

CITY COUNCIL  
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON CONTRACTS

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July 28, 2009  
Start: 1:10 pm  
Recess: 1:30 pm

HELD AT: Council Chambers  
City Hall

B E F O R E:  
LETITIA JAMES  
Chairperson

COUNCIL MEMBERS:  
Council Member Leroy G. Comrie, Jr.  
Council Member Robert Jackson  
Council Member John C. Liu  
Council Member Melissa Mark-  
Viverito  
Council Member Michael C. Nelson  
Council Member Larry B. Seabrook  
Council Member Kendall Stewart  
Council Member David I. Weprin

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

Letitia James  
Chairperson  
Committee on Contracts

Committee Staff

Larry B. Seabrook  
Resolution 1977 and 1733-A Sponsor  
New York City Council Member

Leroy G. Comrie, Jr.  
Resolution 1977 Sponsor  
New York City Council Member

William Martin  
Committee Clerk  
Committee on Contracts

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[START 1001]

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MR. EDDIE RENTO CORIASO: Next

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Committee meeting is going to be on Contracts.

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Today's date is July 28, 2009. And it's being

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recorded by Eddie Rento Coriaso.

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[END 1001]

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[START 1002]

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CHAIRPERSON JAMES: Good afternoon.

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My name is Letitia James, Chair of the Contracts

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Committee and today the Committee will vote on two

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important Resolutions. The first Resolution

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sponsored by my colleague Council Member Seabrook

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who will join us shortly is proposed Resolution

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Number 1773-A calling upon the New York State

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legislature to pass and the Governor to sign

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Senate Bill 3185 and Assembly Bill 6807 of 2009

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which authorize political subdivisions to award

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public procurement contracts to participants of a

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minority and women owned business enterprise

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program at a cost premium not to exceed 10% of the

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lowest bid.

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The second resolution is Resolution

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Number 1977 of 2009 sponsored by my colleagues

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Council Member Leroy Comrie and Council Member

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2 Larry Seabrook, calling upon the New York State  
3 legislature to pass the Governor to enact Senate  
4 3514 and Assembly 7369 of 2009 which would  
5 authorize political subdivisions to award public  
6 competitively bid contracts to businesses that  
7 participate in programs designed to foster  
8 participation by small local businesses in public  
9 procurement at a cost premium not to exceed 10% of  
10 the lowest bid.

11 I'd also like to take a moment to  
12 acknowledge my colleagues who are present here  
13 today; Council Member Kendall Stewart from  
14 Brooklyn; Council Member Michael Nelson from the  
15 great Borough of Brooklyn; and Council Member John  
16 Liu from the great Borough of Queens and also the  
17 two--

18 COUNCIL MEMBER LIU: [off mic]

19 last - - -

20 CHAIRPERSON JAMES: [Interposing]

21 No. [Laughing] And the two sponsors of the  
22 legislation who we'll hear from shortly. I'd also  
23 like to thank the Committee staff who prepared  
24 today's hearings. During the hearing--during this  
25 difficult economic time small and MWBE businesses

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2 are hardest hit so how can the City help. One way  
3 is to increase the number of small local  
4 businesses and MWBE businesses that are awarded  
5 City procurement contracts. In Fiscal Year 2008,  
6 New York City procured over \$16 billion in goods  
7 and services. If a larger portion of these  
8 contracts were to be awarded to small local  
9 businesses or to MWBE businesses, that support  
10 would likely lead to more cash flow to these firms  
11 and employment for New York City residents despite  
12 the rhetoric that you hear from the Mayor of the  
13 City of New York.

14 The best way to go about doing this  
15 is by allowing a small business preference to  
16 small local businesses and to MWBE businesses that  
17 submit bids for competitively bid contracts. That  
18 price preference would not exceed 10% of the  
19 lowest bid. In practice this would mean that if  
20 an out of state company submitted the lowest bid  
21 and a small local business submitted a bid that  
22 was 5% higher, the City would be awarded--the City  
23 would be allowed to award the contract to the  
24 small New York City-based business. That same  
25 would go for MWBE business. The City would be

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2 allowed to award the contract to an MWBE business  
3 as long as their bid was within 10% of the lowest  
4 bid submitted by a non-MWBE.

