
8 may not previously have been able to compete
9 effectively.

10 The final milestone that I want to
11 mention has to do with small purchases. In July,
12 Mayor Bloomberg announced a key change to our
13 rules that will increase small purchase
14 opportunities for MWBEs. Contracts at the small
15 purchase level, which are up to 100,000, make up
16 about 40% of the total contracts that are covered
17 by Local Law 129. Previously, as you may recall,
18 agencies were required to solicit five MWBE firms
19 from the bidder lists along with five randomly
20 selected firms from the same bidders list, but
21 agencies were allowed to add additional vendors
22 and they did so often to add companies that they
23 had used in the past. Now, under the new rule,
24 agencies are directed to offer the opportunities
25 to the randomly selected vendors and, in the

2 absence of special circumstances, we restrict them
3 to that so that small purchases will more
4 effectively serve as an entry point for new
5 competitors. And, while it is obviously of
6 interest to any purchaser to be able to repeat
7 business with prior companies that have performed
8 successfully, we believe it is a more important
9 value to get new companies through the door. So
10 we expect that the reform will allow us to
11 increase MWBE participation significantly in the
12 years to come.

13 So where are we overall with MWBE
14 participation at this point in the history of
15 Local Law 129? You've received with today's
16 testimony a copy of our annual procurement
17 indicators report for FY 2009 and I will certainly
18 answer questions that you may have concerning
19 that, but I'd like to just give you a broad
20 overview before Commissioner Walsh goes into
21 detail about some of the questions involving the
22 work that SBS does directly with certified
23 companies.

24 As I mentioned, this past fiscal
25 year was the third of three years that the law

2 defined as a ramping up period. MWBE prime
3 contract awards and subcontract awards have
4 steadily risen in all categories during that
5 period. As I noted, we had a decline in
6 procurement citywide last year, but MWBE prime
7 contract participation increased over 2008.
8 Participation in between 100,000 and a million was
9 up by a factor of nearly 80%, rising from 14.8
10 million to 26.4 million. MWBEs also won nearly
11 100--\$90 million worth of contracts over \$1
12 million even though goals do not apply to that
13 dollar level.

14 The share that MWBEs have obtained
15 in city procurement has also steadily increased
16 across industries and dollar thresholds. In FY
17 2009, Local Law 129 covered about 11% of the total
18 portfolio of the city, which is up from 8% the
19 prior year. We're working very hard to expand the
20 coverage of Local Law 129 and as a means of both
21 establishing a track record for that, but also
22 providing a full picture to this Council, we've
23 begun to do a better job of tracking MWBE
24 participation on all procurements regardless of
25 whether technically Local Law 129 applies or does

2 not, so that we can tell you more accurately, what
3 certified companies are achieving both inside the
4 framework of the law and outside the framework of
5 the law.

6 As you know, under federal
7 constitutional law, we are required to narrowly
8 tailor Local Law 129 to address the specific
9 disparities that were identified in the disparity
10 study that was released by this Council in 2005.
11 The most significant one of those limitations is
12 the exclusion of awards that are valued at \$1
13 million or more. Other exclusions that operate to
14 limit the range of the program include the
15 exclusion of human services contracts which are
16 mainly awarded to nonprofits, and then there are
17 within other industries, there are instances where
18 the goals apply only to certain gender and racial
19 or ethnic subgroups and do not apply to all.
20 Similarly for subcontracts, there are goals for
21 only two industries--construction and professional
22 services--and, again, those goals cover only
23 certain groups.

24 Nevertheless, with all of those
25 limitations, FY 2009 did show significant growth.

2 City agencies registered 217 new prime contracts
3 valued at almost a billion--\$989 million--within
4 the industries for which Local Law 129 does
5 establish subcontractor goals. Our current
6 estimates are that MWBE subs will obtain about \$63
7 million worth of work, which totals about 39% of
8 what the agencies project to be the total
9 subcontracting on those prime contracts. That is
10 consistent with and slightly ahead of the Local
11 Law 129 goals and also consistent with industry
12 norms on what kind of subcontracting typically
13 occurs in those industries, how much would occur
14 at the \$1 million level, and how much would occur
15 in the relevant types of work.

16 For approximately 18% of the dollar
17 value of the contracts that were covered by Local
18 Law 129, agencies were not able to set goals
19 because no subcontracting was going to occur
20 either at the relevant thresholds or in the
21 covered industries. Some examples of those types
22 of contracts, for your reference, tend to include
23 litigation support, medical services, as well as
24 certain specialty areas of construction, such as
25 street lighting and tree planting. In those

2 areas, it tends to be the case that the prime
3 contractor wins the award and then does all of the
4 work itself and does not use subs, and so under
5 Local Law 129 there's not an ability to set goals.

6 Another area where goals have been
7 an issue have to do with construction contracts
8 that are required by the Wicks Law to be bid out
9 with separate contracts for plumbing, electrical,
10 and HVAC work. Local Law 129 subcontracting
11 rarely occurs for Wicks Law contracts, but the
12 good news is that today with the announcement of
13 the project labor agreements, we will be able to
14 remedy that problem because we will be eliminating
15 Wicks Law restrictions on a substantial body of
16 city work. Under state law, we've been permitted
17 to eliminate the Wicks Law when we use project
18 labor agreements.

19 Another reason why some contracts
20 are exempt from Local Law 129, is that they are
21 covered by state and federal goals. This is an
22 area where we've tried to increase the amount of
23 data that we make available so that you can
24 measure agency performance under the state and
25 federal goals programs as well. About half of the

2 dollar value of our FY 2009 contracts in
3 construction and professional services were
4 covered, not by Local Law 129, but instead by
5 federal or state requirements for either MWBE or
6 DBE participation. In FY '09 we generated about
7 \$1.6 billion worth of those federal prime
8 contracts or state prime contracts and we
9 anticipate about \$328 million worth of
10 subcontracts, or about 21% of their total value,
11 that would be awarded under those state or federal
12 goals programs.

13 Another issue that's worth looking
14 at in measuring how our progress is going is that
15 construction work in particular occurs over a
16 multi-year period over while projects are built
17 out. So we've consistently tracked and presented
18 to you data on subcontractor approval that goes
19 all the way back to the beginning of the program.
20 So we look at contracts beginning with the
21 approval in FY '07, many of those contracts are
22 continuing to be built and those projects are
23 still underway and new subcontractors are approved
24 in later fiscal years for contracts that were
25 first let back at the beginning of the program.

2 Across that portfolio, last year in FY '09
3 agencies approved over \$68 million of new MWBE
4 subcontracts for construction and professional
5 services, which is about 44% of the total
6 subcontracting dollars to date. Over time, we
7 expect that those will generate about \$121 million
8 worth of MWBE subcontracts. It's worth mentioning
9 as well that a significant amount of subcontracts
10 have been approved either in non-covered
11 industries such as standard services and in dollar
12 thresholds, subcontracts that are valued at more
13 than \$1 million, that's another \$60 million, taken
14 together. While none of those count directly
15 toward the Local Law 129 goals, they do show
16 significant progress and significant potential for
17 MWBE participation.

18 Last, to provide a comprehensive
19 picture of our rate of progress, we also track
20 subcontracting data across our entire portfolio
21 and this includes the many types of contracts that
22 fall outside Local Law 129, either because they
23 are subject to those state or federal goals that I
24 mentioned or because they are not subject to goals
25 at all. For example, we have construction

2 contracts that are still in the field that were
3 let during fiscal years prior to 2007 so they
4 predate the law. In FY 2009, certified MWBEs won
5 about \$180 million worth of subcontracts, which
6 amounted to about 19% of all the ones that were
7 approved citywide. But more significantly, when
8 you focus on subcontracts that are below \$1
9 million and that are in the construction and
10 professional services arena, which are the areas
11 that our program is targeted to, MWBEs won 30% of
12 all of the subcontracts approved, and that's
13 without regard to whether those subcontracts were
14 directly governed by Local Law 129 or were prime
15 contracts that did not have such goals.

16 We certainly agree that there is
17 much work still to be done, but we are encouraged
18 that even with a very challenging economic climate
19 that we've seen in the past two years, MWBEs
20 continue to grow and continue to win larger
21 subcontracts and prime contracts within our
22 portfolio.

23 Commissioner Walsh will now outline
24 for you the steps that SBS has taken to produce
25 that result and we'll both be available for your

2 questions. Commissioner.

3 ROBERT WALSH: Thank you. Thank
4 you very much. Good morning. I'm Rob Walsh, I'm
5 the Commissioner of the Department of Small
6 Business Services. Thank you for this opportunity
7 to testify today.

8 Now that you've heard from Marla
9 Simpson about the contracting results, I'd like to
10 provide an update on the progress that we've made
11 with the MWBE program and highlight some of the
12 accomplishments, but also some of the initiatives
13 underway to do even a better job.

14 Building a strong MWBE program has
15 been an important initiative from the beginning of
16 the Bloomberg Administration. In 2003, the Mayor
17 issued Executive Order 36, encouraging the
18 certification and the use of MWBEs in city
19 procurement. Shortly thereafter, SBS launched a
20 comprehensive online directory of certified
21 businesses to make it easier for firms to market
22 their services. The agency also added staff to
23 expedite certification, provide procurement
24 assistance, and develop educational services,
25 which I'll explain in more detail.

2 We've invested resources into the
3 MWBE program while cuts were being made in every
4 other division of the agency, we've hired a very
5 talented staff. In 2002, the MWBE program had
6 only three employees, today we have two dozen, led
7 by a deputy commissioner and two assistant
8 commissioners dedicated to the objectives of this
9 program.

10 Following the issuance of the City
11 Council's disparity study in 2005, the Mayor
12 issued Executive Order 71, calling for the
13 creation of MWBE goals programs to address the
14 findings of this study. In response to the
15 Council's request to create the program by law,
16 the City worked with the Council to fashion
17 legislation that would meet constitutional state
18 law standards, be practical to administer, and
19 have substantial goals. The Council then passed
20 and the Mayor signed Local Law 129, which created
21 the new MWBE program for the city of New York.
22 Implementation began in the spring of 2006 and
23 comprehensive data tracking started in July of
24 2006.

25 Our first priority was to make the

2 MWBE certification easier and faster and to get
3 more companies to participate in our program. We
4 reduced the length of the application, we extended
5 the certification period from two years to five
6 years, we put the application online, we
7 aggressively pursued partnerships with other
8 regional entities such as the Empire State
9 Development Corporation, the School Construction
10 Authority, the Port Authority, and a number of
11 others.

12 To raise awareness and increase the
13 certified pool, SBS, in partnership with the City
14 Council and multiple community organizations,
15 participated in over 900 events in the past three
16 years. In doing so, we've been able to educate
17 the MWBE community about the benefits of
18 certification. These efforts have paid off. We
19 have seen a dramatic increase in the number of
20 certifications, the number of certified MWBEs
21 recently topped 2,400, up from 760 in 2002. The
22 other good news is that we have continuously seen
23 an increase in the recertification rate--and this
24 is an important point. In 2006 only one in four
25 MWBEs were recertifying. Today, that rate is

2 nearly four out of five, this means companies see
3 real benefits from certifying and know it's worth
4 going through the recertification process.

5 SBS has worked to build out many
6 aspects to improve our programs. These efforts
7 include: obtaining more comprehensive and detailed
8 information on MWBE vendors to better market their
9 goods and services; technology improvements to
10 better match our growing pool of MWBE companies
11 with appropriate procurement opportunities;
12 targeted strategies for an increased MWBE
13 utilization with each contract size and
14 procurement method; agency progress reports to
15 provide greater detail on each agency's
16 performance and its efforts to increase
17 utilization; and also identifying the specific
18 challenges that they face; a quarterly EE
19 newsletter with tips on selling to government,
20 information on upcoming training, and features on
21 successful MWBEs in agencies. The newsletter has
22 been published three times so far this year and
23 sent to over 3,000 subscribers, including
24 certified companies, agencies, and community
25 partners.

2 The successful implementation of
3 this strategy begins with a focus on city agencies
4 that do more than 90% of the city's purchasing, as
5 well as those city agencies that do the most Local
6 Law 129-defined spending, that's under \$1 million.
7 We frequently provide program updates and
8 directions at the Mayor's Office of Contract
9 Services, ACO meetings, their monthly meetings.
10 SBS has trained over 1,100 city purchasing staff
11 on the city's largest prime contractors on Local
12 Law 129 compliance. We continue to offer these
13 monthly sessions at the city's Procurement
14 Training Institute, we also individually work with
15 agencies to help them better use the online
16 directory, utilization plans, and identify
17 contracts with potential MWBE subcontracting
18 opportunities.

19 As I mentioned earlier, to make it
20 easier for buyers to find MWBEs, we created an
21 online directory of certified businesses and have
22 made repeated enhancements since its launch. It
23 provides a detailed profile for each certified
24 firm that showcases past public and private sector
25 work, lists can now be downloaded, new certified

2 firms are featured, and the directory now includes
3 links to support services for both agencies and
4 certified firms.

5 Along with certification, a top
6 priority has been to develop our relationship with
7 the purchasing staffs at each city agency to
8 ensure that they are increasing MWBE utilization.
9 SBS has partnered with the Mayor's Office of
10 Contract Services to educate agencies about the
11 MWBE program, as I mentioned. We're working with
12 agencies to ensure that they are doing all they
13 can to implement the provisions of the law and use
14 all available tools to do so. We also encourage
15 agencies to develop their own tools, the best of
16 which can be replicated at other agencies.

17 This past year we took an extra
18 step by creating an account manager team that
19 closely monitors agencies' performance. Each
20 account manager is assigned a portfolio of
21 agencies which enables us to analyze what agencies
22 buy, understand their purchasing restrictions, and
23 develop specific utilization strategies to address
24 them. As a result of this portfolio and
25 management approach, we are much more familiar

2 with the purchasing trends of city agencies and
3 have already referred 1,650 certified firms to
4 agencies and prime contractors for specific
5 opportunities.

6 As the number of city certified
7 companies grow, SBS has been providing capacity
8 building services to help MWBE firms win
9 contracts. For example, we now conduct free
10 monthly classes on how to do business with the
11 city. We also offer several programs aimed at
12 increasing our firm's ability to compete for
13 contracts. Our fundamentals on contract
14 management, a seven week course--a seven course
15 series, I'm sorry, a CUNY certified program
16 teaches MWBEs about the financial, the legal, and
17 managerial issues associated with the city's
18 construction projects and programs. Since this
19 program began in 2007, 298 participants from 230
20 firms have attended these classes. In addition,
21 we offer firms one-on-one guidance on how to
22 prepare for bids and proposals. Over 100 firms
23 have used these services since it's been launched
24 in fiscal year 2008. Certified firms are also
25 advised on bond and loan application, packaging,

2 and related resources.

3 Last year, in an effort to apply
4 innovative models of business development, SBS
5 piloted a mentorship program with Columbia
6 University for small contractors in the
7 construction field. Eighteen companies graduated
8 from the pilot, 10 of which won \$5 million in
9 contracts on Columbia projects to date. This year
10 we have enrolled an additional 22 companies and we
11 hope to replicate this model across other
12 industries.

