

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON ECONOMIC DEVELOPMENT, JOINTLY WITH THE
COMMITTEE ON CONTRACTS AND THE COMMITTEE ON
SMALL BUSINESS

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September 13, 2017
Start: 1:20 p.m.
Recess: 2:58 p.m.

HELD AT: Council Chambers - City Hall

B E F O R E:

DANIEL R. GARODNICK
Chairperson
HELEN K. ROSENTHAL
Co-Chairperson
ROBERT E. CORNEGY, JR.
Co-Chairperson

COUNCIL MEMBERS:

Vincent J. Gentile
Julissa Ferreras-Copeland
Karen Koslowitz
Donovan J. Richards
Inez D. Barron
I. Daneek Miller
Joseph C. Borelli
Peter A. Koo
Costa G. Constantinides
Chaim M. Deutsch
Corey D. Johnson

COUNCIL MEMBERS:

Mathieu Eugene
Carlos Menchaca
Paul A. Vallone
Bill Perkins
Eric A. Ulrich

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

Jonnel Doris
Senior Advisor and Director
Mayor's Office of M/WBEs

Gregg Bishop
Commissioner
Department of Small Business Services

Shin Mitsugi
Economic Development Corporation

Meryl Block Weissman
Housing Preservation and Development

Theodore Oberman
Director
Department of Education

Hazel Dukes
President
NAACP New York State Conference

Bertha Lewis
Founder and President
The Black Institute and
Black Leadership Action Coalition

Denise Richardson
Executive Director
General Contractors Association

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

Donald Ranshte
Senior Vice President
Building Trades Employers' Association

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4 [sound check]

5 [pause]

6 [gavel]

7 CHAIRPERSON GARODNICK: Hello and good
8 afternoon. Welcome to the Economic Development
9 Committee of the New York City Council. Today is
10 Wednesday, September 13, 2017. My name is Dan
11 Garodnick and I have the privilege of co-chairing
12 this hearing along with fellow Chairs, Council Member
13 Helen Rosenthal, in the Committee of Contracts, and
14 Council Member Robert Cornegy of the Committee on
15 Small Business.

16 I'd like to thank the members and staff
17 from all three committees for joining us for today's
18 hearing and I would also like to thank The Public
19 Advocate Letitia James and Council Members Cornegy,
20 Crowley and Rosenthal for sponsoring the legislation
21 that are before these committees today.

22 Today's hearing provides all three
23 committees with an opportunity to review critical
24 pieces of legislation that will expand transparency
25 regarding the construction industry's participation
in the City's Minority- and Women-Owned Business
initiatives. The bills before the Economic

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4 Development Committee are Introduction 705-A,
5 sponsored by Council Member Elizabeth Crowley, which
6 would require construction contractors to disclose
7 the race and gender of executive level staff, and
8 Introduction 1400, sponsored by Council Member Helen
9 Rosenthal, which would reduce the project cost
10 threshold at which construction contractors are
11 required to make a good faith effort to contract with
12 minority- and women-owned business enterprises. We
13 look forward to hearing testimony from the
14 Administration and the advocates today on these bills
15 as well as related legislation in the Committees on
16 Contracts and Small Business.

17 With that I'd like to thank my committee
18 staff -- Legislative Counsel Alex Paulenoff; Policy
19 Analyst Nadia Johnson; Finance Analyst Aliya Ali; and
20 my Legislative Director Leah Reiss.

21 Before turning over the floor to my Co-
22 Chair Helen Rosenthal, I want to note that we have
23 been joined by Council Members Deutsch, Cornegy,
24 Perkins, Richards, Koo, Rosenthal, and The Public
25 Advocate, Tish James, and now I'd like to turn it
over to the Chair of the Contracts Committee, Helen
Rosenthal.

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4 CO-CHAIR ROSENTHAL: Thank you so much
5 Chair Garodnick. I'd just like to mention that
6 Council Member Borelli is here and Council Member
7 Vallone.

8 My name is Helen Rosenthal; I'm Chair of
9 the Contracts Committee. I'd also like to thank our
10 Co-Chair, Council Members Cornegy, Chair of the
11 Committee on Small Business, and the members of all
12 three committees for coming together to hold this
13 hearing.

14 The bills that we're hearing today
15 supplement our ongoing efforts to improve
16 transparency in city contracting particularly with
17 regard to the many minority- and women-owned
18 businesses that wish to do business with the City of
19 New York.

20 I sponsored Introduction 1400 to ensure
21 that construction contractors participating in the
22 City's Industrial and Commercial Abatement program
23 (ICAP) at least access the City's Minority- and
24 Women-Owned Business Directory for contracts valued
25 below \$750,000. For larger contracts, Intro 1400
requires these constructions contractors to solicit
bids from at least three subcontractors who are

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4 certified MWBEs. By reducing the threshold for MWBEs
5 to participate in city procurement, Intro 1400
6 empowers the City's many certified MWBEs and gives
7 them an opportunity to thrive.

8 Before the Contracts Committee today is
9 Intro 752-B, sponsored by Public Advocate Letitia
10 James. This bill would expand disclosure
11 requirements for construction contractors on projects
12 of \$1 million or more. Intro 752-B would require
13 construction contractors to disclose demographic and
14 job-related information about each employee working
15 for those contractors. This information would be
16 used to evaluate the effectiveness of the City's many
17 MWBE and Workforce Development Initiatives and
18 establish a benchmark for the construction industry's
19 efforts to increase representation of the communities
20 that have been historically underrepresented in the
21 sector.

22 So many leaders in the construction
23 industry have committed themselves to expanding the
24 opportunity to pursue these middle-class careers to
25 those who have been left out historically and I'm
proud to co-sponsor this bill because I believe we
need better tools to measure the progress that has

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4 been made to help the City more effectively make
5 policy to assist in those efforts. I look forward to
6 hearing the testimony today as we work to craft a
7 bill that will give us the data we need to keep
8 pushing forward without unduly burdening the firms
9 doing the city's work.

10 I'd like to thank the Contracts Committee
11 staff -- Legislative Counsel Alex Paulenoff; Policy
12 Analyst Casey Addison; and Finance Analyst John
13 Russell, as well as my Legislative Director, Sean
14 Fitzpatrick, for all their hard work preparing for
15 this hearing.

16 Before turning the floor over to The
17 Public Advocate to discuss her bill, I will now turn
18 the floor over to Chair Cornegy to say a few words.
19 Thank you.

20 CO-CHAIR CORNEGY: Thank you Co-Chairs.
21 I would just like to start by saying my absence of a
22 jacket and tie is not a function of or a testament to
23 not thinking this hearing is important, it's a
24 function of a lunchtime accident [laughter] and the
25 inability to have a Big and Tall located very close
by City Hall [laughter].

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4 So good afternoon; I'm Council Member
5 Robert Cornegy, Chair of the Committee on Small
6 Business. I'd like to thank Chair Helen Rosenthal of
7 the Committee on Contracts and Chair Dan Garodnick of
8 the Committee on Economic Development for holding
9 this hearing jointly with us and all of you attending
10 our hearing today.

11 According to the New York City Building
12 Congress, 2016 marked the fifth consecutive year of
13 rising employment in the construction industry, which
14 is the first time that has been the case since 1970.
15 Employment has increased from 122,000 in 2013 to
16 146,000 in 2016. Additionally, annual construction
17 wages increased by 5.4% in 2016, the highest annual
18 percentage increase since 2007, when wages increased
19 by 6.4%. These jobs pay well and can serve as
20 ladders to the middle-class for individuals and
21 families across the five boroughs. However, the
22 demographics of the construction industry currently
23 do not reflect those of the city; minorities are
24 underrepresented in both the union and non-union
25 sectors. A 2017 study released by the Economic
Policy Institute found that black workers account for
21.2% of unionized construction workers and 15.8% of

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4 non-union construction workers, even though African
5 Americans comprise more than 25% of the city's
6 population as a whole.