5           Unfortunately the City Council  
6 cannot legislate this requirement without State  
7 action. New York State General Municipal Law  
8 Section 103 demands that competitively bid  
9 contracts be awarded to the lowest responsible  
10 bidder. The City Council is working to change  
11 this. We have been working with our partners in  
12 the State legislature to change State law so that  
13 City and other municipalities in the State would  
14 be authorized to give the price preference to MWBE  
15 and small local businesses who submit  
16 competitively bids on qualifying contracts. The  
17 resolution that we consider today urges our  
18 partners in the State legislature to pass these  
19 bills.

20           With that I now turn to one of the  
21 prime sponsors of proposed Resolution 1773,  
22 Council Member Larry Seabrook, and Reso Number 177  
23 by Council Member Comrie. Council Member Seabrook  
24 and then followed by Council Member Comrie. And  
25 we've also been joined by Council Member Robert

1 Jackson from Manhattan. Council Member Seabrook.

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3 COUNCIL MEMBER SEABROOK: Good  
4 afternoon Councilwoman James, Chairperson of the  
5 City Council's Contract Committee, fellow Council  
6 Members and those persons and organizations  
7 present today and interested in ensuring fairness  
8 and equity within the contracting process of New  
9 York City government agencies. I'm New York City  
10 Council Member Larry B. Seabrook and I am  
11 privileged to serve as Chairperson of the Civil  
12 Rights Committee of the New York City Council. In  
13 2005 I was one of the initial supporters of Local  
14 Law 129. Local Law 129 has been responsible for  
15 facilitating the certification of hundreds of  
16 minority women business enterprises to participate  
17 in the City's procurement process.

18 These businesses and their  
19 leadership have gained invaluable exposure to  
20 agencies' City contracting offices in various City  
21 agencies, increased networking opportunities and  
22 access to other credible and certified MWBEs.  
23 However the New York City Council must remain  
24 vigilant in ensuring the state goal of Local Law  
25 129 are met and that these interactions lead to

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2 the actual awarding of City contracts to minority  
3 and women owned firms.

4 In June of 2008 the Contracts and  
5 Civil Rights Committee held a joint hearing to get  
6 clarity from the Mayor's Office of Contract  
7 Services as to the process made by City agencies  
8 on the awarding of contracts to MWBEs. Although  
9 it was acknowledged that the City is somewhat  
10 restrained due to State law, the progress on  
11 multiple fronts was abysmal.

12 Today I appear before you as the  
13 lead sponsor of Resolution 1773-A and a co-sponsor  
14 of Resolution 1977. These companion resolutions  
15 if favorably voted out of the Contracts Committee  
16 and adopted by the New York City Council will  
17 formally request the New York State legislature to  
18 amend Section 103 of the New York State General  
19 Municipal Law and grant political subdivisions  
20 such as New York City the authority to further  
21 enhance contracting opportunities for minorities  
22 and women.

23 These Resolutions seek to  
24 accomplish the following: 1773 requests the  
25 passage of New York State Assembly and New York



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2 State Senate bills, Assembly Bill 6807 and Senate  
3 Bill 3185 of the New York State legislature.

4 These companion bills mandate the awarding of  
5 qualified contracts to the lowest responsible  
6 bidder. This would enable New York City to grant  
7 procurement contracts to certified MWBE program  
8 participants at a cost premium not in excess of  
9 10% of the lowest responsible bidder.

10 Resolution 1977 requests the  
11 passage of Legislative Bill, Senate Bill 3514 and  
12 Assembly Bill 7369 of the New York State  
13 Legislature. This legislation would enable New  
14 York City to award contracts to businesses which  
15 were competitively bid upon. These businesses  
16 must participate in programs designed to enhance  
17 small local businesses in procurement  
18 opportunities at a cost premium not to exceed 10%  
19 of the lowest bid.