13 Finally, vendor service
14 representatives are available to assess a firms
15 ability to sell to government, help them navigate
16 city procurement systems, and e-mail them
17 contracting opportunities. All these efforts
18 reflect a long-term investment in our certified
19 firms.

20 We've also been very aggressive
21 about getting MWBEs out in front of agencies and
22 prime contractors. This helps establish critical
23 connections and builds the trust needed for
24 successful business partnerships. In July we held
25 our third annual city procurement fair, which

2 attracted over 400 attendees from MWBE firms and
3 over 40 agencies and authorities. Within 12
4 months following the first two procurement fairs,
5 certified firms that attended have won over 4,300
6 contracts valued at nearly \$58 million.

7 While the procurement fairs offer a
8 chance to meet with all agencies and provide
9 important workshops, we also host smaller, more
10 targeted forums where MWBEs can hear first-hand
11 about specific agency's needs and what they look
12 for in vendors. In fiscal 2009, we held five such
13 events in partnership with 17 city agencies, they
14 were attended by over 400 certified firms.

15 Over the past eight years, SBS has
16 spent a lot of time to build out its New York City
17 Business Solutions, a suite of services that help
18 businesses start, operate, expand in New York
19 City. In addition to free business courses,
20 recruitment assistance, and access to cost
21 savings, tax and energy incentives, companies can
22 now receive pro bono legal advice, loan packaging,
23 and referrals to lenders. We work hard to make
24 sure our certified MWBEs know about all of these
25 services available to them through New York City

2 Business Solutions. We know that among our
3 currently certified firms, nearly one out of five
4 have chosen to access services through New York
5 City Business Solutions. We aggressively cross
6 sell all of our services at the point of contact
7 with MWBEs. For example, Big Apple Visual Group,
8 a Manhattan-based certified MWBE that makes signs
9 and large digital displays, was recently awarded a
10 \$50,000 grant to train 23 employees in marketing,
11 sales, and operations. So whether or not an MWBE
12 ultimately wins a city contract, SBS provides a
13 number of services to support their businesses.

14 As Marla Simpson testified, more
15 opportunities are now available for MWBEs on
16 contracts under 100,000 as a result the recent
17 amendments to the bidding rules. Our certified
18 construction firms will also benefit from greater
19 access to the Small Business Administration's bond
20 guarantee program and the new project labor
21 agreement to be signed with the city building
22 trades.

23 The bottom line is clear, certified
24 companies who use our services, classes, bidding
25 guidance, and introduction to agencies are winning

2 contracts. As Marla just testified, the Mayor
3 announced in September that the city has surpassed
4 the \$1.2 billion mark in contracts awarded to
5 certified firms since the implementation of Local
6 Law 129. This reflects continuous increases in
7 the value of prime and subcontracts awarded in
8 each year. In fiscal 2007 we awarded 5,191 prime
9 and subcontracts totaling \$254 million; two years
10 later, we awarded 7,122 prime and subcontractors
11 totaling \$488 million, and we keep pushing.

12 We have also seen progress in the
13 use of MWBEs in specific procurement categories.
14 For example, micro purchases, contracts up to
15 \$5,000 make up the bulk of competitive
16 procurement. In fiscal '09 there were 35,000
17 micro purchases which represented the vast
18 majority of opportunities below \$1 million. These
19 contracts can often be the entry point for
20 companies seeking to do business with the city and
21 the data tells us that when companies win one
22 contract, they're likely to win again, and again
23 we're seeing gains. The value of prime contracts
24 awarded to black-owned firms tripled from \$15
25 million in fiscal 2008 to \$45 million in '09;

2 subcontracts to the same group quadrupled over the
3 same time period, from \$9 million to \$36 million.
4 The value of prime contracts awarded to Hispanic-
5 owned firms have increased each year and
6 subcontracting dollars more than tripled from \$21
7 million to \$72 million from '08 to '09.

8 We continue to provide support to
9 MWBEs, analyze the past three years' data to
10 improve our services and work more closely with
11 city agencies to increase utilization. We
12 recognize that making progress can only happen as
13 a combined effort of agency action and ability of
14 MWBE contractors to deliver quality goods and
15 services at competitive prices. As you can see,
16 we're working hard for the MWBE program and the
17 city, however, we also recognize that there's so
18 much more work to be done. As we now move out of
19 the program's ramp-up phase, we look forward to
20 working together over the next four years to
21 continue building upon the gains we've already
22 made. Thank you very much for this opportunity.

23 CHAIRPERSON JAMES: Thank you,
24 Commissioner Walsh. First let me apologize for
25 being late, I had a meeting this morning with a

2 principal about some issues at a local school and
3 the meeting went longer than I anticipated, so I
4 apologize. But I want to thank Council Member
5 Jackson and Council Member Palma for chairing in
6 my absence, as well as Council Member Yassky.

7 Because Council Member Jackson was
8 here early and stood in for me, I'm going to defer
9 to him and have him begin with leading off in the
10 questions.

11 COUNCIL MEMBER JACKSON: Thank you,
12 Madam Chair. Well first let me thank you both for
13 coming in and providing statistics concerning the
14 progress that we've made concerning contracts for
15 MWBEs.

16 But let me ask this general
17 question, if I may for both of you. From where we
18 began back when Mayor Bloomberg signed into law
19 the intention of the MWBE, do you feel that we
20 have obtained the goals in which we were trying to
21 achieve with respects to the billions of dollars
22 that we contract out in New York City for
23 increasing the number of MWBEs to, one, to get
24 contracts, and, two, the value of those contracts?

25 ROBERT WALSH: I would add we still

2 have a lot of work to do, we know that in many of
3 the categories we have not hit our goals, we also
4 knew working with the Council that there would be
5 a ramp-up period over time. I think the good news
6 is that we're seeing progress in practically every
7 category. The good news is that there is, you
8 know, initiatives under way, the PLA initiative
9 that Marla Simpson mentioned, the Five Plus Five
10 issue, I think it's an intensive, ongoing,
11 aggressive effort that we just need to continue
12 to, you know, to develop the program, and we still
13 have a lot of work ahead of us.

14 MARLA SIMPSON: If I could just
15 add, the one aspect that I think--I mean we
16 obviously concur with Commissioner Walsh, and I
17 assume with yourself, that there's much work to be
18 done. I think the one aspect that has proved
19 frustrating as we endeavor to meet the ambitious
20 goals of the program is the way in which the
21 structure of Local Law 129 with the \$1 million
22 limitation ends up narrowing the scope of where
23 the program applies.

24 We are meeting the subcontractor
25 goals that the program establishes by and large,

2 and we're very, very close to meeting the
3 subcontractor goals. Primes are a different
4 kettle of fish, but, as you explained in your
5 introductory statement, we have some state law
6 issues there and that is the area where we are
7 most affected by the question of capacity. And
8 since the law does not apply to prime awards above
9 \$1 million, nor does it apply to sub awards above
10 \$1 million, while our overall portfolio is many
11 billions of dollars of work, the portfolio that we
12 can target with this program is significantly
13 smaller. So finding the best way to do that has
14 been the challenge that I think Commissioner Walsh
15 and I have shared in the last several years and we
16 continue to struggle with that and we will be
17 looking to figure out additional ways to improve.

18 COUNCIL MEMBER JACKSON: You raised
19 the issue of the million dollars and, you know, as
20 I guess a barrier to certain contracts for
21 minority and women-owned businesses, because
22 there's a limitation of a million, I believe?

23 MARLA SIMPSON: It's not that it's
24 a barrier and we have many examples of MWBEs that
25 have won above that level, it's just that when you

2 talk about Local Law 129 goals, they don't apply.
3 I mean, we had an MWBE that won an \$83 million
4 contract--that's a wonderful achievement, it just
5 doesn't count toward Local Law 129.

6 COUNCIL MEMBER JACKSON: And that's
7 what I was going to ask you, I was going to ask
8 you since that appears to be at least from what
9 I'm hearing, a barrier, well, how many MWBEs that
10 are out there that are bidding for contracts,
11 whether it's prime or subcontracts, for more than
12 \$1 million?

13 MARLA SIMPSON: It's still a
14 relatively small number, but it's an encouraging
15 number because it seems to grow every year. We
16 need to find a way consistent with the law that we
17 can have this threshold or capacity limitation
18 change. Unfortunately for all of us, the targets
19 that we're up against when we try and figure out a
20 legal structure, that barrier keeps moving too.
21 And so there's been case law in the recent couple
22 of years that has made it sort of even more
23 critical that when we do propose some kind of a
24 modification, and I think we--you know, I'm being
25 candid--that we would like to see that number

2 move. When we propose that, we have to do that in
3 a way that we think the federal courts will
4 approve and there have been some cases in recent
5 years where the courts have been critical of other
6 jurisdictions for not looking carefully at what
7 that capacity threshold is. We think we now have
8 some great data in order to hopefully re-examine
9 that, but it's a struggle.

10 COUNCIL MEMBER JACKSON: Well

11 because then it begs the question with respects
12 to, as you indicated, the contract award or the
13 subcontract award for more than a million dollars
14 was not included in the statistics under Local Law
15 129. So the question that I would ask is if you
16 included all contracts for a million dollars or
17 more for MWBEs, what would your statistics look
18 like? 'Cause that's the question that I would ask
19 because realistically, in essence, I'm trying to
20 assess by begging these questions is, well how
21 many contracts were there for a million dollars or
22 more? Were there 1, 5, 10, 30, 40, and what were
23 the value of those contracts for more than a
24 million dollars, and so you can factor those in as
25 one thing just to take a look see.

2 MARLA SIMPSON: We do, we do factor
3 that in, which is why, as I explained at sort of
4 the backend of my testimony, we've started to try
5 to be as transparent as we can. I can't count
6 those contracts toward Local Law 129, but I can
7 report them in the book and we do.

8 COUNCIL MEMBER JACKSON: Okay.

9 MARLA SIMPSON: And so they're
10 there and we're saying this is out there, these
11 are the success stories where I think it's \$190
12 million worth of MWBE awards above that level.
13 That's still a drop in the bucket relative to the
14 total number of large value \$100 million contracts
15 that the city does. But we are holding ourselves
16 accountable to at least track that performance so
17 that you can see it even if we can't credit it
18 toward the goals.

19 COUNCIL MEMBER JACKSON: And let me
20 tell you what I've been to different forums held
21 by various organizations and talked to some
22 business people that have been involved in Local
23 Law 129 and you constantly hear this: okay, I've
24 gotten certified, but I haven't gotten any
25 contracts whatsoever, so what does it mean to me?

2 [Pause] Can you answer that question? Because,
3 you know, I say well, you know, you have to be
4 involved, you have to go after these contracts,
5 you have to compete for them. And I guess if I
6 was that small struggling business owner just
7 trying to run my business, you know, and don't
8 really have, I guess, a staff person dedicated to
9 going after contracts, you know, getting
10 certified, you know, didn't help me out, so what
11 do I say or what do we say, what does Tish James
12 as the Chair of the Contracts Committee, what do I
13 say as the one that was a former Chair of the
14 Contracts Committee, what do I say as the co-chair
15 of the New York City Council's Black, Latino, and
16 Asian Caucus, what do I say to these people?

17 MARLA SIMPSON: Well let me talk a
18 little bit about the structural law and then I'll
19 defer to Commissioner Walsh about some of the
20 other services that we provide to certified
21 companies. But when I go out, and I do go out a
22 lot to talk to businesses, and one of the things
23 that we hope to work closely with this Council on
24 is that, because the project labor agreements are
25 going to change a lot of how bids are done and how

2 companies compete for bids and for subcontracts,
3 we're going to do training sessions, hopefully all
4 over the city targeted to MWBEs to make sure they
5 understand how the project labor agreements work
6 and to make them qualified bidders hopefully so
7 that they can be more successful in that
8 environment. But one of the things that I find
9 when I talk to companies out there, is that, first
10 of all, our program is overwhelmingly a
11 subcontract driven program. What we are able to
12 do for prime contracts, our goals are called
13 aspirational goals, they are not as readily
14 achievable as our goals in subcontracting, this is
15 overwhelmingly structured as a subcontracting
16 program. Many, many certified companies operate
17 in industries that don't have subcontract goals,
18 so every certified company that sells goods and
19 every certified company that operates for
20 standards services, whether it's printing, whether
21 it's messenger work, whether it's, you know,
22 trucking, or other types of standard services,
23 none of the goals that we can set for subcontracts
24 will ever benefit them because of the way this
25 version of the law is structured. So one of our

2 critical efforts has been to try and develop more
3 data so that hopefully we can come back to you
4 with a basis for goals in some industries where we
5 don't now have them. That's one set of problems.

6 A second challenge has to do with
7 for those who do sell goods and standard services,
8 the primary area where they can intersect with
9 city business tends to be small purchase awards.
10 But again, it's very important to match up what
11 the certified companies have in the way of
12 products and services to sell versus what the city
13 actually needs and buys. And there is a
14 disconnect sometimes, which is, again, why the
15 account manager structure that SBS has turned to
16 is designed hopefully to help our certified
17 companies better understand what the agencies are
18 actually going to buy and what they're not going
19 to buy, because a lot of the products that are out
20 there are simply not things that the city agencies
21 are going to be able to buy.

22 ROBERT WALSH: The other thing that
23 I would add, Council Member, is to take advantage
24 and continue to take advantage of the services
25 that we're providing, take advantage of the online

2 directory, the procurement fairs that we've had,
3 you know, with over 400 people last time, you
4 know, we're really intensively matching people who
5 are certified with opportunities and the agencies
6 and getting that first foot in the door. You
7 know, I mentioned in my testimony, you know, 12
8 months after the last procurement fair, there were
9 over 4,300 contracts that went to the firms that
10 were there. We now have more training classes
11 than we ever had in terms of capacity building,
12 we're extending to, you know, some of those firms
13 that you talked to, you know, we hear it on the
14 construction, we're seeing increases in our, not
15 only the prime, but the subcontractors in looking
16 at opportunities.

17 I have a staff--I have Greg Bishop
18 here, one of the Assistant Commissioners, his job
19 is to make a link and look at every single one of
20 the agencies and the contracts they have and get
21 them out to each of the certified companies and
22 let them make--not only are we putting newsletters
23 out, but we're also aggressively, you know, going
24 to the ACOs, the procurement directors in each of
25 the agencies and saying we have a list of

2 certified companies that we believe can do this
3 job. I think the initiative on Five Plus Five,
4 the fact that you're eliminating, you know, the
5 out, if you will, for agencies will make a
6 difference.

7 I think the other thing you say is
8 that, you know, if you start looking at the
9 numbers over the last three years, we are seeing
10 an increase. Is it enough? No, it's not enough,
11 but you know, certainly if you start looking at
12 the number of contracts, it has increased, you
13 know, pretty significantly.

14 COUNCIL MEMBER JACKSON: Madam
15 Chair, I'm going to turn it back to you. I do
16 have additional questions, but I'd like to turn it
17 back to you for this moment.