7 Today we'll be hearing and I'll be
8 focusing on Intro 1382-A, which would amend the
9 Administrative Code to require contracts employed on
10 city-funded construction projects to provide the
11 Department of Small Business Services with statistics
12 pertaining to the makeup of their workforce; this
13 would include, among other pieces of information,
14 titles, full- or part-time designation, hours worked,
15 gender, and ethnicity. In conjunction with the
16 legislation from the Committees on Economic
17 Development and Contracts, all of which broach the
18 same underlining issues, this bill would shed light
19 on an area of the city's economy that has received
20 too little attention for far too long. It's my hope
21 that all of these proposals can be developed and
22 improved to ensure that New York City's construction
23 industry remains both viable and equitable for many
24 years to come.

25 I'd like to thank my committee staff --
26 Counsel Sylvester Yavana; Policy Analyst Michael
27 Kurtz; Finance Analyst Aliya Ali; my Chief of Staff,

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4 Charles Onwuche; my Director of Policy and
5 Communications, Kegan Sheehan; and my Director of
6 Legislative Affairs and Budget, Sarissa Phillips-
7 Singletary. Thank you.

8 CHAIRPERSON GARODNICK: Thank you very
9 much Chair Cornegy. We'll now go to The Public
10 Advocate, Letitia James.

11 PUBLIC ADVOCATE JAMES: I want to thank
12 Chairs Cornegy, Rosenthal and Garodnick and before I
13 begin with my statement, let me just congratulate
14 everyone for yesterday's outcome.

15 I also want to thank the staff of all of
16 the chairs for putting today's hearing together on
17 these critically important bills. I'd also like to
18 thank and acknowledge the advocates who are in the
19 audience, particularly Bertha Lewis and Hazel Dukes
20 for their tireless efforts to bring us to this point.

21 In recent years, under this Mayor and
22 this Council, our city has made great strides towards
23 enacting policies that will finally lift up the
24 shameful track record of WMBE participation in city
25 contracts, and as a progressive city we should use
our power of the purse and our power as elected
officials to encourage diversity because we know that

1 when we lift up women, when we lift up people of
2 color, when we lift up immigrants and working
3 families we lift up entire communities, as well as
4 the overall economy. Because the data is in and the
5 facts are clear -- diverse companies are better
6 companies, they're more profitable companies and they
7 are companies that carry less risk. In fact, in 2015
8 a McKinsey study found that racially diverse
9 companies outperformed industry norms by 35% and
10 according to an even more recent study, companies
11 with 30% or more female executives bring in as much
12 as 6 percentage points more in profits. Diverse
13 companies also had better retention rates and more
14 productive employees and they enjoy stronger worker
15 recruitment and face significantly fewer internal
16 lawsuits for discrimination and health and safety
17 claims.
18

19 This legislative package we consider
20 today will help ensure that in the critically
21 important sphere of major development we are working
22 with the most diverse and thus the best developers
23 and contractors. All New Yorkers have the right to
24 know where their taxpaying dollars are going and
25 government has a responsibility to ensure that this

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4 money is spent transparently and effectively, and I
5 am grateful to this Administration for their
6 willingness to work with us on this critically
7 important legislation. I understand that the
8 Administration has some concerns over the level of
9 specificity of the required data and the potential
10 for an invasion of privacy and while I do not agree
11 that the disclosure requirements would truly deter
12 companies from bidding for city contracts, I do
13 believe that there is the potential for legitimate
14 personal privacy concerns from employees,
15 particularly in smaller companies where there are
16 only so many individuals with a specific job title.
17 I am therefore more than willing to work towards a
18 compromise that will help alleviate any privacy
19 concerns as long as it does not undermine the core
20 purpose of this legislation.

21 That being said, I look forward to
22 working with the Administration, putting our heads
23 together and fashioning a compromise, and I thank the
24 committees and all of the chair members for allowing
25 me to say a few words.

CHAIRPERSON GARODNICK: Thank you very
much Madam Public Advocate. And before we begin, I

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4 want to give Council Member Menchaca an opportunity
5 to say a couple words and then we are going to go
6 right to the panel, which will include Shin Mitsugi
7 from EDC, Deputy Commissioner Meryl Block Weissman of
8 HPD, Theodore Oberman of Department of Finance,
9 Jonnel Doris of the MOMWBE, and Commissioner Gregg
10 Bishop of the Department of Small Business Services.
11 Council Member Menchaca.

12 COUNCIL MEMBER MENCHACA: Thank you,
13 Chair and thank you to all the chairs. I only just
14 want to say one thing; there's a really core thread
15 in all these pieces of legislation about
16 transparency; I know the City continues to move in
17 that direction. The things that we're asking for
18 will continue to allow us to serve our communities
19 that are not only diverse but really have different
20 kinds of impacts and different kinds of ways to
21 engage. These pieces of legislation are important
22 for that, but I'm really excited about the discussion
23 that's going to be happening today and also listening
24 to the advocates that are going to want to tell you a
25 little bit more about how they think about this and
how it's going to actually impact their work on the

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4 ground, be it gender, race, etc. Thank you for being
5 here. Thank you, Chair.

6 CHAIRPERSON GARODNICK: Thank you,
7 Council Member. We've also been joined by Council
8 Members Constantinides, Men... well you know Menchaca,
9 'cause you just heard from him, Council Member
10 Eugene, Ulrich, and Koslowitz. Thank you all for
11 being here today. And now we will turn to the panel
12 -- whenever you're ready. Thank you.

13 JONNEL DORIS: Good afternoon Chairs
14 Rosenthal, Cornegy, Garodnick, and our Public
15 Advocate James, members of the City Council's
16 Committees on Contracts, Small Business and Economic
17 Development. My name is Jonnel Doris and I am the
18 Senior Advisor and Director of the Mayor's Office
19 MWBEs and today I will be testifying on Intro 1400.
20 Also with me is Commissioner Gregg Bishop from SBS
21 and my colleagues from DOF, EDC, and HPD.

22 On September 28, 2016 Mayor Bill de
23 Blasio announced the establishment of the Mayor's
24 Office of MWBEs as a crucial and much needed next
25 step in the Administration's efforts to drastically
increase opportunities for minority and women
entrepreneurs. The Mayor and the Citywide MWBE

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4 Director, Deputy Mayor Richard Buery, pledged
5 ambitious goals of achieving 9,000 certified MWBEs by
6 the end of 2019 and 30% MWBE utilization by the end
7 of FY 2021. To date SBS has certified 5,122 MWBEs.
8 Additionally, at the end of Q3 of the FY 2017 MOCS
9 reported the MWBE utilization at 19%, representing
10 \$847 million in awards to MWBEs as compared to 14% or
11 \$696 million in City contracts to MWBEs under Local
12 Law 1 in 2016. The complete FY 2017 numbers will be
13 released shortly at the end of this current quarter.

14 The City's MWBE program is intended to
15 remedy the impact of discrimination in the market
16 where the City makes its procurements and to address
17 the findings of disparity studies demonstrating that
18 minority- and women-owned firms are underutilized in
19 the City's procurement. To that effect, Local Law 1
20 of 2013 established Citywide contracting goals which
21 match the disparity gaps revealed by the most
22 recently completed disparity study at the time from
23 2011. Currently, Local Law 1 only relates to City
24 procurements.

25 The City has also implemented a number of
creative initiatives to help MWBEs build capacity and
obtain capital, and has advocated for state

1 legislation to give us more tools for the MWBE
2 program. The Mayor has also established the One NYC
3 goal to award \$16 billion to MWBEs by FY 2025. This
4 goal covers both mayoral and non-mayoral agencies.
5 Currently we are ahead of schedule and we have
6 awarded, as of Q3 of last FY, over \$5 billion in
7 contracts to MWBEs.
8

9 In addition to the importance of
10 remedying the effects of discrimination on our
11 procurements, expanding opportunities for MWBEs is
12 important to this Administration's efforts to fight
13 income inequality. Pursuant to Local Law 1 and the
14 goals therein, the percentage of dollars to MWBEs
15 subject to the City's program has trended upward from
16 8% in FY 2015 to 14.3% in FY 2016. Just to put that
17 into perspective, at the close of FY 2016 we were
18 about halfway to our 30% goal, which we know we can
19 achieve by 2021.