20 Hopefully this will assist those  
21 MWBEs seeking competitive bid contracts under the  
22 range of \$1 million. In 2005 the New York City  
23 Council commissioned the Center for Law and Social  
24 Justice and the Dubois Bunch Center for Public  
25 Policy at Medgar Evers College CUNY, were

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2 designated to commission a disparity study. The  
3 Mason Tillman Associates of Oakland, California  
4 were selected to perform this study. The purpose  
5 of the study was to determine if a significant  
6 disparity existed between the availability of  
7 ready, willing and able minority and women owned  
8 businesses and the utilization of such businesses  
9 in the City procurement process.

10 Industries analyzed were  
11 construction, architecture and engineering,  
12 professional services, standard services, and  
13 goods. Mason's Disparity Study Executive Summary:  
14 the report served as the rationale for the New  
15 York City Council's passage of Local Law 129,  
16 enhanced MWBE certification efforts and agency  
17 MWBE utilization goals.

18 The Resolution proposed by myself  
19 and the Council colleagues attempts to ask Albany  
20 to address additional statutory limits prohibited  
21 participation by MWBEs. Our effort to provide  
22 safeguard to New York City businesses will serve  
23 to stimulate our local economy, increase the City  
24 tax base, assist in the payment of prevailing  
25 wages for our workers and provide for true equity

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2 in New York City's procurement practices.

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As a former member of the New York State Assembly and New York State Senate and former Chair of the New York State Association of Black and Puerto Rican Legislative Caucuses, I understand all too well the challenges facing minority and women owned businesses. The New York City Council should be proud of their efforts and our efforts to address some of these historic inequities through Local Law 129.

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However as members of the Black, Latino and Asian Caucus, and the New York City Council in general, we must stand united to remedy the still pervasive imbalance in our procurement policy and rules.

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I thank you and respectfully ask for the Committee's favorable vote on Resolution 1773-A and 1977. Thank you very much Ms. Chair.

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COUNCIL MEMBER COMRIE: Council Member Seabrook was so thorough he pretty much took my entire speech away [laughing] but I just want to thank you Madam Chair and all my colleagues for the opportunity to inform you that and to urge you to pass both resolutions, 1773-A

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2 and 1977. As you've heard from Council Member  
3 Seabrook this will be another of the tools that we  
4 need to use to make sure the Local Law 129 is  
5 actually realized and will put more teeth in both  
6 the State to allow contracts to be let so that  
7 minority entrepreneurs can have a better  
8 opportunity to gain some of over the \$16 billion  
9 that New York City procured every year.

10 As you know it's been abysmal the  
11 amount of services that minority businesses  
12 actually secure from these contracts. As part of  
13 the toolkit that we are going to have to continue  
14 to work together to find other ways to make sure  
15 that New York City-based businesses get a real  
16 opportunity to get New York City jobs. I'm tired  
17 of hearing of many of City vendors that are going  
18 out of state to get work, that are going to other  
19 localities to get work because they can get work  
20 easier than they can from New York City.

21 And I think that it's inherently  
22 unfair that the City continues to disallow bids  
23 from City-based businesses that are paying taxes,  
24 that are paying rent, that are paying for  
25 unemployment insurance here in the State and they

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2 can't be competitive because they have a higher  
3 tax rate than other vendors coming from other  
4 States.

5           So I think that these two bills  
6 will go a long with that, giving them a 10%  
7 allowance, giving them one other opportunity to  
8 move forward. I encourage all of the members to  
9 vote on these bills and to encourage the entire  
10 City Council to vote on these resolutions and also  
11 to sit together so that we can do everything we  
12 can to try to make sure that the \$16 billion in  
13 New York City procurement will show better numbers  
14 and better results for businesses that are New  
15 York City-based. Thank you.

16           CHAIRPERSON JAMES: I thank my  
17 colleagues and all the work that they have done  
18 over the years to increase opportunities for  
19 businesses of color throughout the City of New  
20 York. As I speak to my colleagues all across this  
21 nation, particularly in urban centers, we trail  
22 every urban center in this country with regards to  
23 our efforts to increase opportunities for  
24 businesses of color and women owned businesses.  
25 And you are absolutely right in your

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2 characterization; it is abysmal despite the  
3 rhetoric. And we've been joined by Council Member  
4 Melissa Mark-Viverito and at this time we'll take  
5 a vote.