18 CHAIRPERSON JAMES: Thank you, Mr.
19 Jackson. So let me begin by saying the following,
20 first to Commissioner Walsh, I know you have made
21 great strides through simplification, capacity
22 building through courses at CUNY and Columbia,
23 through networking sessions, through, you know,
24 upgrading and improving the Business Solutions
25 Centers all across the city, through monitoring,

2 accountability, and it has resulted in a dramatic
3 increase in certification and so I thank you for
4 all of your efforts. And though the numbers we
5 have seen some increase, you are correct, we
6 obviously can do better in the city of New York.

7 To the Chief Procurement Officer
8 and Director and my friend Ms. Simpson, we have
9 made great strides, we know that Local Law 129 is
10 the floor, not the ceiling, we also know that we
11 have limitations on the state level and federal
12 level. We have made some progress, but obviously,
13 it's certainly, as far as I'm concerned, not good
14 enough. That being said, I know Local Law 129
15 excludes human services, it excludes prime
16 contracts, it excludes prime construction
17 contracts, it's a small universe of contracts in
18 the city of New York, and the law still says that
19 contractors have to go to--vendors have to go to
20 lowest responsible bidder. Can you perhaps
21 someone can tell me the progress on the state
22 level with changes in that law? Do you have a
23 progress report and/or changes in the law as it
24 relates to Article 15A, the Executive Law of the
25 State of New York, which is the affirmative action

2 law for the state of New York, which hasn't been
3 revised in a long time.

4 MARLA SIMPSON: I'm not at all sure
5 where the state is on its effort to revise Article
6 15A. The state is in--they will need to do a
7 disparity study, I know at one point they had one
8 under way, I don't know if it concluded. The
9 issue that the state will have to struggle with is
10 similar I guess to what we struggled with in 2005.
11 The original design of the states goals program
12 goes back 20, 30 years, way before most of the
13 case law that now limits what can be done. So you
14 can't just update a prior structure in that
15 setting, you have to really examine whether your
16 structure will comport with current versions of
17 the case law. And, while I don't have any direct
18 knowledge, I would imagine that that's probably
19 the challenge that the state is working with
20 because their structure really has not been
21 adapted to the way the courts have picked apart
22 these types of laws in the intervening decades,
23 and they need to, you know, presumably resolve
24 that before they move forward.

25 As far as our progress on the state

2 level, and what I would say is I think we are
3 still deferring, you know, what would be the
4 possibilities of change, legislatively there. The
5 biggest reason why I think we're not ready as yet
6 to do that is that we are just now implementing a
7 state law change that we achieved about a year and
8 a half ago, and before we go another step in terms
9 of trying to see whether additional state law
10 changes are needed, I think our intention is to
11 aggressively use the law that we got. And the law
12 that we got back in the budget adoption process in
13 2008 is a law that the state agreed the city could
14 eliminate the Wicks Law restrictions on
15 construction. By using--we could eliminate the
16 below \$3 million, which was something for small
17 contractors, but also we can eliminate them for
18 all contracts regardless of their size, when we
19 use a project labor agreement. So it's been a
20 while coming, but we now have an ability to use
21 that piece of state legislation. And since the
22 Wicks Law is an area where we know that that law
23 operates in a way that runs counter to the goals
24 of 129 because we don't end up with subcontracts
25 in those trades, we expect that by being able to

2 manage those contracts without Wicks, we will be
3 able to achieve significant progress in the
4 construction arena, and that's our next priority,
5 that's what we're doing next.

6 CHAIRPERSON JAMES: So today there
7 was announcement by the Mayor of the city of New
8 York and, according to your testimony with this--

9 MARLA SIMPSON: [Interposing] It's
10 at 2 o'clock, I said it would be this afternoon.

11 CHAIRPERSON JAMES: Okay. And
12 according to your testimony with Speaker Quinn,
13 it's my understanding that--

14 MARLA SIMPSON: [Interposing] I
15 gather that is not happening now, I did not know
16 that when I came here, but I got it as a--

17 CHAIRPERSON JAMES: [Interposing]
18 What's not happening, Speaker Quinn's not--

19 [Crosstalk]

20 MARLA SIMPSON: [Interposing] The
21 Speaker is not joining the Mayor--

22 CHAIRPERSON JAMES: Okay.

23 MARLA SIMPSON: --but the
24 representatives of the building trades, the
25 Building Trades Construction Council, and other

2 representatives of the stakeholders in the
3 minority community are joining.

4 CHAIRPERSON JAMES: So can you give
5 us an advance overview of this announcement today,
6 this landmark PLA, because I was not briefed and
7 know nothing about it, perhaps you can give us
8 some insight.

9 MARLA SIMPSON: Well I can't go
10 much beyond the four corners of my testimony, I
11 can explain that what a project labor agreement
12 does is, is it offers in effect an opportunity--
13 when we bid a contract in a covered area, a type
14 of contract that is covered by the project labor
15 agreement, what happens is, the unions have
16 stepped to the table and have made economic
17 concessions that will allow the city to reap
18 savings in those projects. In return for that, we
19 bid the contract subject to the equivalents of the
20 collective bargaining agreements that those unions
21 are bound by, but, and this is the biggest, you
22 know, change in sort of the way things operate,
23 any company that is willing to operate under those
24 terms of the PLA and the collective bargaining
25 agreements, any company can bid that job, either

2 as a prime or as a sub, without having to be a
3 signatory to the collective bargaining agreement.
4 So a nonunion or open shop company that's
5 operating and it may not be ready yet to take the
6 step to convert its entire workforce and all of
7 its work to a union shop, because they may be
8 doing private sector work or that, you know, or
9 that business model doesn't work for them, they
10 can bid for the public work as a, in effect, as a
11 union participant and they are authorized under
12 the PLA to be awarded that work without regard to
13 whether they've actually signed the collective
14 bargaining agreement.

15 In the past, the criticism that has
16 been leveled against some other project labor
17 agreements in other jurisdictions have been that
18 that transition, allowing that small company
19 that's basically an open shop operation to come
20 into play and to win work under the PLA, that
21 that's a difficult transition and that it's
22 difficult for structural reasons that make it hard
23 for the small company to bid.

24 CHAIRPERSON JAMES: Will the small
25 company pay prevailing wage?

2 MARLA SIMPSON: Well that would
3 always be the case, whether we used a PLA or not,
4 in this area of work, prevailing wage would always
5 be a governing--

6 [Crosstalk]

7 CHAIRPERSON JAMES: [Interposing]
8 And how will this announcement enhance WMBEs? How
9 will this inure to the benefit of MWBEs?

10 MARLA SIMPSON: We've developed in
11 the PLA very specific provisions that we'll
12 outline this afternoon that will, we think,
13 strengthen their hand as competitors and will make
14 it readily possible for MWBEs to participate in
15 PLA work. The unions have been very welcoming
16 partners in this dialogue, we've had the dialogue
17 going on now for, you know, several months, but
18 we've included stakeholders from all interests as
19 part of that.

20 And, again, I'd be happy to come
21 back as soon as, you know, tomorrow and give this
22 committee a full rundown of everything that's in
23 the project labor agreements, together with copies
24 of the findings that we based it on, but it's a
25 little premature right now.

2 CHAIRPERSON JAMES: There was a
3 comptroller's report which found that the Small
4 Business Services was not sufficiently involved in
5 monitoring the utilization plan and that some ACOs
6 expressed a need for SBS to become more familiar
7 with the procurement needs of their individual
8 agencies in order to introduce capable WMBEs to
9 contracting officers. How do you respond to those
10 findings?

11 ROBERT WALSH: Well, as I mentioned
12 in my testimony, we spent a lot of time, you know,
13 on a monthly basis with the Mayor's Office of
14 Contract Services, providing training, giving
15 updates on the program, talking about initiatives,
16 you know, the training obviously is an ongoing
17 effort. There are large procurement staffs
18 throughout the city and in some cases we've made
19 some progress, in other areas we still have some,
20 you know, work to do, but it's a constant effort
21 and I think, you know, we have worked with the
22 comptroller's office over the last 16 months on
23 this audit. I think one of the things that opened
24 our eyes to is putting a new account management
25 team together where I now have staff that has a

2 portfolio of each of the agencies so someone might
3 have Transportation, DEP, you know, Parks, and
4 focus in and find out, you know, when spending
5 takes place, how much is taking place in the
6 various categories over a million dollars, over
7 100,000, under 5,000 and really focus in and make
8 those relationships. So I think there was a
9 benefit to some of the things that were provided
10 in the audit.

11 CHAIRPERSON JAMES: We've been
12 joined by Council Member Stewart. In the audit it
13 also said that on instances where prime
14 contractors did not comply with the WMBE
15 requirement, there was not much follow-up from
16 SBS. How do you respond to that?

17 ROBERT WALSH: Well we have a team
18 that follow-ups and I think, again, you know, my
19 response is that we have followed up on the
20 primes, on the subs, you know, across the board,
21 but at the same time, you always could do more.
22 We have put in a formal process and procedure for
23 follow-up in those areas.

24 CHAIRPERSON JAMES: And what does
25 that process and procedure entail? How does one

2 communicate to an agency when there's an issue
3 with respect to whether or not a prime contractor
4 is complying with Local Law 129?

5 ROBERT WALSH: Can I call Andy
6 Schwartz who's been--

7 CHAIRPERSON JAMES: [Interposing]
8 Of course.

9 ROBERT WALSH: --very close to
10 this. The First Deputy Commissioner.

11 ANDREW SCHWARTZ: Thank you, good
12 morning--

13 CHAIRPERSON JAMES: Morning.

14 ANDREW SCHWARTZ: --Council Member,
15 I'm Andrew Schwartz of SBS. As part of the
16 comptroller's audit process, they looked at our
17 process in some few cases where we audit agencies
18 and their use of subcontractors and primes and I
19 think they found we were doing that, we were doing
20 the audits, and the second year we added a outside
21 CPA firm and, to some extent, the controller was
22 asking us to adopt procedures similar to what they
23 do in terms of a formal audit process of drafts
24 and response and that type--and we agreed,
25 frankly, that we were moving towards that. As we

2 started the pilot project in the first year and
3 then moved to the outside CPA and we outlined this
4 in our response to the comptroller, which is in an
5 addendum to the audit report that he issued. So
6 we feel comfortable on that.

7 CHAIRPERSON JAMES: Okay. Ms.
8 Simpson, you and I at a previous hearing had
9 talked about Surety Bond Guarantee program and in
10 your testimony, you indicated that in fact the
11 city has increased opportunities for small and
12 minority-owned businesses and that you expect this
13 will open up more than \$500 million worth of
14 business to companies that had previous not been
15 able to secure bonds. When was this program
16 implemented and has it resulted in an increase in
17 minority and women-owned businesses to compete on
18 city contracts?

19 MARLA SIMPSON: No, it's very
20 recent, it was announced, the agreement was
21 reached and announced with the SBA I guess last
22 month and the implementation materials were--we
23 gave training to the ACOs in the November ACO
24 meeting, the law department has issued new
25 instructions for bid contracts that will include

2 this new bond form. To my knowledge, no such bid
3 contracts have been advertised as yet, but you
4 should begin to see them in December.

5 CHAIRPERSON JAMES: And will this
6 bond program, Commissioner Walsh, be advertised
7 and be part of all of your outreach?

8 ROBERT WALSH: Yes, absolutely.

9 CHAIRPERSON JAMES: Okay. Moving
10 on to this initiative for contracts valued up to
11 \$100,000 where now officers can accept five WMBE
12 firms and basically offer them opportunities. Ms.
13 Simpson, how have we done with respect to that
14 program, when was it announced, what progress have
15 we made thus far with respect to that?

16 MARLA SIMPSON: That program took
17 effect this fiscal year, it was announced in July.
18 We've had the Five Plus Five program in effect for
19 several years, it actually predates Local Law 129,
20 but there was a pre-existing procurement rule that
21 always said that after you did the random draw,
22 you could add any names that you wanted to to the
23 list, and you still would have to take the low bid
24 from whoever submitted that low bid. But in our
25 view as we looked at the data, companies that were

2 already familiar to the agency and that they had
3 used in the past had an unfair advantage vis-à-vis
4 the random companies because they already knew the
5 pricing that the agency had accepted.

6 On the other hand, the price
7 differential between the random companies and the
8 added companies was not very large and was not
9 worth creating such a large barrier to the
10 competitors that were playing by the rules and
11 getting on the bidder lists. So we created under
12 the new rule, which was adopted, a process so that
13 if an ACO wants to add anybody to that random
14 bidder list, they need the permission of my office
15 to do that. We've given blanket permission to
16 allow them to make certain kinds of additions.
17 For example, if what they want to do instead of
18 Five Plus Five with five MWBEs, if they wanted to
19 do 10 MWBEs or 20 MWBEs, we let them do that,
20 there's no problem. But if they decide that
21 they've got some company that they've used in the
22 past and they want that competitor only to be
23 added back to the list to compete, we have denied
24 those requests so--

25 CHAIRPERSON JAMES: [Interposing]

2 So has the outcome resulted in more--

3 MARLA SIMPSON: [Interposing] Too
4 early to tell, I don't even have a quarter's worth
5 of data yet.

6 CHAIRPERSON JAMES: Okay. When do
7 you think we will have data to analyze the
8 progress of this program?

9 MARLA SIMPSON: Realistically,
10 you're not going to have a statistically
11 significant amount of data until next fiscal year
12 report. We'll give you a progress report in
13 April, we give you the first six months of the
14 fiscal year and we should see maybe some trend
15 based on that data, but the quantity of data is
16 still going to be quite small at that point.

17 CHAIRPERSON JAMES: You also
18 indicated that procurement volume overall in 2009
19 declined by 25%, but WMBEs increased overall in
20 2008. Let's break that down: how many African,
21 black businesses received funds for contracts
22 between 100,000 and \$1 million; how many were
23 women; how many were local; how many were Latino?
24 Can you break it down and specifics?

25 MARLA SIMPSON: I believe there's a

2 table in the report that I gave you that does
3 roughly that. We don't track by geographic
4 location, because we don't have the authority to
5 do that.

6 CHAIRPERSON JAMES: But you track
7 by agency.

8 MARLA SIMPSON: We track by agency,
9 but we track by the Local Law 129 categories.

10 [Off mic]

11 MARLA SIMPSON: There is a table in
12 terms of your prime contracting on page 54 that
13 pretty much lays that out across the city, and
14 then in the back, the same data is reported on an
15 agency by agency basis. Just give me a second.

16 CHAIRPERSON JAMES: So if I'm
17 reading this correctly on page 54, in terms of,
18 let's begin with architecture and engineering,
19 African-American, the value of the contract was 4
20 million, right? Contracts above 5,000, 2% were
21 African-American?

22 MARLA SIMPSON: That's correct.

23 CHAIRPERSON JAMES: Okay. Between
24 five--

25 MARLA SIMPSON: [Interposing] Two

2 percent of a very small number, right.