20 We are lowering and, wherever possible,
21 removing structural barriers to entering the City's
22 procurement marketplace by providing resources for
23 increased programming and accountability at City
24 agencies and creating strategic initiatives to
25 increase MWBEs' ability to compete successfully.

We have implemented initiatives to address issues that MWBEs face in the private marketplace; namely, access to capital, which is a common obstacle for many small and mid-sized firms. In order to respond to this need, this Administration launched the Contract Financing Loan Fund and the Bond Collateral Assistance Fund, both administered by SBS, and the Emerging Developer Fund which is administered by EDC. Together the initial investment from the Administration across these funds was \$30 million. As you may know, the Mayor also convened the City's depository banks to begin a discussion about a partnership to create accessible capital for MWBEs in New York City. These discussions are ongoing.

In the spring of 2017 we were joined by many MWBEs, advocates, and stakeholders, including other City agencies, to call for State legislative reform that would drastically improve the success of MWBEs in the City contracting process. S6513/A8505, a bill that proposes increasing the City's discretionary spending limit on goods and services purchased from MWBEs and codified that the City as well as the State may offer MWBEs a price or points

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4 preference in procurement. The bill passed
5 overwhelmingly in the Assembly and unanimously in the
6 Senate and for that we thank our elected partners,
7 including the Council Members here today and our
8 Public Advocate for their support and advocacy.

9 On ICAP, New York City operates more than
10 a dozen commercial tax incentive programs, costing
11 nearly a billion per year. It is important to note
12 that these incentives are state authorized and as of
13 right. Moving into the second year of our office,
14 the Mayor's Office of MWBE, we are currently
15 assessing ways to target policy goals like MWBE
16 participation, capital investment across the city,
17 and the NYC workforce.

18 Along with the Administration's
19 commitment to leveraging City financial assistance to
20 hold developers accountable, SBS has taken steps to
21 ensure MWBEs are aware of and have access to the
22 opportunities created from ICAP projects. Outreach
23 has been a major focus for SBS and this program is no
24 different. I'd like to highlight some of the work
25 we've done to increase the visibility of ICAP
contracting opportunities for MWBEs. Previously
these opportunities were listed in an unsearchable

PDF on a webpage that was not accessible.

Understanding the barriers that already existed for
MWBEs looking for contracting opportunities, we have
updated the SBS website to highlight private
contracting opportunities and make them visible on
the home page. Opportunities will no longer be
posted as PDF, but rather in a searchable database.
We have also increased outreach through social media
and direct email marketing to ensure that MWBEs are
not left in the dark about potential contracting
opportunities. Though more needs to be done, we
believe these small steps will greatly help connect
MWBEs to contracting opportunities created through
City investment.

Expanding opportunities to women and
minorities is a priority of this Administration's
efforts to fight income inequality. Intro 1400 is
another step in this direction. We support the goal
of Intro 1400 which, as we understand it, seeks to
increase the number of ICAP beneficiaries who will be
required to engage with and solicit MWBE
participation.

Again, we thank the committee members for
your attention to and support of MWBEs. I would like

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4 now to turn to Gregg Bishop, the Commissioner of
5 Small Business Services.

6 GREGG BISHOP: Thank you.

7 Good afternoon Chairs Rosenthal,
8 Garodnick, Cornegy, and Public Advocate Tish James
9 and the members of the Committees on Contracts,
10 Economic Development and Small Business. My name is
11 Gregg Bishop and I'm the Commissioner of the
12 Department of Small Business Services. At SBS we aim
13 to unlock economic potential and create economic
14 security for all New Yorkers by connecting New
15 Yorkers to quality jobs, building stronger businesses
16 and fostering vibrant neighborhoods across the five
17 boroughs. Today I am pleased to testify on Intros
18 752-B, 1381-A, and 705-A and reporting of workforce
19 data.

20 Ensuring City contractors have a
21 workforce that reflects the diversity in the talent
22 pool of this city is an important mission of SBS and
23 the Administration. Through our Construction
24 Industry Partnership and the Mayor's Committee on
25 Construction, SBS is working with industry, organized
labor, nonprofits, training providers, and workforce
organizations to build a pipeline of local talent to

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4 fill New York City's jobs. The Committee is tasked
5 with understanding the barriers to diversity and
6 access to opportunities for underrepresented groups
7 in the trades such as NYCHA residents, women,
8 minorities, veterans, employees of MWBEs, and young
9 people in public schools. In addition, the City, the
10 Building Trades Employers' Association (BTEA), and
11 the Building and Construction Trades Council (BCTC)
12 are committed to increasing diversity in the trades
13 through a memorandum of understanding. The MOU sets
14 a target goal for the construction trades of 55% of
15 all new apprenticeship slots for underrepresented
16 groups.

17 As part of our efforts to connect New
18 Yorkers to quality jobs, SBS will administer the
19 Mayor's Green Jobs Corps program in partnership with
20 the Mayor's Office of Sustainability and Climate
21 Policy. This three-year initiative aims to train
22 3,000 individuals through a variety of trainings,
23 including pre-apprenticeships. We are partnering
24 with groups such as BCTC, Construction Skills,
25 Nontraditional Employment for Women (NEW), and
Helmets to Hardhats, to offer these pre-
apprenticeships, which are direct entry construction

1 programs recognized by the trades. We are recruiting
2 for these programs through our Workforce1 Career
3 Centers.
4

5 In October 2012 [sic], Mayor de Blasio
6 announced HireNYC, a targeted hiring program that
7 places New Yorkers at the front of the line for jobs
8 created by City contracts and investments. Through
9 the SBS-operated HireNYC Portal, vendors who receive
10 new City contract awards are now required to consider
11 New Yorkers for employments opportunities created
12 through eligible City contracts. HireNYC leverages
13 SBS' network of 20 Workforce1 Career Centers to
14 connect New Yorkers to open positions created through
15 the City's purchases and investments.

16 SBS recently launched our mobile outreach
17 unit, boosting our support by bringing our services
18 not just to each borough, but directly to business
19 owners, community-based organizations, and jobseekers
20 in their own neighborhoods. The mobile outreach unit
21 will bring access to employment opportunities through
22 HireNYC directly into communities where Workforce1
23 staff will be able to screen local job candidates the
24 sites of City projects, increasing community access
25 to these jobs. Last year SBS' network of providers in

our Workforce1 Centers connected nearly 30,000 New
Yorkers to employment.

I will now turn to the legislation at
hand. To begin, I would like to provide an update
from our hearing in January on Intro 1382 and the
Division of Labor Services (DLS). The SBS Division
of Labor Services monitors contractor compliance with
equal employment opportunity laws and supports them
in their efforts to increase the representation of
minorities and women in their workforce. DLS reviews
construction contracts in excess of \$1 million and
subcontracts in excess of \$750,000. For supply and
services, prime and subcontracts over \$100,000 are
subject to review when the vendor has more than 50
employees. SBS meets with contractors and works with
them to ensue they understand the equal employment
requirements of City contracts and to evaluate their
compliance. This allows us to directly engage with
the contractors on their hiring practices and at
times results in contractors making changes to their
own EEO policies.

When SBS last came before you on this
subject, we heard you loud and clear -- both from the
Council Members and stakeholders -- that the capacity

to track and aggregate workforce data should be a
priority in our work. Since that hearing, we took
steps to better understand the technological
restraints to data reporting and assess solutions.
We are happy to share that we are developing a plan
to better track data on City construction projects.
To begin, SBS is now accepting projected workforce
data and EEO documentation electronically for
contracts subject to DLS review prior to the start of
City construction projects. The City is also in the
process of reviewing technological solutions to help
track workforce data. This will empower agencies to
request workforce data directly from contractors and
subcontractors once the project has begun. However,
since this involves many stakeholders, it will likely
involve several phases to ensure it is effectively
and efficiently rolled out across the City. Once in
place, SBS will work with businesses to create an
efficient process that allows vendors to easily
provide the necessary data.