6 MR. WILLIAM MARTIN: William  
7 Martin, Committee Clerk, roll call on the  
8 Committee on Contracts Resolutions 1773-A and  
9 1977. Council Member James.

10 CHAIRPERSON JAMES: I vote aye.

11 MR. MARTIN: Nelson.

12 COUNCIL MEMBER NELSON: Aye.

13 MR. MARTIN: Jackson.

14 COUNCIL MEMBER JACKSON: Madam  
15 Chair may I be excused to explain my vote?

16 CHAIRPERSON JAMES: Yes.

17 COUNCIL MEMBER JACKSON: Thank you.  
18 Knowing the history of the Executive Order in  
19 which Mayor Dinkins had put in place, in order to  
20 increase minority and women owned business  
21 contracts in the City of New York, and knowing  
22 that under Mayor Giuliani's tenure, basically that  
23 Executive Order dried up and minority and women  
24 owned business contracts went almost down to zero,  
25 where minority and women owned businesses

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2 basically did not even apply for contracts with  
3 the City of New York.

4           And subsequently when the City  
5 Council came into play in 2002 and as you know  
6 subsequently Local Law 129 and the emerging  
7 business law in 2006 went into place, the number  
8 of contracts for minority and women owned business  
9 at least opened up again. I think that clearly  
10 the proposed Resolutions that we're going to vote  
11 on today, asking the State legislature to move  
12 forward with their bills and supporting that is a  
13 clear example of how we can increase the number of  
14 contracts for minority and women owned business.

15           And as in our briefing documents,  
16 it states that the State under the General  
17 Municipal Law Section 104-A currently allows  
18 political subdivisions like New York City to  
19 exercise a price preference when purchasing  
20 recycled products at a cost premium not to exceed  
21 10%. Basically this would basically do the same  
22 thing, that if you're a minority and women owned  
23 business, and you're a small business and you're  
24 based in New York City or New York State I  
25 believe, they will give you also that opportunity

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to compete.

And so I totally agree with the proposed Resolutions as put forward and as sponsors of these Resolutions I support it wholeheartedly. And I vote aye on both.

MR. MARTIN: Liu.

COUNCIL MEMBER LIU: I want to thank the leadership of--I want to thank Council Members James and Seabrook for their tremendous leadership on these issues and I vote yes.

MR. MARTIN: Stewart.

COUNCIL MEMBER STEWART: First I would like to ask that my name be added as a co-sponsor to both Resolutions. I would like to thank the Chairperson and the main sponsors of this, these Resolutions. And I vote aye. Thank you.

MR. MARTIN: Mark-Viverito.

COUNCIL MEMBER MARK-VIVERITO: I vote aye on both and congrats to Council Member Seabrook, Comrie and Council Member James-- [laughing] and I would also ask to be added as a sponsor for Resolution Number 1977 and aye on both.



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2 MR. MARTIN: By a vote of 6 in the  
3 affirmative, 0 in the negative and no abstentions,  
4 both items are adopted. Council Members, please  
5 sign the Committee reports. Thank you.

6 COUNCIL MEMBER LIU: On a personal  
7 privilege, Madam Chair?

8 CHAIRPERSON JAMES: Sure.

9 COUNCIL MEMBER LIU: I would like  
10 to profusely thank Council Member Leroy Comrie for  
11 his extreme leadership on these issues as well.  
12 Thank you.

13 CHAIRPERSON JAMES: I sense some  
14 politics related to that. The hearing now stands  
15 adjourned. Thank you all for being here in a  
16 timely fashion.

17 [Gavel banging]

18 [END 1002]

C E R T I F I C A T E

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

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

Signature \_\_\_\_\_ Laura L. Springate \_\_\_\_\_

Date \_\_\_\_\_ August 14, 2009 \_\_\_\_\_