3 CHAIRPERSON JAMES: Two percent,
4 yes, very small number. Between 5 to 100,000,
5 zero; between 100,000 to a million, zero--

6 MARLA SIMPSON: Correct.

7 CHAIRPERSON JAMES: --above a
8 million, zero. Construction services, again,
9 above 5,000--or less than 5,000, we've got zero; 5
10 to 100,000, 1.4; 100 to a million, less than 1%;
11 less than 1% for a million. So, okay, so this is
12 not good. That's for primes, but as we indicated,
13 Local Law 129 does not apply to primes, but as I
14 indicated earlier, Local Law 129 should be a floor
15 and not the ceiling, and obviously we can do a
16 better job in these areas.

17 In terms of Asians, they fare even
18 worse. In terms of Caucasian women, they do
19 better; Asians, they do better.

20 Let's go to Local Law 129 on page
21 55. African-Americans or WMBE and it says
22 industry range and, unfortunately, it's not broken
23 down by race or gender, correct?

24 MARLA SIMPSON: Well, again, it's
25 just a question what fits on the page, it's broken

2 down in other places, but the difference is that
3 on page 55 the effort is to compare across years;
4 on page 54, we're trying to give you a more
5 detailed picture of the current year. That same
6 table exists in the FY '08 and '07 report, they're
7 all online so you can line them all up, I just
8 can't fit all those columns on one page.

9 CHAIRPERSON JAMES: Okay. So
10 moving on, because just--well moving on. Since
11 Local Law 129 has been enacted, it's been a three-
12 year ramping up period, now what happens after
13 we've ramped up? Will these numbers ramp-up?

14 MARLA SIMPSON: I don't know what,
15 again, I think we are trying very, you know, we're
16 trying every technique that we have in order to
17 bring the prime contractor numbers up. They are
18 governed by, as your introductory remarks noted,
19 they're governed by restrictions that are
20 significant and that would be significant even if
21 a price preference were instituted, that the gaps
22 between our lowest bid and our lowest MWBE bid
23 will often exceed that price preference even if
24 that were to be adopted. So there is a
25 fundamental structural question about how to bring

2 the prime contractor numbers up.

3 Another aspect that needs to be
4 looked at is that in some of those dollar
5 thresholds where you're talking about the total
6 amount of contracting that the city does is not
7 statistically significant at all. If there's only
8 \$90,000 done citywide in a particular category,
9 there's nothing statistically significant that can
10 be accomplished with those goals because \$94,000
11 is not even, you know, it just is not amount that
12 we can deal with.

13 CHAIRPERSON JAMES: Ms. Simpson and
14 Commissioner Walsh, by no means, please don't take
15 my disgust and my exhaustion and my frustration
16 with the state of affairs in the city of New York
17 as any indication on your performance, I know that
18 you work very hard, it's just that, unfortunately,
19 I think this has a correlation to what we're
20 seeing in the inner cities all throughout the city
21 of New York, and that is this high rate of
22 unemployment of people of color and the violence
23 that unfortunately goes with that, which is--not
24 doesn't go with that, but I believe is somehow
25 associated with that or partly responsible for

2 that.

3 Your testimony, litigation support,
4 medical services, street lighting, and tree
5 planting, I know Local Law 129 does not apply to
6 these particular types of contracts, but my
7 question is with Wicks Law being repealed and with
8 your commitment, can we see any increase in those
9 particular contracts, in those areas?

10 MARLA SIMPSON: I think we will
11 definitely see an increase, the three trades that
12 are governed by the Wicks Law where we have not
13 seen subcontracting are electrical, plumbing, and
14 the so-called HVAC, or heating and air
15 conditioning area, mechanical. All of these
16 areas, including the ones you mentioned--
17 litigation support and tree planting and whatnot--
18 they're all covered by Local Law 129, the issue is
19 that legally we can't force a prime contractor to
20 do subcontracting. If a prime contractor says no,
21 I won and I am going to execute this entire
22 contract myself, we have to accept that result and
23 allow them to proceed. That's what happens in the
24 four categories that you--

25 CHAIRPERSON JAMES: Right.

2 MARLA SIMPSON: --mentioned and
3 that's what has happened in electrical and
4 plumbing and mechanical.

5 Our expectation is that what we can
6 do once we don't have that Wicks restriction is we
7 can award a larger portion of the contract to the
8 general contractor, there's a great deal of
9 competition for general contracting work, and then
10 we can hold that general contractor accountable
11 for achieving goals for all of its subs. So, for
12 example, if you've got \$100 million general
13 contract and there's going to be \$20 million worth
14 of electrical work, there may be some of those
15 electrical subcontracts that are large and that
16 are going to larger companies--

17 CHAIRPERSON JAMES: [Interposing]
18 Well what legal authority--

19 MARLA SIMPSON: --but they'll have
20 to do smaller ones.

21 CHAIRPERSON JAMES: --what legal
22 authority can you do that, by what legal authority
23 can you do that?

24 MARLA SIMPSON: As the construction
25 manager for the job, the city has the ability to

2 break up the bid packages however we want to--

3 CHAIRPERSON JAMES: [Interposing]

4 And require the GC to--

5 MARLA SIMPSON: [Interposing] In
6 effect, we can impose the goal on the GC, the GC
7 in that bid--I mean if you had a general
8 contractor, I don't think this exists in city
9 construction, but if you had a general contractor
10 whose business model was, I do everything, I don't
11 sub anything--

12 CHAIRPERSON JAMES: Right.

13 MARLA SIMPSON: --I have plumbers,
14 I have electrical, I do everything, then, no, we
15 couldn't force them to subcontract, but that is
16 not the business model of most general
17 contractors, most of them do a substantial amount
18 of subcontracting, so if you say to them, we want
19 you to achieve these goals in your subcontracts,
20 they're likely to be able to do that in a way that
21 when we award a single contract to one electrical
22 company as the Wicks contractor for that job,
23 normally we don't see much if any subcontracting
24 by that electrical company, they just do all the
25 work.

2 CHAIRPERSON JAMES: We've been
3 joined by Council Member Nelson. Do any of my
4 colleagues have any other questions? Council
5 Member Jackson.

6 COUNCIL MEMBER JACKSON: Thank you,
7 Chair. I wanted to explore from a program point
8 of view, is there a partnership between SBS or the
9 Mayor's Office of Contract or with city agency
10 with Columbia University as far as MWBEs and, if
11 so, what is it and what does it entail and how is
12 that going to increase the number of MWBE's
13 contracts and the numbers of the dollar values of
14 it?

15 ROBERT WALSH: I'm going to call up
16 the Assistant Commissioner who oversees the
17 program with Columbia to explain what we're doing
18 with the firms and the university. This is
19 Colleen Galvin, the Assistant Commissioner.

20 COLLEEN GALVIN: Good morning
21 everyone. We've just entered the second year of a
22 mentorship program with Columbia University, our
23 construction companies apply to this program and
24 were selected by committee. They receive training
25 in all aspects of project management with Columbia

2 and they actually receive access to a designated
3 group of projects, they work hand in hand with
4 Columbia facilities project managers to bid on
5 those contracts and ensure that they succeed on
6 those contracts.

7 While this is, you know, a private
8 sector partner, our hope is that these firms, in
9 working with Columbia, will grow their capacity
10 for city projects, they will become better
11 managers of their companies and better able to
12 complete larger projects.

13 COUNCIL MEMBER JACKSON: So what
14 role is SBS or the Mayor's Office of Contract
15 playing with Columbia University? As a resource,
16 as a monitor, as an oversight, what capacity are
17 you in a relationship with Columbia University?

18 COLLEEN GALVIN: It's all those
19 things that you mentioned. In the first year we
20 worked very closely with them to structure the
21 program in a way that we thought would be most
22 successful and they've actually brought on
23 additional resources as a result to run the
24 program in-house, and we've been working with them
25 in the second year to screen the companies that

2 are being administered and to monitor results.

3 COUNCIL MEMBER JACKSON: And where
4 is all of this information available as far as
5 transparency is concerned?

6 COLLEEN GALVIN: We can get that
7 information to you in a follow-up.

8 COUNCIL MEMBER JACKSON: Okay. Is
9 there anything listed on your website, SBS, is it
10 in this particular procurement indicators--

11 COLLEEN GALVIN: [Interposing] It's
12 in the testimony actually, we talked about it, the
13 commissioner talked about it in the testimony.

14 ROBERT WALSH: We'll get you--

15 [Off mic]

16 [Pause]

17 COUNCIL MEMBER JACKSON: Okay,
18 please. And so this relationship between Columbia
19 University and SBS, is this a continuous
20 relationship or is it a one-time relationship--

21 ROBERT WALSH: [Interposing] My
22 hope is that we continue to build on this, I think
23 there's a lot of other opportunities given that
24 Columbia is expanding and developing, they have a
25 new local development corporation, you know, we

2 have done a lot of work with various nonprofit
3 organizations. We have opened up a Business
4 Solution Center nearby, you know, it's our plan--

5 COUNCIL MEMBER JACKSON:

6 [Interposing] Nearby where?

7 ROBERT WALSH: Nearby the campus on
8 125th Street with our Business Solution Center
9 teaming up with Seedco, a financial and, you know,
10 working with many of the small businesses that are
11 either are operating or looking to grow in the
12 area. So I think this is just the beginning as
13 Columbia continues to grow and expand and develop
14 its local development corporation and courses like
15 this.

16 COUNCIL MEMBER JACKSON: And the
17 statistics as to the number of programs available
18 or MWBEs that are participating, you would have
19 those stats?

20 [Off mic]

21 COUNCIL MEMBER JACKSON: And what
22 about, since Columbia University is basically
23 located in Manhattan [off mic] Harlem is, for
24 example, the Greater Harlem Chamber of Commerce
25 aware and involved, is the Harlem Business

2 Alliance, which Virginia is back there, are they
3 involved and they are aware, these are individual
4 organizations that are involved in the greater
5 Harlem community.

6 ROBERT WALSH: I think the
7 officials that Columbia will have much more detail
8 on that and I'll be happy to reach out to them and
9 get more of that information as you've request.

10 [Crosstalk]

11 ROBERT WALSH: [Interposing] I
12 don't have the specifics of the MWBE program --

13 COUNCIL MEMBER JACKSON: Right.

14 ROBERT WALSH: --of Columbia, I
15 think that's what you're asking for, I do not have
16 the details on that. I could tell you about our
17 initiatives on construction management because it
18 makes sense, I could tell you the efforts that we
19 have made on, you know, getting capital access on
20 small businesses, but in terms of their, I guess a
21 much more far reaching, you know, initiative that
22 they have under way, I would need to get that
23 information from Columbia for you.

24 COUNCIL MEMBER JACKSON: Okay. So
25 basically in a nutshell tell me what is the goal

2 of the partnership, the joint partnership with
3 Columbia University.

4 ROBERT WALSH: Go ahead.

5 COLLEEN GALVIN: The goal of the
6 program again, as the Commissioner, mentioned,
7 Columbia does have its own MWBE program and they
8 want to get more and more companies involved on
9 campus and so they're able to take on larger and
10 larger projects.

11 COUNCIL MEMBER JACKSON:

12 [Interposing] You mean more and more MWBEs?

13 COLLEEN GALVIN: Yes, and--

14 COUNCIL MEMBER JACKSON: Or just
15 more and more companies overall?

16 COLLEEN GALVIN: No, more MWBEs and
17 to train those MWBEs to be able to do larger
18 projects with the university.

19 COUNCIL MEMBER JACKSON: Okay.

20 Okay, well thank you for that information, but now
21 overall, with respects to partnership,
22 Commissioner, with, you know, groups, and I'm
23 talking now not specifically about Columbia
24 University, with the Harlem Business Alliance, the
25 Greater Harlem Chamber of Commerce, with the

2 AMENY, the Association for Minority Enterprises of
3 New York, and with the other groups and
4 organizations, especially in the black and Latino
5 and Asian community, and we're going to be hearing
6 from some of them later, overall, how would you
7 characterize your relationship with these groups
8 and organizations and overall your success rates
9 as far as you in essence, self-evaluation as far
10 as MWBE programs. Do you feel that in evaluating
11 yourself that have you been satisfactory,
12 unsatisfactory, needs improvement, or an
13 excellent, or some people would rate it on a scale
14 of 1 to a 100, so a little self-analysis, and
15 sometimes it's a little telling when people
16 evaluate themselves.

17 ROBERT WALSH: Well I think the
18 numbers speak for themselves and the connections
19 and I would say that the success that we've had in
20 this program, if not for the partnerships that we
21 have had and the fact that, you know, since I took
22 over in 2002, we've made an extra effort to reach
23 out into communities and visit hundreds and
24 hundreds of groups, whether Harlem or Bed Stuy or
25 Fort Greene or, you know, you name the area. I

2 think one of the things I would say in terms of a
3 self-assessment is we've been there, we've been
4 reaching out and we've been looking and listening
5 to various communities about what we could do to
6 improve the program, you know, starting with
7 making it easier to do business with the city and
8 we've heard that loud and clear. You know, going
9 from 760 certifications to 2,400 is significant.

10 I think it's also significant in
11 terms of the--you know, we started with no
12 capacity building courses, whether it was Columbia
13 or technical assistance that we've had at various
14 CUNY campuses, making the connections, you know,
15 beyond the MWBE program and I think that's one of
16 the things that we've done.

17 As you know, this has also been a
18 partnership with the Council in reaching out to
19 the various nonprofit organizations who have
20 helped us certify companies, have helped us reach
21 out, has helped us make our, whether it's our
22 annual procurement fair or some of the smaller
23 efforts successful. Is there always work to be
24 done? Absolutely, there's no question about it
25 and I think there's always room for improvement.

2 [Pause]

3 COUNCIL MEMBER JACKSON: Well I'm
4 going to turn back to the Chair to see if there's
5 any additional questions that somebody else may
6 have.

7 CHAIRPERSON JAMES: Thank you,
8 Council Member Jackson. I just have two last
9 questions before I turn to Council Member Stewart.
10 We've been joined by Melissa Mark-Viverito, who
11 was in my district and her car got towed, so I
12 apologize. We have zero tolerance for--

13 COUNCIL MEMBER MARK-VIVERITO:
14 Downtown Brooklyn.

15 CHAIRPERSON JAMES: --in downtown
16 Brooklyn, sorry.

17 COUNCIL MEMBER MARK-VIVERITO: I
18 won't be--

19 [Off mic]

20 CHAIRPERSON JAMES: Commissioner
21 Walsh, I know that you have done a great job in
22 increasing the numbers of businesses that have
23 been certified. Do you think that now we should
24 move our focus from certification to technical
25 assistance and capacity building--

2 ROBERT WALSH: Yes.

3 CHAIRPERSON JAMES: --and do you
4 believe that the contracts, the programs that were
5 initiated by the City Council should reflect that?

6 ROBERT WALSH: Yes, you know, what
7 I heard early on is sort of interesting in
8 preparing for the testimony. You look at years
9 past and what I often heard from ACOs early on was
10 that there was not enough of a pool or a greater
11 pool of MWBE certified firms. You know, when you
12 look at the 760s and you start breaking it down by
13 categories, there's something to be said about
14 that.