We share the Council's goal of tracking
and aggregating data relating to the workforce of
City-funded projects. Intros 1382-A and 752-B would
require disclosure and reporting on certain

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4 information regarding employment details and MWBE
5 certification. Though our interpretation of the bill
6 only includes development contracts and projects
7 receiving financial assistance from the City, we
8 understand the Council's intention is also to include
9 certain City contracts. Transparency is always a
10 laudable goal and we would like to work with the
11 Council to better define the intended scope of this
12 legislation.

13 The City already tracks some of the data
14 required by these bills pursuant to existing City
15 contract requirements, and a technological solution
16 may enable us to track much of this information
17 electronically. We are happy to work with the
18 Council to discuss these reporting requirements as we
19 move forward with a solution.

20 The Administration supports the intent of
21 the bills and we would like to work with Council to
22 ensure a responsible scope and implementation
23 timeline. I want to be clear that this process will
24 take some time, because changes must be rolled out to
25 agencies in phases. Implementation will also be
26 resource heavy and once in place, agencies and
27 contractors alike will need time to acquire more

1 advanced administrative systems, learn new
2 procedures, and gather newly required data. Should
3 this bill move forward, we would need to work closely
4 with businesses to provide clear guidelines on the
5 new process and data required, which could be
6 especially resource intensive and difficult for small
7 businesses. The legislation also creates new
8 penalties for contractors that do not disclose their
9 workforce data, but currently there is no enforcement
10 mechanism and SBS is not a regulatory agency.

12 Finally, we recognize the importance of
13 reporting workforce data; however, the Administration
14 has significant concerns about protecting the privacy
15 of the individuals working on these projects and
16 respecting the City's contractors' interest in the
17 confidentiality of proprietary information they are
18 required to disclose in order to be awarded a
19 contract. We would like to discuss amendments to the
20 bill that would create safeguards for the personal
21 information of employees and to avoid a conflict with
22 the requirements of the General Municipal Law.

23 Intro 705-A would require contractors
24 employed to work on projects receiving financial
25 assistance from the City to disclose certain

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4 information regarding the race and gender of
5 directors, officers and other executive level staff.

6 While we appreciate the intent of this bill to
7 increase diversity in leadership, we have concerns
8 with the legislation as drafted. Collecting data on
9 race and gender of executive level staff for City
10 contracts may discourage some businesses from
11 competing for contracts with the City. As with the
12 other bills, we also have significant concerns about
13 protecting the privacy of these individuals. As a
14 reminder, SBS is also mandated by Council to produce
15 a report that analyzes the racial, ethnic and gender
16 diversity among directors, officers and executive
17 level staff of certain City contractors. We would
18 recommend waiting for the full report to consider
19 whether this legislation is necessary.

20 SBS and the Administration stand with the
21 Council and advocates to ensure transparency of the
22 workforce and City-funded projects. We are committed
23 to working with the Council to develop a better
24 strategy that achieves this goal in a smart, holistic
25 way. We are now happy to take questions from the
Council. Thank you.

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4 CHAIRPERSON GARODNICK: Thank you very
5 much. We are going to go first to Chair Cornegy for
6 questions and then to Chair Rosenthal.

7 CO-CHAIR CORNEGY: Thank you Chair
8 Garodnick.

9 So I said I was going to keep my focus on
10 a particular bill and I'm going to do that -- 1382-A.
11 So first -- oh I'm sorry, first of all, good
12 afternoon. So what's the current number of
13 contractors that perform construction work for the
14 City as of August 2017?

15 [background comments]

16 JONNEL DORIS: Good afternoon Council
17 Member. We have about 6,412 contracts that were
18 performed in construction.

19 CO-CHAIR CORNEGY: So do you know how
20 many individuals are employed by those 6,000
21 contractors?

22 GREGG BISHOP: So I'll take that
23 question. When a contract is registered, which is
24 the number that we have, as you know, the lifecycle
25 of a contract, we may not have the exact number
because at any given point the contractors will have

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4 to sort of staff up. So for that particular
5 information we do not have that information.

6 CO-CHAIR CORNEGY: So let me be clear;
7 these aren't get you questions; I just want to lead
8 up to my belief for the necessity for the bill, so
9 these are questions that are germane to that. Can
10 you specify the five largest contracts by dollar
11 amount that the City awarded last year -- the name of
12 the firm -- I won't ask for the name, but can you
13 just give me the five largest contracts by dollar
14 amount for last year?

15 JONNEL DORIS: We have -- the five
16 largest contracts -- C.A.C. Industries, Tully
17 Construction, IEC [sic] Associates, DiFazio
18 Industries, E Sol [sic] Contracting ES2 [sic]
19 Enterprises.

20 CO-CHAIR CORNEGY: Thank you. And the
21 number though, by dollar amount?

22 JONNEL DORIS: We do have total awards
23 for those firms; is that okay; would that
24 **[inaudible]**... [crosstalk]

25 CO-CHAIR CORNEGY: But now **[inaudible]**
the aggregated, I'll take it, but no; I would like a
breakdown so we can determine who really... like, we're

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4 trying' to follow the money trail a little bit. But
5 if you only have the dollar amount now, at a later
6 date I'd like to get the breakdown between the five
7 largest. But if you only have the overall number,
8 I'll accept it now.

9 JONNEL DORIS: We have the total number
10 of contracts awarded to those particular industries,
11 those contractors. For C.A.C. Industries it was \$271
12 million; Tully Construction \$194 million total in
13 contracts; EIC Associates Inc. \$109 million in
14 contracts; DiFazio Industries \$96 million in
15 contracts; El Sol Contracting ES2 Enterprises \$94
16 million in total contracts.

17 CO-CHAIR CORNEGY: Which contractor
18 employs the largest percentage of unionized labor out
19 of the five that you just mentioned?

20 GREGG BISHOP: I don't think we have --
21 no.

22 JONNEL DORIS: I don't think we have that
23 information.

24 CO-CHAIR CORNEGY: Okay. So at some
25 point I think that would be germane to this
26 conversation, so if at a later date I could get that
27 and this panel could get that, I would appreciate it.

1
2 What's the gender breakdown of the
3 workforce of those five contractors?

4 GREGG BISHOP: So I can give you, in
5 terms of the information that I have for -- this may
6 not be an apple to apple comparison. So for the
7 contracts that were registered with DLS last... in
8 July, in terms of the breakdown, we have a total
9 projected workforce of 351 individuals of which a
10 little bit over half are either minority or women.

11 CO-CHAIR CORNEGY: I'm sorry?

12 GREGG BISHOP: So of the 351, a little
13 bit over half are either minority, so that's either
14 black, Hispanic, Asian or women, in the total
15 workforce number.

16 CO-CHAIR CORNEGY: Right, so I guess I
17 was a little bit more concerned with the top five
18 dollar amount awardees and their breakdown...

19 GREGG BISHOP: Uhm-hm.

20 CO-CHAIR CORNEGY: for this conversation,
21 so do you not have that? So the gender breakdown for
22 the top five that you articulated received the
23 highest amount of awards individually; do we not have
24 the gender breakdown for them?

4 GREGG BISHOP: We could get back to you
5 with that...

6 CO-CHAIR CORNEGY: Okay.

7 GREGG BISHOP: with the top five.

8 CO-CHAIR CORNEGY: Okay. So I don't want
9 to beat any kind of horse actually, so I'm going to
10 move on from that that's kind of the line of
11 questioning that demonstrates the necessity for the
12 bill. So I'm just going to go on to... Did I
13 understand you to articulate in your testimony that
14 you do not believe disclosing information on race and
15 gender -- I mean, I'm sorry, that you do believe
16 disclosing information on race and gender would
17 discourage businesses from contracting with the City?

18 GREGG BISHOP: Yes. So there's a couple
19 things -- in terms of, you know, first of all, we do
20 support the intent of the bill and we do understand
21 the goals; I think what we want to make sure that
22 there's not unintended consequences, which is why we
23 would love to work with Council to make sure that we
24 understand the scope of the bill so therefore we can
25 make a determination. Certainly there are companies,
and especially smaller businesses, that would end up
having an additional burden to provide that

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4 particular information, depending on what the scope
5 of the bill is. So once we get an understanding of
6 the scope, then I think we can work with you to make
7 sure that we do not have any unintended consequences.

