

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON CONTRACTS

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December 17, 2012
Start: 10:36 a.m.
Recess: 10:48 a.m.

HELD AT: 250 Broadway
Committee Room - 14th Floor

B E F O R E:
DARLENE MEALY
Chairperson

COUNCIL MEMBERS:
Robert Jackson
Letitia James
Melissa Mark-Viverito
Michael C. Nelson

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2 CHAIRPERSON MEALY: Good morning, I
3 thank you all for being here today. My name is
4 Darlene Mealy, I serve as the Chair of the New
5 York City Council's Committee on Contracts. Today
6 the Committee will be voting on proposed Intro
7 911A, legislation that would significantly improve
8 the city's MWBE program. I would like to
9 recognize the other Council Members who are
10 present today, Letitia James and Mark-Viverito,
11 and I would like to also thank the Committee
12 staff, Shannon Manigault and Tim Matusov, for all
13 their hard work on this bill. We had a long and
14 productive hearing in October on this legislation,
15 so today we are going to proceed without further
16 testimony to this vote. As I said, we are here to
17 pass a bill that will make some long-overdue
18 changes to the city's MWBE program. For too long
19 minority- and women-owned businesses have not
20 received their fair share of city contracts. In
21 2005 the city created the city's first MWBE
22 program, which was supposed to fix that by
23 removing barriers so that the MWBEs could fairly
24 participate in the city's procurement. But that
25 program has fallen short. Today's legislation

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2 seeks to turn this around by vastly expanding the
3 universe of contracts that fall within this
4 program, by insuring that agencies are held
5 accountable for meeting their goals and by
6 bolstering the MWBE certification process and
7 directory. These are important and exciting
8 changes and we would especially like to thank the
9 sponsor of the bill, our Speaker, Christine Quinn,
10 for making this legislation a reality. I also
11 would like ... want to thank many advocates who have
12 worked so passionately to make this bill as strong
13 as possible. Although we weren't able to make all
14 the changes that everybody wanted, I truly believe
15 that this collaboration effort will transform the
16 MWBE program into something that we all can be
17 proud of. Before we have the Council Members
18 vote, I ask if anyone would like to have any words
19 in regards to this. Tish James.

20 COUNCIL MEMBER JAMES: Thank you,
21 Madam Chair. Obviously I am very supportive of
22 911A, which would revise local law 129 to improve
23 the MWBE program in several ways. It would
24 eliminate the \$1 million cap, which obviously is a
25 critical component, it would indeed establish a

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2 mandatory comp stat-like quarterly reporting
3 mechanism. In addition to that, there's some
4 reporting mechanisms. I recognize that some of
5 the goals that have been put forward which are
6 just ... which are aspirational have caused some
7 concerns in the MWBE world, but nonetheless I do
8 believe that this is a major step forward. In
9 addition to that, I am hoping that at some point
10 in time that the City Council and the
11 administration get together to talk about RFPs in
12 the City of New York. Every RFP that I've seen in
13 the City of New York unfortunately does not give
14 any credits to contractors who apply as being
15 MWBEs. In addition to that, it does not take into
16 consideration local hiring, it does not take ... it
17 sets arbitrary and artificial financial capacity
18 goals, and it talks significantly about prior
19 development experience, which would exclude most
20 MWBEs. I would hope that the next step forward is
21 that we tackle RFPs in the City of New York which
22 will prohibit any minority contractor from
23 competing on any major job in the City of New
24 York, and that is currently the practice. And I
25 proudly at some point in time when we get to

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2 voting will be supportive of this bill. Thank
3 you, Madam Chair.

4 CHAIRPERSON MEALY: Thank you,
5 Mark-Viverito.

6 COUNCIL MEMBER MARK-VIVERITO:

7 Thank you, Madam Chair, and I do, you know, want
8 to add my voice and just in terms of what Council
9 Member James has indicated. Obviously there are
10 concerns that continue to be expressed, but I will
11 be supporting this bill. I think, as has been
12 indicated, these are not firm numbers in terms of
13 the percentages, they are aspirational. Obviously
14 our interest would be within our sectors and our
15 communities to encourage greater numbers than
16 those that are prescribed in the legislation.
17 Also that there is going to be another study done
18 in two years, so that we can update the
19 information provided, and then also an ongoing,
20 it's an ongoing process in terms of updating the
21 information and doing these studies every two
22 years as a way of keeping the information up-to-
23 date. And also all the other information that is
24 provided here, the stat reports, more accurate
25 figures, the reporting structures, and also the

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2 certification process. So I think there's a lot
3 of good things in this bill, and as always with
4 any legislation, as changes happen, there's always
5 the ability to make changes along the way. This
6 is the change from the first implementation of the
7 law, we can continue to do that as we learn and as
8 we grow, and as we get information available to
9 us. So with that, I thank you, Madam Chair.

10 CHAIRPERSON MEALY: Thank you, and
11 I'd also like to just say that I hope that we can
12 all start really working on legislation that can ...
13 or not even legislation, just to empower our MWBEs
14 to get more involved. This new half a million
15 dollar project that we just voted on with
16 Hurricane Sandy, that more MWBEs get involved in
17 that right now and don't wait till the last
18 minute. So again I want to thank everyone for
19 attending this hearing. With nothing further we
20 would like to move for a vote. Clerk, can you ask
21 for the roll call?