15 We have spent a lot of time
16 building that pool, we have also spent a lot of
17 time getting companies ready to compete, you know,
18 with the number of courses that we started. I
19 wasn't handed a guidebook that said, okay put
20 these courses, here are the courses that we've
21 been following in previous administrations. It
22 wasn't there, so we have built that up. I think
23 the steps that we have taken and a lot of it goes
24 to the deputy commissioners, both Schwartz and
25 Anne Rascon and Craig Bishop, of this account

2 management approach working with Marla and her
3 team is the right way. Breaking it down by each
4 and every agency and finding out what the spending
5 patterns are, where the spending is, and being
6 very aggressive and meeting with those groups on a
7 regular basis is the right approach.

8 You know, none of us are satisfied
9 with the numbers. You know, and the question is
10 where do we have opportunities to build on some of
11 the areas and if we're not getting results in some
12 of these agencies, the question is why and why is
13 it that HRA has a good track record on micro-
14 purchasing or DCAS has a good--

15 CHAIRPERSON JAMES: Right.

16 ROBERT WALSH: --track record and
17 how do we replicate that with other agencies and
18 holding up some of the best practices that we have
19 to see if we could replicate with that with the
20 other agencies.

21 CHAIRPERSON JAMES: And my
22 suggestion to you is--

23 ROBERT WALSH: Yeah.

24 CHAIRPERSON JAMES: --just training
25 these businesses on the bid packages and what is

2 in the bid packages and breaking apart the bid
3 packages and informing them what is required.

4 ROBERT WALSH: And I think the
5 other key thing, again, this is somewhere--this
6 is, again, where we did not have, we did not have,
7 Council Member, a suite of services, you came in
8 as a certified company, we could not refer you to
9 some of the other areas and ask you, do you need
10 help with your business, okay? Do you need help
11 to get to the starting line to a bid. Okay, we
12 have courses, we have capital access--

13 CHAIRPERSON JAMES: Right.

14 ROBERT WALSH: --we have people who
15 could walk you through your business plan--these
16 are all things--and if you will, we're looking
17 forward and that's what you're asking.

18 CHAIRPERSON JAMES: Right.

19 ROBERT WALSH: These are the things
20 that we need to do better--

21 CHAIRPERSON JAMES: Yeah.

22 ROBERT WALSH: --it's not good
23 enough for me that only 25% of our companies are
24 taking advantage of some of the--

25 CHAIRPERSON JAMES: Right.

2 ROBERT WALSH: --other services
3 that we have.

4 CHAIRPERSON JAMES: No, I
5 understand. And as you know, with the Navy Yard
6 development about to--

7 ROBERT WALSH: Yeah.

8 CHAIRPERSON JAMES: --be moved
9 forward, and one of the reasons why I'm a little
10 down is the Court of Appeals decision just came
11 out 10 minutes ago about Atlantic Yards allowing
12 it to go forward, though individuals say it's
13 still not over, that was a major, unfortunately, a
14 major setback for those who are fighting it,
15 including myself.

16 So there's a lot of development in
17 my district and obviously I want to make sure that
18 we increase opportunities for women and businesses
19 of color.

20 I know, Ms. Simpson, you have to
21 leave and--

22 ROBERT WALSH: [Interposing] You
23 mentioned the Navy Yard, I think that's a good
24 example of where we've made some headway on MWBE,
25 I think Andy Campbell has done a good job on those

2 programs.

3 CHAIRPERSON JAMES: Yes, I agree.
4 I know, Ms. Simpson, you have to leave in three
5 minutes, my last question to you--and, hopefully,
6 Mr. Stewart, do you have a question for Ms.
7 Simpson or the Commissioner? Is the question
8 posed to Ms. Simpson or the Commissioner?

9 COUNCIL MEMBER STEWART: The
10 question will be--

11 [Pause]

12 COUNCIL MEMBER STEWART: The
13 question will be to the entire panel.

14 CHAIRPERSON JAMES: Go ahead.

15 COUNCIL MEMBER STEWART: Well I
16 want to applaud you for the increase in
17 certifications, but what can you tell me about
18 with all that certification, the people who have
19 been certified, are they getting contracts and
20 what percentage of contracts are they getting?
21 Because it appears to me that there is very little
22 being done for the people who have been certified.
23 Yes, they have been certified, but no jobs, no
24 work, no contracts.

25 MARLA SIMPSON: Well \$1.2 billion

2 is not nothing, it's not enough, but it's not
3 nothing, \$1.2 billion in contracts and
4 subcontracts have gone to certified MWBEs since
5 this program started, so that's a threshold.
6 Again, we have a lot of work to do to go better,
7 we need to look at the law itself and see if there
8 are ways in which the limitations in the law can
9 be adjusted. For example, in this past fiscal
10 year, out of the whole portfolio that the city
11 did, about 1 1/2 billion was covered by this law,
12 that's, you know, barely like 10% of what we did
13 overall. So that's, I mean within the structure
14 that the law allows us, we've made enormous
15 progress. Neither Commissioner Walsh nor I nor we
16 agree, we assume you, none of us believe this is
17 sufficient, but it's a good start, and we've got
18 \$1.2 billion to show for it and we're moving
19 forward to try and increase that.

20 CHAIRPERSON JAMES: Right.

21 COUNCIL MEMBER STEWART: So tell me
22 what are you going to do going forward to make
23 sure that we have a great increase in terms of
24 contracts going to MWBE.

25 MARLA SIMPSON: A number of the

2 things have been summarized earlier, I think from
3 my standpoint, the most hopeful sign that I see on
4 the horizon that should make a difference in the
5 years to come is that we will be able in the
6 construction side to manage our projects and to
7 encourage subcontracting much more readily now
8 that we won't have to follow Wicks Law on
9 everything, that will make a huge difference and
10 that starts today.

11 CHAIRPERSON JAMES: And now that we
12 have the change in the Wicks Law, now that we're
13 past that three year mark in terms of ramping up,
14 our focus now will be on, again, the changes in
15 the Wicks Law, the changes in the PPB rule, and
16 the changes in bonding, that's where the emphasis
17 will be, is that--

18 MARLA SIMPSON: [Interposing] The
19 emphasis now is on trying operationalize those and
20 make that reflect in performance totals that will
21 bring those numbers up, that's what the purpose of
22 making those changes has been so that we can bring
23 those numbers up.

24 CHAIRPERSON JAMES: And continue to
25 lobby Albany with regards to the disparity study

2 and changes in state law, correct?

3 MARLA SIMPSON: Where we feel
4 there's a need for changes in state law, don't
5 know that we're in exactly the same place that you
6 are as a Council, we welcome the partnership with
7 you on the areas where we agree, and you know, I
8 think that those are all open questions that we
9 can continue to revisit. I think we're going to
10 be able to make some significant performance
11 improvements with the state law change that we got
12 and we're going to work on that one before we work
13 on any new ones.

14 CHAIRPERSON JAMES: Thank you, Ms.
15 Simpson, it is now 12 o'clock.

16 MARLA SIMPSON: Thank you.

17 CHAIRPERSON JAMES: You're welcome.

18 MARLA SIMPSON: Thank you so much.

19 CHAIRPERSON JAMES: Thank you,
20 Commissioner, as well.

21 ROBERT WALSH: Thank you very much,
22 appreciate it.

23 CHAIRPERSON JAMES: Next panel.

24 ROBERT WALSH: Thank you.

25 CHAIRPERSON JAMES: Sandra Wilkins

2 from the Women Builders Council--

3 MALE VOICE: Thank you.

4 CHAIRPERSON JAMES: --Ms. Abreu
5 from the New York Women's Chamber of Commerce,
6 Josephina Nidea from the New York Women's Chamber
7 of Commerce, and lastly, Dr. Edna F. Harris-
8 Hastick--oh, Ms. Harris, Ms. Hastick, from the
9 Caribbean Chamber of Commerce, I didn't see her--
10 oh, I didn't see you back there.

11 [Pause]

12 CHAIRPERSON JAMES: Welcome.

13 FEMALE VOICE: Thank you--

14 [Off mic]

15 [Long Pause]

16 CHAIRPERSON JAMES: Is anyone
17 staying behind from SBS?

18 [Off mic]

19 CHAIRPERSON JAMES: Just checking.
20 You're all on the same panel, Ms. Hastick--

21 [Off mic]

22 FEMALE VOICE 1: Missing someone.

23 FEMALE VOICE 2: Josephine--

24 [Off mic]

25 FEMALE VOICE 2: --up here, bring

2 your stuff.

3 FEMALE VOICE 3: The panel is--

4 [Off mic]

5 FEMALE VOICE 2: Josephine [off

6 mic] somebody else. Yes.

7 CHAIRPERSON JAMES: That's okay,

8 that's all right.

9 FEMALE VOICE 2: Just bring your
10 stuff.

11 FEMALE VOICE 4: There's always
12 room for one.

13 CHAIRPERSON JAMES: Is there
14 another chair for Mr.--

15 [Pause]

16 CHAIRPERSON JAMES: Sergeant-at-
17 Arms [off mic]--

18 JOSEPHINA NIDEA: I can move over.

19 CHAIRPERSON JAMES: --another
20 chair?

21 JOSEPHINA NIDEA: I can move over.

22 CHAIRPERSON JAMES: That's okay,
23 that's okay.

24 [Pause]

25 CHAIRPERSON JAMES: Sergeant-at-

2 Arms, could I get another chair for another
3 witness?

4 JOSEPHINA NIDEA: You have your
5 testimony--

6 [Off mic]

7 JOSEPHINA NIDEA: You want to be
8 first?

9 EDNA HASTICK: I'll move over this
10 way.

11 [Off mic]

12 QUENIA ABREU: Okay, you could stay
13 there, stay there.

14 EDNA HASTICK: But there's one
15 more.

16 CHAIRPERSON JAMES: That's kind of
17 low--

18 [Pause]

19 QUENIA ABREU: Just make it quick.

20 [Pause]

21 QUENIA ABREU: ...First. Is this on?

22 [Long Pause]

23 FEMALE VOICE: Move this way--

24 [Off mic]

25 SANDRA WILKIN: --that's okay, I'll

2 sit here.

3 [Off mic]

4 MALE VOICE: And watch the wires.

5 SANDRA WILKIN: No problem.

6 CHAIRPERSON JAMES: Thank you,
7 ladies.

8 [Long Pause]

9 SANDRA WILKIN: Good afternoon--
10 it's not on. Is it on now?

11 FEMALE VOICE: Yes.

12 SANDRA WILKIN: Okay. Good
13 afternoon, I'm Sandra Wilkin, President of the
14 Women Builders Council and I thank you very much,
15 the members of the Council for today's invitation
16 to this morning's hearing.

17 Before giving my testimony, I wish
18 to express the deep gratitude of the members of
19 the Women Builders Council for the City Council's
20 grants to our organization for our programs.
21 Speaker Quinn and the Council have been very
22 financially supportive in the past, you're funding
23 this year will help us in our mission to expand
24 opportunities for women in the construction field.
25 The WMBE community regards the City Council as one

2 of its strongest advocates.

3 The WMBE, WBC continues to have a
4 strong working relationship with Small Business
5 Services. Our organization has collaborated with
6 SBS on certifying businesses to become eligible
7 for inclusion in the city MWBE programs. The SBS
8 Commissioner, Deputy Commissioners, and staff have
9 given their counsel without fail. WBC welcomes
10 the SBS willingness to change the focus of WBC's
11 activities from certification to new innovative
12 programs to increase capacity and provide for new
13 procurement approaches.

14 WBC has led the way in providing
15 new bonding initiatives for WMBE's. WBC has taken
16 a leadership role in addressing the insurance
17 needs for our community. SBS has been open to new
18 ideas and new approaches. The agency recognizes
19 the complexity of the challenges facing us. WBC
20 has every confidence that the Department of Small
21 Business Services will continue to be a valued
22 partner in making WMBEs even more important to the
23 city's economic future.

24 In an initial review of the
25 agency's procurements indicators, fiscal year 2009

1
2 an examination of the performance under Local Law
3 129, I wish I could be as positive. We have some
4 examples citing some of our concerns. When you
5 review Local Law 129 reports section regarding
6 prime contracting opportunities, you can only
7 conclude there is an opportunity gap. If you
8 review pages 54 and 55 and look at all categories
9 listed, you will see that it reports higher
10 percentages, however, the dollar value is rather
11 low. If the purpose of the law is to grow firms
12 and certify more firms, the real dollar amount
13 shows that it is not reflected in the number of
14 opportunities.

15 The section on subcontracting
16 opportunity raises many concerns. Under the
17 utilization plan, we know all too well that prime
18 contractors commit to one subcontractor who gives
19 them one price, only to use another subcontractor.
20 There should be a review of how prime contractors
21 are soliciting subs. It is important for you to
22 examine the effectiveness of the primes outreach
23 to subs, I would hope that you would review how
24 subcontracting are sought. Too often, primes
25 request services which are not consistent with

2 services to be provided by that sub. For example,
3 a prime faxes a request for plumbing services to
4 electrician.

5 When you look at the waiver
6 materials, refer to page 57, you'll realize that
7 concerns are raised by the number of waivers,
8 which is simply too high, waivers should only be
9 used in rare instances. It is important for the
10 Council to review this area.

11 I'm also concerned about the
12 limitation the city is placing on WMBEs. Let me
13 read from page 56, paragraph 3: the city agency
14 first determines the percentage of the prime
15 contract that is likely to be subcontracted for
16 those three types of work where the
17 subcontractor's dollar value will fall under the
18 \$1 million threshold. Once this calculation,
19 termed the target subcontracting percentage, TSP,
20 is performed, the agency determines the
21 appropriate MWBE goals and applies those to the
22 dollar value of the TSP using the estimate of the
23 value of the prime contract about to be bid out.
24 I guess in simple terms what it means is that
25 MWBEs are only valued at a million or less per

2 project.

3 After review of agency procurements
4 indicators appendix K1, you will clearly see that
5 the agency goals are not being met. There is a
6 pressing need for an audited report indicating why
7 goals for agencies are not being achieved. I
8 would hope that the Council continues to press the
9 agencies as to this concern and what measures will
10 be taken to reach the stated goals.

11 In conclusion, let me say that the
12 progress has been made and WBC is confident that
13 the city administration, the City Council, and
14 women and minority business enterprise community
15 will continue their work together to eliminate the
16 obstacles and challenges for the benefit of a
17 strong and sustainable economy for the city of New
18 York. Thank you.

19 [Pause]

20 QUENIA ABREU: Good afternoon,
21 members of the City Council. My name is Quenia
22 Abreu, I'm the President of the New York Women's
23 Chamber of Commerce, and we're one of the
24 leadership organizations selected by the City
25 Council to assist SBS with the MWBE program. We

2 have been successfully doing so. As a matter of
3 fact, 60% of the total companies that were
4 assisted by the leadership organizations to become
5 certified came from the New York Women's Chamber
6 of Commerce and we're very proud of that.

7 When the Chair James asked SBS,
8 what can be done to improve the effectiveness of
9 the program, one of the things that we would like
10 to say is that I've always thought that there is
11 no reason to duplicate efforts, and that we should
12 really decide if the leadership organization
13 should focus on doing certification or the
14 capacity building of the clients. As it is right
15 now, we feel that we duplicate services, but a lot
16 of times, what ends up happening is that we would
17 put together an event where SBS is invited to
18 speak, those are our people and then we find out
19 that SBS had later on contacts them and gives them
20 certified.