8 CO-CHAIR CORNEGY: So as you can imagine,
9 that particular ideal would be troubling to myself,
10 as the chair of Small Business and probably everyone
11 else who's chairing committees today, if that were
12 the case that somehow it would be discouraging to
13 disclose that information would certainly be a little
14 bit disturbing.

15 GREGG BISHOP: Right. I think you know
16 one of the things we... you know...

17 CO-CHAIR CORNEGY: That information in
18 particular; I understand trying to avoid any
19 unintended consequences; I...

20 GREGG BISHOP: Right.

21 CO-CHAIR CORNEGY: I definitely
22 understand that, but obviously we believe that that
23 information is germane to a whole series of other
24 issues that we may be facing as it relates to equity
25 and balance, so...

26 GREGG BISHOP: Sure.

4 CO-CHAIR CORNEGY: that... that... if
5 somebody was discouraged from doing business with the
6 City based on having to disclose information around
7 the demographics of their workforce, that would
8 clearly you know be very disturbing to me. But I
9 understand the necessity to try to negate unintended
10 consequences, but I don't see where an intended
11 consequence would lie in that particular information.
12 So I don't want to monopolize the time and I know
13 that there are people who would like to testify today
14 who have to leave, so I will come back on the second
15 round and ask any questions, but I'm going to stay
16 particularly with this particular bill because of its
17 importance to my committee.

18 CHAIRPERSON GARODNICK: Thank you Chair
19 Cornegy; we'll go to Chair Rosenthal.

20 CO-CHAIR ROSENTHAL: Thank you so much.
21 I actually want to just spend a minute making sure I
22 understand how the current system works, so I'd like
23 to start there and just make sure that the bill is
24 doing what we want it to do. So help me out here;
25 currently the... sorry... the way it works is a
contractor gets chosen and then there's a possibility

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4 of them accessing ICAP funds; is that a fair
5 statement?

6 JONNEL DORIS: Our colleague from DOF can
7 outline... [crosstalk]

8 CO-CHAIR ROSENTHAL: Yes.

9 JONNEL DORIS: the process. Yeah.

10 THEODORE OBERMAN: So I don't know how
11 detailed you want, but ICAP is of course an incentive
12 program, so in order to potentially access benefits
13 from it you must first apply to the program, so any
14 applicant would submit what's called the preliminary
15 application; that needs to be submitted prior to
16 pulling any DOB permits or starting construction, and
17 then from that point, depending on the size of the
18 total project value, there are potential MWBE
19 requirements -- currently under \$750,000 have no
20 requirements; \$750,000 to \$1.5 million require what
21 are called "outreach activities," and then over \$1.5
22 million requires a solicitation of three bids from
23 MWBE firms.

24 CO-CHAIR ROSENTHAL: I guess **[inaudible]**...
25 [crosstalk]

26 CO-CHAIR CORNEGY: Wait, wait, I'm sorry;
27 if you could just state your name for the record.

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4 THEODORE OBERMAN: I'm sorry. Theodore
5 Oberman from the Department of Finance.

6 CO-CHAIR ROSENTHAL: Thank you Mr.
7 Oberman; if you could go even one step prior. So an
8 example might be Department of Transportation wants
9 to contract out for, I don't know, fixing a road,
10 right, like can you walk through an exact example for
11 me and how it works?

12 THEODORE OBERMAN: Well that wouldn't be
13 eligible for ICAP, right. But so an I... [crosstalk]

14 CO-CHAIR ROSENTHAL: So what would?

15 THEODORE OBERMAN: an ICAP project -- you
16 could have two examples; one would be a renovation of
17 an existing building and the other would be the
18 construction of a new building, if you take the...
19 [crosstalk]

20 CO-CHAIR ROSENTHAL: And it's a building
21 that the City wants, so the City puts it **[inaudible]**...
22 [crosstalk]

23 THEODORE OBERMAN: No, it has nothing to
24 do with the City... [crosstalk]

25 CO-CHAIR ROSENTHAL: Okay.

THEODORE OBERMAN: this is all private;
it's an as-of-right construction program, which the

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primary purpose of it is to keep your building taxes
in line with what they were prior to when you did the
work, meaning that if you construct a new building,
the goal of the program as it's legislated is to keep
your building taxes what they were prior to
construction; meaning that you... [crosstalk]

CO-CHAIR ROSENTHAL: So your assessment
doesn't go up.

THEODORE OBERMAN: Your assessment goes
up, but you abate the taxes afterwards.

CO-CHAIR ROSENTHAL: Right. And why does
the City do it on these types of programs; why does
the City want them to get that benefit; what types of
buildings are we talking about...? [crosstalk]

THEODORE OBERMAN: There's... There's... It's
whatever falls into the ICAP statute, so that would
be commercial, retail, industrial; there's no
prohibition on ICAP except for residential.

GREGG BISHOP: But, but just... [crosstalk]

CO-CHAIR ROSENTHAL: Okay. Why are we
giving the tax break?

GREGG BISHOP: Sorry; just to jump in
really quickly. It's really to keep the City modern...
[crosstalk]

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4 CO-CHAIR ROSENTHAL: Okay.

5 GREGG BISHOP: obviously we want to
6 encourage our building stock to be as advanced as
7 possible and to compete with other cities, so this
8 program is really to help keep New York City as a
9 competitive city to ensure that the commercial
10 buildings are updated as possible.

11 CO-CHAIR ROSENTHAL: And so we're giving
12 the tax break even... we, the State is doing this even
13 before thinking about MWBEs, so having an MWBE
14 criteria, is that part of the criteria of doing their
15 work?

16 THEODORE OBERMAN: Well again, the MWBE
17 requirement currently for projects over \$1.5 million
18 is the solicitation of three bids; it doesn't
19 require... [crosstalk]

20 CO-CHAIR ROSENTHAL: But it's only
21 solicitation... [crosstalk]

22 THEODORE OBERMAN: Right, it's not for
23 the award...

24 CO-CHAIR ROSENTHAL: it's not that they
25 use it. Is the problem... it's only solicitation, so
why not change it to use?

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4 GREGG BISHOP: I think that's why we are
5 in support...

6 CO-CHAIR ROSENTHAL: Okay.

7 GREGG BISHOP: because certainly there's
8 opportunity outside of our normal procurement world;
9 this is not the MWBE program...

10 CO-CHAIR ROSENTHAL: Right.

11 GREGG BISHOP: obviously we have... and you
12 are very familiar with the fact that we doing
13 everything possible to get our City dollars to MWBEs;
14 this is work that's happening outside of that that we
15 think we can open up more opportunities for MWBEs,
16 and of course, you know the Mayor has been very
17 focused on figuring out every possible way to
18 increase opportunities for MWBEs.

19 CO-CHAIR ROSENTHAL: Okay. And so it's
20 interesting even that you **[inaudible]**, Commissioner,
21 so in a way it's shifting it from a DOF oversight to
22 a SBS **[inaudible]**... [crosstalk]

23 GREGG BISHOP: But we work closely with
24 DOF. Obviously, when Ted alluded to the fact of
25 solicitation, we have to verify that the companies
that they have told DOF they solicited are actually
certified firms, but we also -- and Jonnel mentioned

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4 in his testimony -- we also want to bring more
5 transparency to the developers and projects that are
6 out there that have this ICAP requirement, so prior
7 to -- actually, prior to last week, we actually had
8 our information on a spreadsheet which wasn't
9 necessarily usable...

10 CO-CHAIR ROSENTHAL: Right.

11 GREGG BISHOP: we have been able to
12 actually upgrade our website so that way it's front
13 and center on the homepage; individuals can now go
14 through a searchable Excel sheet, and certainly we
15 want to make sure we continue to figure out ways to
16 highlight those particular opportunities for MWBEs.

17 CO-CHAIR ROSENTHAL: And so are you
18 implying that you also want to address the issue of
19 the general contractor might solicit a group of MWBEs
20 that perhaps wouldn't want to bid and now you're
21 giving an opportunity for MWBE companies to bid
22 without solicitation?

23 GREGG BISHOP: Right. So we want to make
24 sure we do everything possible to maximize the
25 opportunities for MWBEs to actually work on these
26 particular jobs...