22 COMMITTEE CLERK: Kevin Pin,
23 Committee Clerk, roll call on the Committee on
24 Contracts Intro 911A. Council Member Mealy.

25 CHAIRPERSON MEALY: I vote aye.

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COMMITTEE CLERK: James.

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COMMITTEE CLERK: Mark-Viverito.

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COUNCIL MEMBER MARK-VIVERITO: I
vote aye.

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COMMITTEE CLERK: By a vote of

three in the affirmative, zero in the negative, no
abstentions, the item has been adopted. Members,
please sign the Committee report.

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CHAIRPERSON MEALY: Thank you, and
we will hold the vote open till 11 o'clock. Okay,
this meeting is now not all the way adjourned, but
adjourned for right now until the vote. Thank
you.

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COMMITTEE CLERK: Jackson.

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COUNCIL MEMBER JACKSON: Thank you,
Madam Chair, may I be excused to explain my vote?

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Mv31 Yes you may.

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2 COUNCIL MEMBER JACKSON: Thank you.
3 Concerning proposed Intro 911A, while I know that
4 there was discussion at many meetings over many
5 months about this particular matter, and all
6 things considered, knowing that there are some
7 individuals and/or groups that are opposed to this
8 for certain reasons, more specifically because
9 under the disparity study and/or results of it,
10 Hispanic contracts are going to be reduced from 9%
11 to I believe 4% or 5%, and they feel that this is
12 going to have a negative impact on Hispanic
13 businesses. But in listening to the Council, to
14 the Committee and our Director of Legislative
15 Affairs, they indicated to me that the proposed
16 amount is going to increase, because there's no
17 ceiling. And so the opportunity for higher
18 amounts of contracts is available, whereas under
19 local law 129, that was limited to \$1 million.
20 But also in communicating with them in a meeting,
21 after I heard from some individuals and groups
22 about this particular matter, they indicated to me
23 that there are checks and balances in the system,
24 so that, for example, I think every two years they
25 must come back and revisit this particular bill,

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2 so that whatever things are not working out can be
3 reconsidered, and not have to wait for another
4 disparity study that may take two years and
5 another bill may come four or five years later.
6 And obviously, as you know, Madam Chair, I'm
7 leaving the Council, I will not be here. But the
8 impact that this bill will have is beyond me, and
9 beyond you, and beyond every member of the City
10 Council. It's on the backs and hands and feet of
11 all of the men and women that are going to be
12 getting contracts in order to carry out the
13 business of our city. All things considered, I
14 want the best for everyone, and I can only go
15 based on the information that I have, and based on
16 what I'm hearing, and obviously there are some
17 people that are not happy with it. But I
18 understand that a majority of the people are happy
19 with it: Blacks, Hispanics, some of them, and all
20 other people that are considered under the
21 umbrella of MWBE. And understanding that, knowing
22 that this is going to benefit MWBE in totality,
23 and hopefully what that means is that tens of
24 thousands of the people that we represent, they're
25 looking for jobs and opportunity, and the number

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2 one issue that everyone talks about is more jobs.
3 And when you ... if you live in the communities in
4 which I live, jobs are very, very important and
5 very, very sought-after. So based on all of that,
6 while I'm not happy that there are some people
7 unhappy with this, and as I've indicated to them,
8 they said that they may pursue legal action. And
9 I said to them, "That's your right to do". And I
10 think if they feel that they truly feel that
11 they're violated and things are not going to be in
12 the best interest of them, I recommend that they
13 do that. And I said that myself as an individual
14 that was involved in suing the State of New York
15 on behalf of the children of New York City, and
16 people said that you're crazy. And I said, "Yes,
17 I'm a little crazy". People said that you can't
18 win. And I said, "You think I can't win, but I
19 have to go the full distance". And we went the
20 full distance in that particular lawsuit to the
21 highest court in the State of New York on three
22 different occasions, and we won billions of
23 dollars, billions, not hundreds of millions,
24 billions of dollars for our children. So making
25 sure that people have a right to exercise their

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2 right, and go the full distance so they're
3 satisfied one way or the other, and even if they
4 win, then they can claim it a victory, and if they
5 lose, at least they can say they went the full
6 distance. And that's in my opinion what this
7 country is about, people exercising their right.
8 All things considered, I have to vote yes on Intro
9 911A. Thank you very much.

10 COMMITTEE CLERK: Nelson.

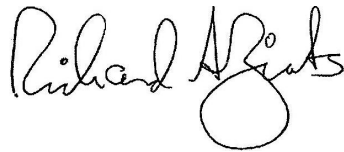
11 COUNCIL MEMBER NELSON: Aye.

12 COMMITTEE CLERK: Final vote in the
13 Committee on Contracts Intro 911A, five in the
14 affirmative, zero in the negative, no abstentions.

15 CHAIRPERSON MEALY: This meeting is
16 now adjourned.

C E R T I F I C A T E

I, Richard A. Ziats, 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 _____

Date December 21, 2012