21 At this point, some of the
22 complaints that we get from the clients is that
23 once they get certified, as Robert Jackson was
24 saying, then, you know, what else is next, how can
25 we get contracts. And we fear that we might end

2 up with thousands and thousands of companies
3 certified with no contracts, which presents a real
4 problem, not only because then it defeats the
5 purpose of Local Law 129, but what happens is when
6 you get companies that are getting certified and
7 not getting contract, the word gets out there and
8 they tell other people don't get certified, don't
9 bother, because you're not--

10 [Off mic]

11 QUENIA ABREU: Exactly, it's not
12 worth it, so we really have to be careful with
13 that.

14 One of the other things is that we
15 have encountered in I guess this year and last
16 year, is that, when it comes to some of the Latino
17 companies that we have submitted for
18 certification, there have been a question about
19 ethnicity. It already happened, what happened
20 with Frank and we thought that he was exaggerating
21 at some point, but we have found that that was not
22 the case because we have experienced the same
23 situation with some of our clients. And that--

24 CHAIRPERSON JAMES: [Interposing]

25 Others besides?

2 QUENIA ABREU: Huh?

3 CHAIRPERSON JAMES: Others besides
4 Frank?

5 QUENIA ABREU: Yeah, others, and if
6 they all have been Latino clients, Latino-owned
7 companies, which I find very strange considering--

8 [Off mic]

9 QUENIA ABREU: Uh-huh.

10 CHAIRPERSON JAMES: Because of his
11 birth of origin or what exactly--what did they
12 question about his ethnicity?

13 QUENIA ABREU: Well with Frank
14 specifically, they ask for a letter from his
15 mother certifying that he was Puerto Rican.

16 CHAIRPERSON JAMES: Have you ever
17 known any other vendor--I'm sorry, have you known
18 any other vendor that had to submit a letter from
19 their mother?

20 QUENIA ABREU: Well yeah, this is
21 what happened, we had another case by the name of
22 José la Jesus [phonetic], of Jesus Painting, he is
23 a US citizen but born in Dominican Republic as is
24 stated on his passport and the copy of his
25 passport was submitted with the application with

2 the certification application, then he received a
3 letter from SBS asking for copies of the birth
4 certificate of his parents or his grandparents
5 born in Dominican Republic, which I don't really
6 understand because it was already stated on his
7 passport that he is Dominican, that he was born in
8 Dominican Republic, although he's a US citizen.

9 CHAIRPERSON JAMES: So the staff
10 member who is here from SBS, could you just get
11 back to me as to why that was necessary? Could
12 you just ask the Commissioner to respond to me
13 either in writing or through a phone call, why was
14 it necessary if the passport states one's, you
15 know, place of origin.

16 FEMALE VOICE: Can I have the--

17 [Pause]

18 CHAIRPERSON JAMES: Okay. We'll do
19 that offline.

20 [Off mic]

21 QUENIA ABREU: Yeah, we could--I
22 mean--

23 CHAIRPERSON JAMES: We'll talk
24 offline.

25 QUENIA ABREU: Exactly.

2 CHAIRPERSON JAMES: Go ahead, I'm
3 sorry.

4 QUENIA ABREU: So that's one of the
5 things that I really feel that if we'd really
6 trying to encourage the participation of our women
7 and minorities to become certified and then we're
8 going to turn around and add extra steps to that
9 certification process, which already is a lengthy
10 process, then we are not going to be as effective
11 as we should be. Thank you very much.

12 JOSEPHINA NIDEA: I am--

13 [Off mic]

14 JOSEPHINA NIDEA: It's on, it's on.

15 CHAIRPERSON JAMES: Press the [off
16 mic]--

17 JOSEPHINE NIDEA: No, it's on.

18 CHAIRPERSON JAMES: No, it's not,
19 press the--

20 JOSEPHINA NIDEA: It's not?

21 JOSEPHINA NIDEA: Okay. Good
22 afternoon everyone, I am Josephina Nidea, I am the
23 certification specialist in the New York Women's
24 Chamber of Commerce. I'm here just to testify and
25 present one case like what Quenia mentioned of an

2 applicant who submitted an application with the
3 SBS and he is of Cuban descent. He was able to
4 submit a copy of his birth certificate stating the
5 names of his parents, but unfortunately, in his
6 birth certificate, his parents were both born here
7 in the United States. So SBS went back to him and
8 asked him to prove his grandparents' country of
9 origin. But unfortunately his grandparents passed
10 away when he was still a young man, a young boy
11 and his father told him that they had a fire in
12 their home and all important documents got burned,
13 and he could not prove that. So he was really in
14 a dilemma, but--

15 CHAIRPERSON JAMES: [Interposing]

16 So self-representing is not enough for them?
17 You've got to prove--

18 JOSEPHINA NIDEA: Yeah, and his
19 last name is a Hispanic name--

20 CHAIRPERSON JAMES: [Interposing]

21 But as an African-American person, they just look
22 at me and say okay, she's black.

23 JOSEPHINA NIDEA: Yeah.

24 CHAIRPERSON JAMES: So as a
25 Hispanic--

2 JOSEPHINA NIDEA: But he--

3 CHAIRPERSON JAMES: --person,
4 that's not good enough?

5 QUENIA ABREU: No.

6 JOSEPHINA NIDEA: No, because his
7 mother is Polish, I guess, but because of her
8 mother's maiden name, but his father is a Hispanic
9 name. And when you look at him, he is a mix of
10 Caucasian and Latino. But then, like what
11 Councilman Jackson mentioned, that when they get
12 certified, what's next, in his case it's a
13 different thing because he hasn't been certified,
14 but he was able to participate in the Columbia
15 University mentorship program, because Columbia--

16 CHAIRPERSON JAMES: [Interposing]
17 But he wasn't certified because--

18 JOSEPHINA NIDEA: [Interposing]
19 Yeah, but his certification was with the SBS and
20 it is in process and he went through the process
21 for qualification with the mentorship program and
22 he got qualified--

23 CHAIRPERSON JAMES: [Interposing]
24 So he was accepted for the mentorship--

25 JOSEPHINA NIDEA: Yeah.

2 CHAIRPERSON JAMES: --program, but
3 not for the certification.

4 QUENIA ABREU: Exactly.

5 JOSEPHINA NIDEA: Not for the
6 certification.

7 CHAIRPERSON JAMES: Let me ask you
8 this question, was he accepted on the federal
9 and/or state level? Did they accept his
10 ethnicity? Did they challenge him?

11 JOSEPHINA NIDEA: He tried to
12 submit it with Empire State and the Port
13 Authority, but they haven't replied back to him.
14 But in the mentorship program with Columbia, in
15 the midst of the program, Columbia University
16 asked him what is the status of his certification
17 because they were in that portion of the program
18 where they would partner with a prime--

19 CHAIRPERSON JAMES: Right.

20 JOSEPHINA NIDEA: --contractors of
21 the university, but when he told him, you know--

22 CHAIRPERSON JAMES: [Interposing]
23 So he lost an opportunity--

24 JOSEPHINA NIDEA: --I had to
25 withdraw--yeah--

2 QUENIA ABREU: Yeah.

3 JOSEPHINA NIDEA: --he lost that
4 opportunity. And, you know, this applicant has
5 been really going out, reaching out, attending a
6 lot of procurement opportunities, he was there in
7 the Turner construction, and there was an agency
8 that wanted him to, you know, bid for a contract.
9 And when they found out that he was not yet
10 certified, they said you have to go back and get
11 certified.

12 So my point is what really is the
13 meaning of ethnicity and what is minority in that
14 sense, because if we would all remember the
15 Spanish and the Portuguese, you know, they were
16 all over the world, even in my country of origin,
17 the Philippines, the Spaniards were there, you
18 know, they're all over so--and Cuba, you know the
19 history of Cuba--

20 CHAIRPERSON JAMES: Right.

21 JOSEPHINA NIDEA: --and when they
22 came over here, so that's just what I want to
23 request from the City Council Small Business
24 Services is to give us guidelines or a policy
25 stating what it really is the meaning of ethnicity

2 and minority because we are very actively pursuing
3 certification in all the five boroughs, we go
4 around the five boroughs doing MWBE seminars and
5 workshops and we come to this and what I learned
6 from Quenia, the SBS wanted us to reach out more
7 to the Hispanic community--

8 CHAIRPERSON JAMES: Right.

9 JOSEPHINA NIDEA: --and I think this
10 will be a problem.

11 CHAIRPERSON JAMES: So, again, SBS,
12 on this second instance of, I believe, alleged
13 discrimination, if you could get back to me, I'd
14 appreciate it as to why this individual had to go
15 through--jump over hoops to prove his ethnicity.
16 Thank you. Ms. Hastick.

17 EDNA HASTICK: Thank you, thank you
18 very much.

19 CHAIRPERSON JAMES: How is your
20 husband?

21 EDNA HASTICK: Well I bring you
22 greetings on behalf of Roy Hastick, thank you for
23 asking. He is continuing to recuperate from an
24 illness, and I see many friends here. He sent you
25 his warmest regards and he has asked me to speak

2 to you on his behalf.

3 Honorable Chairpersons, Tish James
4 and Robert Jackson, distinguished members of the
5 City Council of New York City, ladies and
6 gentlemen, on behalf of the Board of Directors of
7 the Caribbean American Chamber of Commerce and
8 Industry, I am pleased to have been invited to
9 attend this hearing to testify about our
10 involvement in the MWBE program for the past three
11 years. Caribbean American Chamber of Commerce and
12 Industry is pleased to continue to be part of New
13 York City's efforts to attract women and minority-
14 owned small business owners, gauge them in the
15 process of becoming certified by the City of New
16 York so that they can enhance their business
17 growth and development.

18 CACCI is also pleased to serve as a
19 member of New York City's Leadership Association
20 that's charged with implementation of the Local
21 Law 129. As we are aware, the primary goal of the
22 MWBE Leadership Association is to assist eligible
23 minority and women-owned firms to become certified
24 and/or to recertify as MWBEs within the city of
25 New York.

2 I'm especially pleased to present
3 our findings today, partly because the Caribbean
4 American Chamber has had a long history of
5 advocating and promoting small businesses. It was
6 because of our strong interest, deep heartfelt
7 concern about what we were hearing from small
8 Caribbean American and African American business
9 owners that CACCI was founded in 1985. Here we
10 are 25 years later, we can testify to the reality
11 that over the years with the support of our
12 partners across different ethnic groups--the
13 Hispanic Chamber of Commerce, Brooklyn Chamber of
14 Commerce and others, elected officials, business
15 and community leaders--CACCI has convened over 600
16 business meetings including seminars, power
17 breakfast meetings, other business networking
18 events and focus groups. Three of the most
19 frequent topics on every monthly membership
20 meeting continues to be financing, certification
21 preparation, and procurement opportunities. A
22 list of the speakers over the years is included in
23 your package, which was presented to you.

24 But I want to share with you that
25 written and oral responses from our membership and

2 the wider small business community continues to
3 demonstrate that the primary concern of small
4 business owners who are eager to learn, to gain
5 the tools, to get the expertise necessary to
6 prepare themselves to do business with government
7 agencies, that they feel that they sorely lack the
8 opportunities to bid on and, having bid, to garner
9 the contracts with government agencies.

10 However, the successes that I spoke
11 to you about earlier, we have not done it alone.
12 Working in partnership with the SBS and the New
13 York City Council and particularly the Brooklyn
14 delegation and others in the City Council, the
15 Caribbean American Chamber of Commerce and
16 Industry continues to be part of New York City's
17 effort to market and promote the MWBE program. It
18 includes community outreach and marketing,
19 seminars and networking events, one-on-one
20 assistance, with the goals of getting more and
21 more of our businesses certified.

22 Since our involvement, we have had
23 numerous inquiries, we've held over 100 seminars
24 specifically related to this project and numerous
25 individual counseling sessions, all of which are

2 part of our record and the data on this program
3 data are available.

4 Moreover, while many years ago it
5 was extremely challenging for us to get small
6 business owners to trust the process, to turn over
7 confidential documents to us which they knew we
8 would then forward to the city of New York, using
9 the resources which have been provided to us by
10 the City Council over the past three years, as we
11 have been able to accelerate our marketing
12 efforts, we have conducted more seminars, we have
13 increased the number of individual and follow-up
14 individual contacts, and we are finding that more
15 and more business persons with whom we come in
16 contact are willing to work with us to assist them
17 with the certification process. We find that this
18 the distrust and the what are you going to do with
19 my information has decreased somewhat. In other
20 words, while we have always had a large number of
21 inquiries, we are finding that working within the
22 structure, we have had greater success in getting
23 more MWBEs through the certification process.

24 Ladies and gentlemen, during this
25 recession, while some small business owners are

2 experiencing rough times, some have actually
3 reported to the Chamber that they are holding
4 their heads above water. Needless to say, the
5 demand to increase the number of certified
6 minority and women business owners who can access
7 the city contract through the process previously
8 explained is even greater. We would like to
9 increase the number, we want to get more
10 certified.

11 Currently, we believe that the MW
12 program is working, is badly needed, and must
13 continue. The communication structure within the
14 city has greatly improved, as evidenced by the
15 turnaround time for certification, which is much
16 faster and there appears to be greater confidence
17 in the city bureaucratic process, making it easier
18 for CACCI to work with MWBEs so that they can have
19 the opportunity to bid on the contracts.

20 From our end, while progress has
21 been made, more still needs to be done to advocate
22 for MWBEs for city contracts so that they may
23 create more jobs. We are committed to continue
24 our collaboration with New York City DSBS to
25 create greater access.

2 Finally, we would like to express
3 our deepest appreciation to the New York City
4 Council for your continued support. We look
5 forward to working with you to strengthen the
6 program to make it work even better for our MWBEs.

7 I assure you that when you call on
8 me again, I will come in presence and not just
9 send my wife. Thank you.

10 CHAIRPERSON JAMES: Thank you, Ms.
11 Hastick, would you, on behalf of the City Council
12 and this Chair, would you please give our warm
13 regards to your husband.

14 My question to the panel is, what
15 is the state of affairs for WMBEs in the city of
16 New York, in one sentence or less. Or in a word.

17 SANDRA WILKIN: In a word? It
18 needs a lot of improvement.

19 CHAIRPERSON JAMES: Next.

20 QUENIA ABREU: I will say the same,
21 it needs a lot of improvement, there's a lot more
22 that it can be done and it's not being done.

23 CHAIRPERSON JAMES: Next.

24 [Off mic]

25 JOSEPHINA NIDEA: For the city to--

2 for the organization to reach out more to a lot of
3 communities because especially the Asians, they
4 don't really--are not very active in this program
5 and they didn't--

6 CHAIRPERSON JAMES: Okay.

7 JOSEPHINA NIDEA: --not much
8 information.

9 EDNA HASTICK: Getting better needs
10 greater improvement, we want to continue to work
11 with you.

12 CHAIRPERSON JAMES: I was remiss in
13 not introducing my colleagues. Council Member
14 Weprin who joined us earlier, Council Member
15 Palma, who I believe just stepped outside, Council
16 Member Melissa Mark-Viverito, and the next
17 comptroller of the city of New York, Council
18 Member John Liu, who came most appropriate because
19 we have a list of audits that we would like to
20 see, can you take out your pen? We would like to--
21 -

22 [background noise]

23 CHAIRPERSON JAMES: He's got it,
24 okay. We would like audits on primes and
25 soliciting and outreach and why WMBEs--why

2 agencies are not contracting with WMBEs, what are
3 the barriers, is it institutional, is it state
4 law, is it just the lack of leadership.