27 CO-CHAIR ROSENTHAL: Yeah.

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4 GREGG BISHOP: so in the past we've also,
5 for some of the projects -- and a lot of these
6 developers actually, they.. you know, there is the
7 intent and goodwill to actually use MWBEs, so they
8 have partnered with us to actually have specific
9 events where they tell us the trades that they're
10 looking for that they anticipate..

11 CO-CHAIR ROSENTHAL: Yeah.

12 GREGG BISHOP: they'll be using; we
13 invite the MWBEs in those trades to meet the
14 developers and basically make that connection, and
15 all these sort of efforts obviously would count as a
16 good faith effort as the rules are written, but we
17 think we can do more obviously to increase
18 opportunities there, which is why we're in support.

19 CO-CHAIR ROSENTHAL: Okay.

20 JONNEL DORIS: And I just wanted to add
21 that right now we are -- as I mentioned in my
22 testimony -- we are assessing, looking at ICAP as
23 well as other areas, as you know, in our program and
24 one of the things that we just want to highlight;
25 just as we went up to Albany to get legislation
26 changed for the increase in the discretionary spend
27 for MWBEs and [inaudible], etc., we are at the end of

1 this assessment; we will have action items and things
2 that we would like to see in a program such as ICAP.
3 But we do caution also that there's a possibility, a
4 strong one, because this is a State as-of-right
5 program...

7 CO-CHAIR ROSENTHAL: Yeah.

8 JONNEL DORIS: that we will have to go
9 back again and get further legislation from the State
10 and authority to do certain things as it pertains to
11 this program.

12 CO-CHAIR ROSENTHAL: As a first flush,
13 how much... or where is the baseline now and how much
14 could you hope it would improve?

15 JONNEL DORIS: Yeah, so I will have DOF
16 talk a little bit about how they capture the base.

17 THEODORE OBERMAN: So unfortunately,
18 currently there's no real mechanism which would allow
19 us to tell how many dollars are spent on MWBE firms
20 in the ICAP program, and this is for two main
21 reasons; one is, for projects which are under \$1.5
22 million they're not required to provide any sort of
23 information about solicitation; that's about 67% of
24 the contracts assigned [sic], so that -- I'm sorry,
25 projects rather; not contracts -- that's for FY 15-

17. The other is that while they are required to indicate that they've solicited, they're not really required to indicate that they have awarded. So we don't have great information about that, but it is something that we hope to -- especially with this bill -- move to get better data on and work more closely to get that number for the Council.

CO-CHAIR ROSENTHAL: Okay, so we don't have a baseline; we don't... I mean even if you were doing \$750,000 and above, do we know... [crosstalk]

THEODORE OBERMAN: Do you mean \$1.5 million and above?

CO-CHAIR ROSENTHAL: Well...

THEODORE OBERMAN: It would be \$1.5 million and above, yeah... [crosstalk]

CO-CHAIR ROSENTHAL: Okay. Do we know for any group... [crosstalk]

THEODORE OBERMAN: Again... Again...

CO-CHAIR ROSENTHAL: how much money or how many... anything about the MWBE component?

THEODORE OBERMAN: Uh un...

GREGG BISHOP: Yeah.

THEODORE OBERMAN: Yeah, unfortunately, not; we really don't have a sense; we know when

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they've solicited the bids; we don't know when
they've really awarded the bids.

CO-CHAIR ROSENTHAL: How hard would it be
to find out?

THEODORE OBERMAN: Uhm... [crosstalk]

GREGG BISHOP: **[inaudible]**... [crosstalk]

CO-CHAIR ROSENTHAL: How many programs
are we talking about or projects are we talking about
between 2015 and 2017; is it... [crosstalk]

THEODORE OBERMAN: Uhm...

CO-CHAIR ROSENTHAL: 5; is it 30; is it
100?

THEODORE OBERMAN: think it's about 150.

CO-CHAIR ROSENTHAL: Okay.

THEODORE OBERMAN: Yeah.

CO-CHAIR ROSENTHAL: Okay. And
meanwhile, they've gotten a billion dollars of tax
breaks to renovate the city?

THEODORE OBERMAN: Well Cap's not quite
that... [crosstalk]

CO-CHAIR ROSENTHAL: Oh, **[inaudible]**.

THEODORE OBERMAN: it's not quite a
billion dollars; it's... it's uhm... it... that's...
[crosstalk]

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4 CO-CHAIR ROSENTHAL: A billion per year.

5 THEODORE OBERMAN: I think that's for all
6 commercial incentives programs; not just ICAP. ICAP
7 last year was about \$88 billion in tax expenditure.

8 CO-CHAIR ROSENTHAL: \$88 million?

9 THEODORE OBERMAN: I'm sorry, million.

10 GREGG BISHOP: And remember, the intent
11 of ICAP is -- ICAP is not a MWBE program; ICAP is to
12 increase the commercial stock of the City; we are
13 just -- and the reason why we are in favor of this
14 bill; we see it this as an opportunity to increase
15 opportunities for MWBEs in this particular area.

16 CO-CHAIR ROSENTHAL: Uhm-hm.

17 JONNEL DORIS: Yeah and certainly,
18 Council Member, you know in our work part of what
19 we've been working on is our four core principals;
20 one is accountability and you know if you want to
21 have an effective program or initiative to support
22 MWBEs, you want to increase that accountability.
23 Certainly as we assess the ICAP program, which we are
24 currently doing, we will inadvertently come across a
25 whole host of various initiatives that can help
increase the accountability here, and so certainly
that, as you mentioned, is something that we are

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4 looking at where contractors -- how they report in;
5 what they do -- and I think that's a good area for us
6 to look at and we are looking at that.

7 CO-CHAIR ROSENTHAL: Okay. So it sounds
8 like SBS has been doing a bit more recently to have
9 more MWBEs participate; do you have thoughts about
10 what MOCS or SBS would need to do to fulfill
11 participation goals?

12 GREGG BISHOP: For ICAP?

13 CO-CHAIR ROSENTHAL: [nodding yes]

14 GREGG BISHOP: I think, as Jonnel said,
15 you know after sort of the assessment of the program,
16 I think then, once we figure out you know where the
17 program is going to go; you know looking at what we
18 have done on the MWBE side, I am sure that as best
19 practices we can utilize to ensure not only
20 solicitation...

21 CO-CHAIR ROSENTHAL: Right.

22 GREGG BISHOP: but also we see actual
23 utilization. So I am certainly happy to work with
24 you to make sure that there are opportunities there.

25 CO-CHAIR ROSENTHAL: Okay and we feel...
[crosstalk]

JONNEL DORIS: Council Member...

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4 CO-CHAIR ROSENTHAL: this bill fulfills
5 that, **[inaudible]**... [crosstalk]

6 GREGG BISHOP: I think there's... I think
7 we certainly would love to work with you on this.

8 CO-CHAIR ROSENTHAL: Okay. Sorry for...
9 [crosstalk]

10 JONNEL DORIS: No, I just wanted to
11 reiterate the fact that we support the intent...
12 [crosstalk]

13 CO-CHAIR ROSENTHAL: Yeah, yeah.

14 JONNEL DORIS: of the bill and again, in
15 part because I think it begins to help us address
16 this particular sector that we are not able to
17 navigate or see what's happening that pertains to
18 MWBEs, but as more opportunities... [crosstalk]

19 CO-CHAIR ROSENTHAL: Right.

20 JONNEL DORIS: open up. And I think
21 also, as you see with the creation even of our
22 office, when the Mayor is committed really to an
23 initiative and to get it going, resources are being
24 addressed and being allocated to it, so I think once
25 we figure out this program and how we can best use
the authority given to us by the State to do what we
need to do and if we need to go back or make various

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4 adjustments or provide different resources to SBS or
5 MOCS, as we've done when we announced our 30% goals
6 is a similar approach we would use here.

7 CO-CHAIR ROSENTHAL: Terrific. Well I
8 really appreciate the opportunity to work with you on
9 this legislation and to partner together to make the
10 system work better for the communities that we're all
11 seeking to serve. Thank you.

12 JONNEL DORIS: Thank you.

13 CO-CHAIR CORNEGY: Public Advocate Tish
14 James.

15 PUBLIC ADVOCATE JAMES: Thank you. Are
16 there any current forms provided to City agencies
17 that disclose this personnel information?

18 GREGG BISHOP: So just to step back in
19 terms of the process as it is right now; whenever a
20 contract is awarded in the construction area or
21 supply and services, DLS, which is Division of Labor
22 Services, we have to sign off on the EEO policy of
23 that company and the form that we do hand out has
24 information -- we collect certain information like
25 health benefits; we collect information regarding,
you know, sort of the names of workers, etc.; we have
trade classifications; we have the hourly rate of

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4 pay, union affiliation, their address, last four
5 digits of the security number, etc. So that form is
6 standard across the City, so any agency that, well
7 mayorally you see that has to register a contract,
8 that form needs.. we have to sign off; DLS has to sign
9 off that that contractor is in line with the City's
10 EEO policy and workforce diversity goals before that
11 contract is registered.

12 PUBLIC ADVOCATE JAMES: And the
13 disclosure of race and gender, is that a violation of
14 the Human Rights Law, EEO policy, and/or General
15 Municipal Law?

16 GREGG BISHOP: So there is a concern of
17 General Municipal Law, which is why we would love to
18 work with you to make sure, because we do support the
19 intent and I certainly am passionate about ensuring
20 that the companies that contract with the City are
21 diverse and reflects the diversity of the City; we
22 all are, but we want to make sure you know certainly
23 the privacy of individuals and to make sure that we
24 do not run afoul of any issues with the General
25 Municipal Law, and certainly we would love to work
with you and Council to ensure that.

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4 PUBLIC ADVOCATE JAMES: Do contractors
5 voluntarily submit any personal information,
6 including but not limited to race and gender?

7 GREGG BISHOP: So we will find out. I
8 think one of the -- as I mentioned in my testimony --
9 previous legislation mandated SBS to actually get
10 that information from the companies that contract
11 with the City, which includes race and gender; it is
12 voluntary, so you know we are working on the survey
13 and we're going to send it out. I think once we see
14 the results, certainly I think then we can, you know
15 I think, be better informed on what this legislation
16 should do to ensure that we get maximum
17 participation.

18 PUBLIC ADVOCATE JAMES: Is there any
19 concern that given the vitriol that we are
20 experiencing from Washington, D.C., that there will
21 be one day a requirement that we will report
22 ethnicity?

23 GREGG BISHOP: Uhm...

24 PUBLIC ADVOCATE JAMES: And/or national
25 origin?

26 GREGG BISHOP: So I think where you're
27 headed is part of our concern in terms of the

1 privacy; we just want to make sure -- you know,
2 certainly New York as a city, I think contractors --
3 and again, I don't want to understate the fact that
4 when we sit down with a contractor we are telling
5 that contractor they need to be in compliance with
6 New York City's diversity goals for the workforce,
7 and in certain cases -- I mean, you know, and based
8 on the experience of the team, some contractors
9 actually have avoided contracting with the City
10 because of that, and you know to the Chairman's
11 point, that is fine; I think, you know, the companies
12 that want to contract with the City, they have agreed
13 and sometimes have asked us to help them find workers
14 to make sure that they are in compliance; we work
15 with organizations like I mentioned in my testimony,
16 like NEW and Helmets to Hardhats to ensure that there
17 is a pipeline that those contractors can utilize to
18 make sure that they are compliance with our diversity
19 goals.
20

21 PUBLIC ADVOCATE JAMES: Thank you.

22 CO-CHAIR CORNEGY: I'm sorry, Council
23 Member Perkins.

24 COUNCIL MEMBER PERKINS: Thank you very
25 much and I just want to ask a quit question or two.

4 You mentioned something about unintended
5 consequences...

6 GREGG BISHOP: Sure.

7 COUNCIL MEMBER PERKINS: could you be
8 more explicit about those unintended consequences?

9 GREGG BISHOP: So for example, when we
10 were looking at this particular bill, but when a
11 small business is contracting with the City there's a
12 number of reporting requirements that they have to
13 fulfill; there's a number of -- in terms of some of
14 the information that is required, they may not be
15 able to get it easily from their payroll system, so
16 they may have to add another module to their payroll
17 system to get some of this information, so the
18 unintended consequences is just an additional
19 administrative burden on the back office of that
20 particular business. Now if it's a large
21 corporation, you know that may not be an issue, but
22 I'm really concerned about the smaller businesses
23 where historically we have seen small businesses
24 struggle with the reporting requirements that the
25 City has and we have, on another side of the coin in
our Small Business First Initiative, we've been
trying to reduce the regulatory burden on small

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4 businesses to make it easier. So that is one of the
5 things; I think once we understand the scope of the
6 bill we'll be able to then make sure that we do not
7 have the unintended consequences.

8 COUNCIL MEMBER PERKINS: I'm concerned
9 about terms like "unintended consequences" as an
10 excuse for not doing what should be done and so I'm
11 just trying to figure out how, upon seeing the
12 potential of such an unintended consequence you're
13 going to manage to overcome that... [crosstalk]

14 GREGG BISHOP: Right and...

15 COUNCIL MEMBER PERKINS: and nevertheless
16 fulfill the intention of the bill, because otherwise
17 it's sort of a diversionary tactic from complying
18 what the bill is trying to accomplish.

19 GREGG BISHOP: Right.

20 COUNCIL MEMBER PERKINS: I don't mean to
21 suggest that you mean that on purpose, but I just
22 want to be clear that... I'm not clear what the
23 unintended consequences are that cannot be overcome
24 in compliance with what we're trying to accomplish.

25 GREGG BISHOP: Well so just to be clear,
we support the intent of the bill, so we're not
saying that we shouldn't do it; what we're saying is,

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4 we want to work with you to understand the scope to
5 make sure that there isn't any unintended
6 consequences, because what we don't want is a small
7 business having to struggle to actually meet the
8 reporting requirement. You know I think once we
9 understand the scope and work with you, we can make
10 sure that that doesn't happen. So I think we're
11 saying the same thing Council Member.

12 COUNCIL MEMBER PERKINS: I hope so; I'm
13 not sure though. So I just thought maybe you had
14 looked at it and sort of listed out some unintended
15 consequences that needed to be overcome, **[inaudible]**...
16 [crosstalk]

17 GREGG BISHOP: Right, we... As I mentioned
18 in my testimony, we want to understand the scope,
19 because I think the bills have some language that
20 we're not entirely sure if it's going to cover all
21 City contracts; if it's going to cover some of them.
22 So there is some clarity that we would love to work
23 with you to make sure that we understand the scope
24 and then we can ensure that there isn't any
25 additional burden on small businesses.

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4 COUNCIL MEMBER PERKINS: Yeah, but do you
5 have an example of the kind of language that is
6 troublesome?

7 GREGG BISHOP: In terms of the... So there
8 is the -- while it could be the bill as is written
9 has if there is a benefit over a million dollars, I
10 believe, but I think the intent is that it's going to
11 cover all contracts, so those are two different
12 things, because if you're talking a benefit over a
13 million dollars; then more than likely you're talking
14 about a larger business, but if you're talking about
15 all contracts; then you're going to pull in all of
16 the small businesses, including minority- and women-
17 owned businesses, so that's why I said we want to
18 make sure that we work with you to understand the
19 scope and the intent and then make sure that we just
20 mitigate and get ahead of any of the unintended
21 consequences. Again, I'm fully and we are fully in
22 support of the intent of the bill and we just want to
23 make sure that we clarify the scope to make sure that
24 we do not have any additional burden on small
25 businesses.

26 COUNCIL MEMBER PERKINS: So I'm glad to
27 hear that you're fully supportive of the intent, but

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4 I just want to make sure when you have these
5 unintended consequences that you're more explicit so
6 that we can figure out whether or not... [crosstalk]

7 GREGG BISHOP: Right.

8 COUNCIL MEMBER PERKINS: [inaudible]...

9 [crosstalk]

10 GREGG BISHOP: Happy to... to... to...

11 COUNCIL MEMBER PERKINS: how much it's
12 compromising the bill; sometimes that's what happens.
13 I want to ask a question -- now who are the -- you
14 mentioned something about the underrepresented groups
15 at some point in your...