5 COUNCIL MEMBER LIU: Madam Chair, I
6 will be--

7 CHAIRPERSON JAMES: [Interposing]
8 Yes, Council Member Liu, I defer to you because
9 you are the comptroller and I--

10 [Crosstalk]

11 COUNCIL MEMBER LIU: [Interposing]
12 No, I just wanted to just get on the record, I
13 will be coming to you and the City Council for
14 additional funding.

15 CHAIRPERSON JAMES: Oh, very good,
16 very good, very good. So, Ms. Wilkin, you talked
17 about waivers, can we go to page 57? Can you just
18 walk me through this a little bit? [Pause] In
19 your testimony, you said that the agency was
20 giving out waivers, I assume with respect to
21 compliance with Local Law 129. Page 57, it says,
22 I guess, in architectural and engineering, the
23 vendor received full waiver, 1; and then
24 construction services, 12; professional services,
25 4, the total number of waivers being 17. I mean,

2 that seems a relatively low number, explain, what
3 am I missing?

4 SANDRA WILKIN: Well a few things
5 here. I think, as they say, the devil is in the
6 details.

7 CHAIRPERSON JAMES: Okay.

8 SANDRA WILKIN: They indicate that
9 the total amount for the industry and these are
10 services that are greater than \$100,000, based on
11 services that are \$3 billion. What happens here
12 in terms of waivers, I'd be curious to know what
13 have they not approved in terms of the number of
14 contracts. They're showing 76 contracts for
15 instance or 47 that was established and one
16 waiver. It depends on how one looks at it in
17 terms of what they are not allowing in terms of
18 the waivers whether or not these are partial
19 waivers or full waivers. One would have to look
20 at the entire pie here to determine what waivers
21 they're actually enforcing that are here.

22 What we find with the contract is
23 that they--on the waiver aspect of it is that they
24 have a utilization plan and they're not following
25 the utilization plan. So what they're saying here

2 is that they're not looking at the utilization
3 plan in terms of the contractors that they have
4 given a handshake to, for instance, that they say
5 they're going to be doing business with and then
6 they go back and say, well we can't do business
7 because of certain circumstances, and we require a
8 waiver. I find that, although these numbers seem
9 relatively low for full waivers, the question is,
10 number one, on the partial waivers that they give
11 as to what is happening, one would have to look at
12 the specifics that are here in terms of that.

13 CHAIRPERSON JAMES: So, and this is
14 to the entire panel, what do you believe are the
15 main reasons that you and/or the clients that you
16 serve, which are predominantly WMBEs, are not
17 receiving contracts? What is the one obstacle
18 and/or barrier, is it institutional racism, bias,
19 the old boy system, is it state law, is that the
20 failure of leadership--

21 QUENIA ABREU: All of the above.

22 CHAIRPERSON JAMES: --is it SBS not
23 reaching out, what's the problem? In a word or
24 two.

25 QUENIA ABREU: Oh my goodness.

2 What--

3 CHAIRPERSON JAMES: Is it just
4 Local Law 129 is just poorly drafted, poorly
5 written?

6 QUENIA ABREU: Well I would have to
7 say in a way it's in different cases, it's all of
8 the above. With Local Law 129, we do run into,
9 you know, certain problems with the \$1 million
10 threshold and all of this wonderful stuff, and one
11 of the things I was talking to Sandra about is
12 that we really need to look at--I know that some
13 people don't want to hear this, but we really need
14 to look at human services too and other areas--

15 CHAIRPERSON JAMES: Yes.

16 QUENIA ABREU: --that are being
17 left out because--

18 CHAIRPERSON JAMES: Yes.

19 QUENIA ABREU: --there are a lot of
20 contracts there and for instance we as a nonprofit
21 organization, we make an effort to make sure that
22 when we subcontract, when we contract out that
23 those are MWBEs and I don't see why other
24 nonprofit organizations can't do the same. We
25 have huge organizations, for instance, that are

2 building, you know, that are building everywhere
3 because they have enough money to do that and they
4 are exempt pretty much from--

5 CHAIRPERSON JAMES: Right.

6 QUENIA ABREU: --Local Law 129, so
7 that's another thing that we have. And in terms
8 of our clients at the New York Women's Chamber of
9 Commerce, I could tell you one of the obstacle is
10 the capacity building. One of the things that
11 keeps coming back to us is, yes, we got certified,
12 but we don't really know how to bid for contracts,
13 we don't really know how to do our first bid.
14 That's one of the things and it is hard because I
15 could tell you from us writing proposals as a
16 nonprofit organization, that's a lot of work.

17 CHAIRPERSON JAMES: So you support
18 the idea that I threw out earlier to move away
19 from certification and more towards technical
20 assistance--

21 QUENIA ABREU: [Interposing]
22 Exactly, that--

23 CHAIRPERSON JAMES: --and
24 preparation--

25 [Crosstalk]

2 QUENIA ABREU: [Interposing] Well
3 what I would say, Council Member James, is that we
4 have, as I mentioned before, we have to make a
5 decision either--because you've got to remember
6 also something which is very important, in order
7 for you to help these clients with the bidding
8 process, you have to have experts on your staff
9 that are going to do that and unless our budget,
10 our contract dollars are increased to be able to
11 do that and, please remember that our contract
12 dollars were cut--

13 CHAIRPERSON JAMES: Yeah.

14 QUENIA ABREU: --tremendously, that
15 would also put a burden on us in that sense, it's
16 not that we don't want to do it, but we want to
17 make sure that we are providing the services that
18 our MWBE's need and that we can provide. So the
19 thing here it's looking at, okay, what can SBS do
20 better than anybody and what can we do better than
21 SBS to do it.

22 CHAIRPERSON JAMES: Okay. Any
23 other comments?

24 EDNA HASTICK: May I?

25 FEMALE VOICE: No, please--

2 [Crosstalk]

3 EDNA HASTICK: --I would just like
4 to add that from where I sit, certainly my
5 involvement with the Chamber, first of all, I say,
6 old habits die hard--

7 CHAIRPERSON JAMES: [Interposing]
8 Is this the old boy system?

9 EDNA HASTICK: --and the
10 institutional kinds of systems that are in place
11 that have been acting as barriers systemically
12 over the years, it's going to take time and even
13 greater effort--

14 CHAIRPERSON JAMES: [Interposing]
15 So--

16 [Crosstalk]

17 EDNA HASTICK: --it's entrenched,
18 entrenched, so I would say not less certification-
19 -

20 CHAIRPERSON JAMES: Right.

21 EDNA HASTICK: --I would say really
22 continue that preparation and, as was indicated
23 earlier, provide additional fundings to be able to
24 hire the experts to continue to do the work that
25 needs to be done.

2 I also feel that Local Law 129
3 perhaps should be revisited so that all of us will
4 be on the same page--

5 CHAIRPERSON JAMES: Got it.

6 EDNA HASTICK: --and really take a
7 deep look at what needs to change, so you don't
8 throw out the baby, you know, with the--

9 CHAIRPERSON JAMES: With the
10 bathwater.

11 EDNA HASTICK: --the bathwater.

12 SANDRA WILKIN: These women are
13 terrific and their brilliant in what they're
14 saying. In addition to that, we keep on looking
15 at Local Law 129, the perception is that's the
16 guiding rule, it's a goal.

17 CHAIRPERSON JAMES: Right.

18 FEMALE VOICE: Right.

19 SANDRA WILKIN: And we're looking
20 at it as that's the end game.

21 CHAIRPERSON JAMES: And that's what
22 I when I--

23 EDNA HASTICK: You mentioned
24 earlier.

25 CHAIRPERSON JAMES: --the floor and

2 not the ceiling.

3 EDNA HASTICK: Exactly, exactly.

4 SANDRA WILKIN: On how we have to
5 approach--

6 CHAIRPERSON JAMES: That's right.

7 SANDRA WILKIN: --Local Law 129 is
8 that is not the thing that we should be looking
9 at, we should be looking at far more
10 opportunities--

11 [Crosstalk]

12 CHAIRPERSON JAMES: [Interposing]
13 Are ACO officers--

14 SANDRA WILKIN: --and the agencies.

15 CHAIRPERSON JAMES: --partly to
16 blame? Or part of the mix I should say, I don't
17 like the word blame.

18 SANDRA WILKIN: I think that one
19 has to look always at the leadership and the
20 guidance that's there, and looking at the agencies
21 and looking at the numbers in ramping up the
22 three--as any other business, one would have to
23 say and measure whether or not, from a business
24 point of view, they have met their goals in
25 getting the--look, small businesses are the

2 engines--

3 CHAIRPERSON JAMES: That's right.

4 SANDRA WILKIN: --that run New
5 York.

6 CHAIRPERSON JAMES: I agree, I
7 totally agree. My colleagues have any questions?
8 Thank you, ladies.

9 EDNA HASTICK: Thank you.

10 FEMALE VOICE: Thank you.

11 CHAIRPERSON JAMES: Next panel
12 Frank Garcia, Molly Wilson? Mully, Moo? [Off
13 mic] okay, Henry Chan? Wendell Niles, and Regina
14 Smith.

15 Take care, thank you. [Pause] From
16 the Sergeant-at-Arms, but we'll take it. Thank
17 you, my dear, nice to see you. Give him a kiss
18 for me, okay?

19 [Pause]

20 HENRY CHAN: Quenia, you're not
21 leaving--

22 [Pause]

23 CHAIRPERSON JAMES: Ladies first.

24 WENDELL NILES: Ladies first.

25 REGINA SMITH: Oh, ladies first, oh

2 okay. Good afternoon.

3 CHAIRPERSON JAMES: Good afternoon.

4 REGINA SMITH: I'm Regina Smith,
5 Executive Director of the Harlem Business Alliance
6 and I wanted to take this opportunity to respond
7 to Councilman Jackson's question that he asked the
8 Commissioner earlier about SBS's relationships
9 with community-based organizations, particularly
10 in upper Manhattan. And we do have a
11 relationship, we are a Member of the MWBE
12 Leadership Association. As far as Columbia
13 University is concerned, I think Councilman maybe
14 stepped out when they made their report about the
15 first class, mentoring class that they had at
16 Columbia University and I think they said they had
17 about 18 companies that were brought on board, and
18 about 10 of them actually received contracts
19 totaling \$5 million. And, of course, needless to
20 say that we're not happy with those numbers or
21 that outcome and the other eight, if that is the
22 correct number, of course, those firms weren't
23 satisfied, they weren't happy, and there were a
24 lot of complaints about that and a lot more needs
25 to be done. There is a second class in process

2 now.

3 But what Columbia University has
4 also done separate and apart from SBS is they have
5 what is called a MWBE Advisory Council and the
6 Chamber and Harlem Business Alliance, along with
7 Ken Knuckles from the Upper Manhattan Empowerment
8 Zone and a few other organization sit on the
9 Council and they meet, I think quarterly, to talk
10 about Columbia's progress in bringing on MWBEs,
11 but they also work with local based businesses.
12 And it's my understanding that some firms have
13 moved up to Upper Manhattan and have established a
14 local presence so that they can further justify
15 their continued access to contracts and through
16 Columbia University. So I just wanted to give you
17 that FYI.

18 In regards to the MWBE program, I
19 think that everyone would have to agree that the
20 results are pitiful, that would be my word,
21 absolutely pitiful. And I applaud the efforts
22 that the City Council has made thus far, but a
23 great deal more needs to be done.

24 I think that the move away from
25 certification needs to be done, but the emphasis

2 needs to be more on procurement, how do we
3 actually make procurement happen so that as these
4 organizations go through that process, which is
5 onerous and that's been outlined and that's been
6 described already, the process is onerous. It's a
7 painful process for our businesses and the fact
8 that white organizations don't have to go through
9 that, or companies don't have to go through that
10 in order to get a lucrative contract from the
11 city, but our businesses have to go through that,
12 I think that--

13 CHAIRPERSON JAMES: [Interposing]
14 What is so onerous about the bidding process?

15 REGINA SMITH: No, not the bidding
16 process, I'm talking--

17 CHAIRPERSON JAMES: The
18 certification?

19 REGINA SMITH: --about the
20 certification process.

21 CHAIRPERSON JAMES: But the
22 certification numbers have gone up.

23 REGINA SMITH: Yes, that's because
24 people were hopeful that the administration would
25 actually move forward aggressively to make certain

2 that these certified businesses would in fact
3 receive contracts. And as was mentioned earlier,
4 if that does not happen, yes, the word will get
5 out there as the word had been out in the
6 community before hand that it was a total waste of
7 time, so that has to happen and it needs to happen
8 soon, we need to have--

9 CHAIRPERSON JAMES: [Interposing]
10 There's a level of expectation, right?

11 REGINA SMITH: Yes--

12 CHAIRPERSON JAMES: Once you get
13 certified.

14 REGINA SMITH: --a great level, a
15 tremendous level of expectation and in our minds,
16 there's no reason why small companies can't get
17 that \$100,000 contract or that \$500,000 contract
18 because, in the whole scheme of things, we're not
19 talking about any--we're talking about peanuts.

20 So there is a lot of frustration,
21 it's a lot of work. We as an organization that's
22 been contracted to do this work on behalf of the
23 city, the funding that we get to do this work, the
24 amount of work that we're required to do even
25 after the contract is over when we are audited to

2 make certain that we spend the monies
3 appropriately and that we actually in fact do the
4 work that we were contracted to do.

5 I don't know if at the end of the
6 day we're actually receiving a minimum wage, I
7 mean minimum wage for the amount of time and hours
8 and energy that we put into executing these
9 contracts. So it's just something to think about
10 all the way around--we're all struggling very hard
11 for no money, no money. As a community-based
12 organization and our MWBEs are struggling to get
13 no money from the city. So I just urge you to
14 continue doing the hard work that you're doing, to
15 push to make certain that at the end of the day
16 our people get contracts to do work with the city.

17 CHAIRPERSON JAMES: Thank you.

18 Next.

19 WENDELL NILES: Good afternoon,
20 hearing committee.

21 CHAIRPERSON JAMES: Good afternoon.

22 WENDELL NILES: My name is Wendell
23 Niles, I am the President of Niles Advertising and
24 Display Solutions, a Harlem-based certified
25 minority-owned business enterprise. While I am

2 currently the President of Niles Advertising, I'm
3 also a founding member of the newly formed New
4 York State Coalition of Minority Businesses. The
5 Coalition consists of Hispanic, Asian, and African
6 American business advocates who are dedicated to
7 addressing the frustrations, dissatisfactions, and
8 difficulties of the minority business community
9 regards to award of contracts, certifications, and
10 access to capital.

11 The coalition has formed an
12 independent minority-owned business task force to
13 serve as a conduit between minority business
14 owners, the community, and legislative, both in
15 New York City and New York State. Based on
16 independent research, the task force will produce
17 an independent report card that will tackle the
18 overwhelming disparities associated with the
19 contract awards for minority-owned businesses and
20 the misappropriated spending of tax dollars with
21 organizations that are contracted to certified
22 minority-owned business and provide technical
23 support.

24 The report card will also provide
25 in-depth analysis of each agency and its treatment

2 of minority-owned businesses. According to the
3 agency procurement indicator fiscal year 2009
4 report, utilization of African American-owned
5 small business is as follows: in architectural,
6 engineering, African-Americans represent only 3%
7 of the contract awarders, whereas all MBE's
8 represent 8.2%. In construction services, African
9 Americans represent 0.3%, whereas all MBE's
10 represents 2.5%; Goods, African Americans
11 represent 0.2%, whereas all MWBEs represent 1.6%;
12 professional services for African Americans
13 represent 0.3%, whereas all MBE represent 0.7%,
14 and in the interest of time, I will move on, okay.

15 While there's no one-size-fits-all
16 for all solution, the coalition strongly
17 recommends the following actions: one, appoint new
18 leadership at the New York City Department of
19 Small Business Services, dismantle large contracts
20 to provide more procurement opportunities for
21 small businesses, and spark competition; three,
22 reduce goals set for MBE's in order--sorry, for
23 WBEs in order to increase uses of MBE's; four,
24 change the 129 law language from Caucasian women
25 to women--

2 MALE VOICE: Yes.

3 WENDELL NILES: --allow one of our
4 members to participate on the Mayor's task force.

5 I would like to thank all the
6 members of the City Council who are present,
7 managers at various New York City agencies, they
8 are trying to make a difference and my colleagues,
9 Frank Garcia, and Henry Chan who are passionate
10 about supply diversity and fairness. Thank you.

11 CHAIRPERSON JAMES: Thank you. We
12 can't do like best efforts language or--

13 HENRY CHAN: Good afternoon, Madam
14 Chairperson--

15 CHAIRPERSON JAMES: Good afternoon.

16 HENRY CHAN: --my name is Henry
17 Chan, I'm a partner at the law firm, MBE law firm
18 Wilson & Chan and also a MEMBER of the Asian MWBE
19 organization

20 As brevity is the wit of the soul,
21 I respectfully submit my transcript for the
22 Council and I just want to address just one issue
23 that raises concern among my clients, as well as
24 members of the Asian MWBE organization.

25 So where we are in 2009.

2 CHAIRPERSON JAMES: Yes.

3 HENRY CHAN: It was exactly 17
4 months ago today that I testified before the same
5 two committees regarding the results of the first
6 year of a three-year ramping up period under the
7 statutory free [off mic] Local Law 129,
8 particularly disgusting [phonetic] the fiscal year
9 2007 report. In my testimony, I noted what
10 appeared to be a drastic disparity in how the city
11 contracts with MWBEs for professional services.
12 At the time, it contracted an appalling .46%--
13 .46%. Now, following three years of ramping up,
14 the figure sits at a slightly less appalling 1.7%
15 with Asian and WBE firms receiving .3%. Obviously
16 the members of the Asian MWBE organization are
17 disgusted about these appalling numbers. I think
18 moreover, as of November 23rd, 2009, there are now
19 over 500 certified Asian MWBE companies, yet
20 based on a disparity study in 2005, Local Law 129
21 still, still sets no goals for Asian MWBEs. I'm
22 dumbfounded that--

23 FEMALE VOICE: Right.

24 HENRY CHAN: --the law has not
25 changed to reflect the changing demographics, to

2 reflect the change in the number of certified
3 Asian MWBE organizations and companies. I implore
4 the Council and this committee to revisit the
5 disparity study that was done almost 5 years ago
6 to reflect the actual number of certified Asian
7 MWBEs as well as overall spend where we are today.

8 CHAIRPERSON JAMES: I just want to
9 read some parts of your testimony to me, which I
10 think really highlight our frustration, our as a
11 whole, and I think you sort of pinpointed my
12 frustration. And I'm glad that the Comptroller,
13 the soon-to-be Comptroller staff is still in the
14 room because we're going to need help from his
15 office when he takes office.

16 Taking the Asian MWBE figures
17 alone, of the \$140 million in prime and
18 subcontractors in 2009, for example, at least 30%
19 of those were awarded to only two--let me say that
20 again--two Asian businesses--two. How many?

21 FEMALE VOICE: Two.

22 CHAIRPERSON JAMES: Say it
23 together.

24 MALE VOICE: Two.

25 FEMALE VOICE: Two.

2 CHAIRPERSON JAMES: That's just
3 appalling. Now that we have how many Asian City
4 Council members?

5 FEMALE VOICE: Three.

6 CHAIRPERSON JAMES: Three, well two
7 and a comptroller. So one business for the new
8 Council Member, another one for the other one.
9 You know, it's just this is really, really, really
10 sad. I mean, it's really an indictment of us,
11 we've got to do something. So, Council, if there
12 is any way that, I mean, any suggestions that you
13 have, I would hope that you would work with the
14 counsel for the committee, Lisette Camilo, in
15 addressing some of this, to be other than I mean,
16 besides doing an entire disparity study to revise
17 Local Law 129, I find it really hard to believe
18 that there is not more that we can do.

19 HENRY CHAN: I agree with you 100%,
20 and we heard testimony earlier from Marla Simpson
21 of MOCS about the constitutional limits of--

22 CHAIRPERSON JAMES: Right.

23 HENRY CHAN: --Local Law 129, yet,
24 a very successful federal DBE program, 49 C.F.R.
25 Part 26 is a very successful program and it has a

2 lot of teeth in it that I think that the Local Law
3 129 can model itself based on 49 C.F.R. Part 26.

4 CHAIRPERSON JAMES: So, Mr. Chan,
5 you said you have two, you know, the previous
6 witness, Mr. Niles, for African-Americans, we have
7 0.3% for the 11 African-Americans who are here in
8 the City Council, I think we have more than that,
9 0.3, 0.3, 0.2, that's even laughable and
10 offensive. So obviously, it's just really
11 disgusting and frustrating and, you know, people
12 always talk about, you know, the social problems
13 in our respective communities, but this is the bi-
14 product of it.

15 HENRY CHAN: But I agree 100% and
16 we're going to have this conversation every year.

17 CHAIRPERSON JAMES: Every year.

18 HENRY CHAN: Every year we're going
19 to have this same conversation until some change
20 is done to Local Law 129. We're going to have the
21 same conversation next year and five years from
22 now.

23 There's also one more issue I would
24 like to address concerning--

25 CHAIRPERSON JAMES: Sure.

2 HENRY CHAN: --some testimony I
3 heard from Marla Simpson earlier. And she spoke
4 of the pending or the new PLA law going into
5 effect--

6 CHAIRPERSON JAMES: Right, right.

7 HENRY CHAN: --as a game changer,
8 essentially being the key unlocking the treasure
9 for all MWBE construction companies, and I can
10 assure you as a counsel for a number of large
11 successful MWBE companies, the PLA she's talking
12 about is not a game changer, and I'm going to go
13 on the record today so that when we come back here
14 next year that you heard it here first that the
15 PLA law that they're talking about is not, not
16 going to be a game changer.

17 CHAIRPERSON JAMES: Well what about
18 the fact that the Wicks Law was repealed and
19 they're going to again make some changes in how
20 contracts are issued because of the now exemptions
21 to the Wicks Law, is that a game changer? Or how
22 about the bonding, is that a game changer? How
23 about the PBB rules, is that a game changer?

24 HENRY CHAN: I can say, though, I
25 am optimistic about the bonding issue--

2 CHAIRPERSON JAMES: Okay.

3 HENRY CHAN: --I know that the
4 Dormitory Authority the state of New York run by
5 Paul Williams--

6 CHAIRPERSON JAMES: Yes.

7 HENRY CHAN: --has instituted a
8 very successful model in a bonding program for
9 MWBE companies so they do have the capacity to bid
10 out and win larger construction contracts. I
11 don't know where the city's bonding program where
12 it is today, I have not heard any definitive
13 outlines concerning the city's bonding company
14 other than they were talking about it for the last
15 30 to 60 days, but--

16 CHAIRPERSON JAMES: [Interposing]

17 The problem with their bonding program is that
18 it'll be used for all prime contracts valued at up
19 to \$5 million, the problem is we don't get those
20 contracts so--

21 HENRY CHAN: Absolutely,
22 absolutely.

23 CHAIRPERSON JAMES: Mr.--

24 HENRY CHAN: [Interposing] Thank
25 you very much for your time.

2 CHAIRPERSON JAMES: You're welcome.

3 Go ahead, you're on, sir. Are you Latino?

4 FRANK GARCIA: Last time I checked.

5 CHAIRPERSON JAMES: Did you check
6 with your mother?

7 FRANK GARCIA: Yeah, last letter--
8 you got the copy of my mother saying I was
9 Hispanic.

10 CHAIRPERSON JAMES: [Off mic]
11 Unbelievable.

12 FRANK GARCIA: And what it's going
13 to be unbelievable is some of the testimony I'm
14 going to put today. I have not testified and I've
15 stayed away from the City Council testifying
16 because of the attacks on my business, that's why
17 didn't put nothing in writing. They've attacked
18 my business recently as [off mic] in front of
19 Peter Rivera and Assemblyman José Rivera, whose
20 brother-in-law is our president of the Chamber.

21 One of Commissioner Walsh's ex-
22 employees who was in charge of the campaign,
23 pushed and tried to hit me in front of other
24 elected officials because in [off mic] when
25 Michael Bay Jones [phonetic] announced that I was

2 going to be the first Hispanic to do all the
3 toners for the state, Larry came to me and started
4 saying that I pick on the SBS employees and I'm
5 constantly saying that they [off mic] the job.
6 Just for the record, I've never said here that
7 there's issues with, to me, the employees, the
8 issue is on the top--

9 [Crosstalk]

10 CHAIRPERSON JAMES: --right.

11 FRANK GARCIA: --the top has to be
12 eliminated and the top has--Commissioner Walsh has
13 to go. I've said this before and for Larry
14 Blackman to have the dare to attack me at my
15 conference, a Latino conference, this is the
16 disrespect from the Mayor's office. He was
17 supposed to be encouraging me to be supporting the
18 Mayor, that we didn't the Latino community, if you
19 saw the numbers, we didn't support him. Why?
20 Because of this and other issues. Our businesses
21 in the Bronx are closing down.

22 As the newly elected Chairman of
23 the New York State Coalition of Minority
24 Businesses, with Quenia being part of our state
25 chamber, these are the number one issue, Quenia

2 told me that I can't believe, Madam Chair, you
3 promised me that this would not happen again what
4 happened to me. And the reason why one of my
5 board members said, oh, Frank is probably
6 exaggerating, because no one believed me, how can
7 they do that to Frank Garcia? Frank Garcia's the
8 one that's advocate, he's the one that helped with
9 the 129 law to make sure Latinos got something.

10 CHAIRPERSON JAMES: That's right.

11 FRANK GARCIA: But they attacked
12 me, if they attack me, they're going to attack
13 other of our members and this is the issue that
14 concerns the Latino community.

15 And another concern right now is
16 I'm asking the City Council, and I've asked Carl
17 Hasting, the Chairman of the Democratic Party,
18 we've done, in the Bronx, we've done minority
19 businesses forms with this new coalition we
20 formed, and we have minority businesses speak up
21 in front of Paul Williams, in front of Michael Bay
22 Jones about these issues, and most of the issues
23 have not been with the state, it's been with the
24 city and we invited procurement people and people
25 from Commissioner Walsh's office and they refused

2 to come down.

3 We're asking the majority leader,
4 Sampson to help us and do a forum in Brooklyn,
5 with your help, Madam, for all these minority
6 businesses that are afraid to speak up. Right now
7 Quenia was talking about a minority business, I'm
8 asking for the record not to give the name because
9 the same way that I testified, Commissioner Walsh
10 has to this day, I don't get orders for toners no
11 more, I got one order from the police department,
12 the new Vice President of the Chamber Reverend--

13 [Off mic]

14 FRANK GARCIA: --Fernando Rodriguez
15 is the one that got or who helped us with that,
16 for me to get the police department, as the
17 Chairman of the National Association of Chaplains.
18 And the purchasing people tell me that I wasn't in
19 the computer, so why make me go and ask for a
20 letter from my mother if I'm not going to even get
21 the newsletter that they're talking about? I
22 haven't even seen it, as an advocate.

23 None of the advocates have been
24 invited to the event today at two o'clock, is that
25 something that the--or yourself wasn't invited. I

2 think this is a disgrace, I'm going to ask Palma
3 and my new City Councilwoman, that I didn't even
4 know was my City Councilwoman, it's not new,
5 Melissa, who just left here, who represents my
6 business and my district and all the Hispanic
7 businesses that we work very hard with you to get
8 businesses certified, for what, Madam Chair?

9 CHAIRPERSON JAMES: I agree, I
10 agree.

11 FRANK GARCIA: So I'm asking your
12 help with this new coalition that we formed, we
13 are going to ask Palma, we're going to ask other
14 elected officials from the Bronx, including to be
15 able to go against this disgrace asking for
16 Hispanics and proving that they're Hispanics, I
17 think that's a disgrace. We're asking for the
18 Public Advocate and the Attorney General to
19 investigate this as a discrimination against
20 Hispanics. Thank you.

21 CHAIRPERSON JAMES: Mr. Garcia, I
22 totally agree with you and I would be more than
23 happy to join with those coalition, particularly
24 if Council Member Palma, who's a friend and a very
25 progressive number of the City Council was

2 involved, I would certainly join with you. And I
3 would also urge that we do a similar conference of
4 businesses of color in the borough of Brooklyn,
5 joining with Senator Sampson and hopefully in
6 downtown Brooklyn where all of this development is
7 going to happen and these numbers indicate that
8 we're not at the table, which is one of the
9 reasons why I opposed Atlantic Yards. So, again,
10 I look forward to working with you.

11 I was excluded from this two
12 o'clock announcement, you were excluded from this
13 two o'clock announcement--

14 FEMALE VOICE: We were excluded.

15 CHAIRPERSON JAMES: --you were
16 excluded, I'm glad the Speaker of the City
17 Council--

18 COUNCIL MEMBER JACKSON:

19 [Interposing] The New York City Councils Black,
20 Latino, and Asian Caucus was excluded.

21 CHAIRPERSON JAMES: --and I'm glad
22 the Speaker, notwithstanding--

23 MALE VOICE: Yes.

24 CHAIRPERSON JAMES: --what Ms.
25 Simpson said, is not attending. We should have

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our own press conference, whenever you guys want to join it, and women sorry, and women, if ever you want to organize it, I will be there for you because I believe the truth--we really need to tell the truth.

This hearing is unfortunately adjourned, but will continue at a later point at a special location somewhere in Brooklyn. Thank you.

C E R T I F I C A T E

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

Signature Tammy Wittman

Date December 4, 2009