16 GREGG BISHOP: Yep.

17 COUNCIL MEMBER PERKINS: could you
18 identify those groups for me please?

19 GREGG BISHOP: So whenever we talk about
20 underrepresented groups, I mean they run the gamut
21 from -- obviously, you know, out of school, out of
22 work youth, individuals in NYCHA homes, individuals
23 without high school degrees -- I mean it all depends
24 on what particular category that you're thinking
25 about, but that's... [crosstalk]

COUNCIL MEMBER PERKINS: Right.

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4 GREGG BISHOP: women, veterans -- I mean
5 there's... those are just examples.

6 COUNCIL MEMBER PERKINS: Right. Well you
7 mentioned it, so I just thought maybe you would be
8 more explicit in terms of who we're talking about.
9 So that's the gamut of the... that's the list that you
10 are looking at that's so-called underrepresented?

11 GREGG BISHOP: Yes.

12 COUNCIL MEMBER PERKINS: You have a list
13 of... this is just an uh...

14 GREGG BISHOP: Right, so I mentioned some
15 that...

16 COUNCIL MEMBER PERKINS: uh...

17 GREGG BISHOP: yeah.

18 COUNCIL MEMBER PERKINS: Yeah, well if
19 you have more... I'd like to have more that you look at
20 from that perspective.

21 GREGG BISHOP: Okay.

22 COUNCIL MEMBER PERKINS: Alright. Thank
23 you.

24 CO-CHAIR CORNEGY: Council Member
25 Vallone, I'm sorry.

COUNCIL MEMBER VALLONE: Thank you to the
chairs. I agree, Commissioner; I thank you for your

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4 concerns. I think that the primary role, I think
5 role; intent of these amendments to the bills, I
6 think as we role our requirements and thresholds, if
7 you're sitting on the Department of Small Business
8 Committee, which is the backbone of our city, we want
9 to implement these things in the best way possible
10 and transition and help our small businesses, 'cause
11 the first cry from any district and any council
12 member is our small businesses are struggling and
13 need help, so I thank you for looking for unintended
14 consequences and looking for ways to help these
15 smaller businesses entering into a new threshold that
16 haven't been there before to figure out how the best
17 way to implement these great intents, so I appreciate
18 your... [crosstalk]

19 GREGG BISHOP: Thank you.

20 COUNCIL MEMBER VALLONE: concerns and
21 efforts on that. Some of them seem pretty simple;
22 some of them don't, so I'm just thinking, when you
23 read the comments of the testimony that's been
24 submitted today, some of them come up as, you know
25 whether notarizing documents or they can submit
documents online on working with you to ease into
this process and how will these new businesses

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4 receive assistance from your department in getting
5 into this new process, if and when it comes, which
6 I'm sure it will.

7 GREGG BISHOP: Right and I think --
8 again, going back to you know once we understand the
9 scope and then we understand what's necessary, we can
10 then figure out the assistance that we will give the
11 small businesses to make sure that they can be in
12 compliance. But I also do not want to sort of leave
13 out the privacy part, because I want to make sure
14 that -- you know there is the administrative burden
15 on the business, but then there is the workers,
16 right, because we want to make sure that the workers
17 are also protected. So again, I think the first step
18 is working with Council, because we are in support of
19 the intent, to make sure that we address those
20 particular concerns by really focusing on the scope
21 and then we can then come up with I think solutions
22 for small businesses.

23 COUNCIL MEMBER VALLONE: And I think just
24 the last question, 'cause I know you have other
25 panels -- when these do get implemented, would they
be retroactive or would it start from the time of
implementation?

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4 GREGG BISHOP: I think that's something
5 that we would work with Council on to determine.

6 COUNCIL MEMBER VALLONE: Okay. Thank you
7 very much. Thanks Chair.

8 CO-CHAIR CORNEGY: Thank you Council
9 Member. There's no more questions; we will go to the
10 second panel. Thank you so much Commissioner,
11 Director, and staff.

12 GREGG BISHOP: Thank you.

13 CO-CHAIR CORNEGY: So as they leave, I'm
14 going to call the next panel -- Miss Bertha Lewis,
15 Miss Denise Richardson, Miss Hazel Dukes, and Mr.
16 Donald Ramshue [sic].

17 If the panel's ready, I'd like to begin.
18 If you'll indulge me, I would ask that Miss Hazel
19 Dukes, who had asked to go first -- 'cause she has
20 another engagement -- if everybody would indulge me,
21 Miss Hazel Dukes would testify first.

22 [background comments]

23 HAZEL DUKES: It's on now. Thank you.

24 Good afternoon to the chairs of the
25 Committees and to our Public Advocate, Miss James,
and most certainly to the chairman of contracts,
Chairman Cornegy.

1 My name is Hazel Dukes and I'm the
2 President of NAACP New York State Conference. With
3 15 branches across the boroughs, the NAACP is one of
4 the oldest, boldest, most effective, and most
5 respected civil rights organizations in the nation.
6 The NAACP New York State Conference has played a
7 pivotal role in moving the agenda for freedom and
8 equality forward under the leadership of our
9 Presidents within the State Conference, each of whom
10 addressed many critical issues daily during their
11 tenure.
12

13 As you know, diversity and Equal
14 Employment Opportunity are of paramount importance;
15 particularly within New York City's construction
16 industry, which has historically served as a pathway
17 to economic advancement for minority workers. For
18 over a year I have personally discussed the need to
19 increase the transparency surrounding construction
20 projects that receive financial assistance of any
21 kind from the City. And let me just say to the
22 Council leadership today; I was really impressed with
23 the questions that you asked of the members that just
24 left -- I hope some are still here.
25

4 The City's inability to assess who
5 receives the benefits of City-assisted construction
6 projects continues to be unacceptable. And
7 Councilwoman Rosenthal and Public Advocate James,
8 that was very clear in the questions -- and
9 Councilman Perkins in the questions that you asked
10 today. The public should know whether City residents
11 of all races are actually working the good paying
12 construction jobs receiving City funds.

13 Today I am pleased to share support for
14 all four of the bills being heard. These bills will
15 help minority- and women-owned businesses get more of
16 the opportunities that they deserve. Councilwoman
17 Rosenthal, you were right on it when you asked about
18 the financial; that's where we're looking, at the
19 bottom line; we want to know where our money is going
20 as taxpayers in this city. I commend the City
21 Council and its staff for coming to their senses by
22 adopting the majority of provisions included in the
23 City-Assisted Construction Workforce Disclosure Act
24 that I submitted in my January testimony on
25 Intro 1382.

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4 However, now is not the time to rest on
5 your laurels. I urge the Council to be even more
6 aggressive and to adopt more of the Disclosure Act's
7 language. Specifically, by requiring covered
8 projects to disclose the union affiliation of their
9 workers, by requiring the designated administering
10 agency to release data-driven recommendations to
11 improve diversity, and by making these much needed
12 improvements effective immediately. Furthermore, you
13 all must begin considering the ongoing oversight that
14 will be needed to ensure the requisite data is
15 actually collected this time.

16 Take action to address the City's past
17 failures and broken systems immediately. City-
18 assisted construction projects should know that
19 receiving public benefits brings public
20 responsibility. Do not let the Department of Small
21 Business Services, real estate developers,
22 contractors, or trade associations tell you
23 otherwise. The NAACP stands ready to support you in
24 these long overdue efforts.

25 Thank you, Chairman Cornegy for the
hounding that I have given you. Thank you Public
Advocate James for assisting and meeting with us to

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4 discuss this issue, but we cannot stop here today.

5 As I said, we cannot sit on our laurels, we need to
6 make sure as New York City residents that our
7 taxpayers and our money make sure that everybody is
8 included, regardless of what the trade unions say;
9 whatever the contractors say, we know best. Thank
10 you very much.

11 CO-CHAIR CORNEGY: Thank you.

12 HAZEL DUKES: Any questions?

13 CO-CHAIR CORNEGY: No, we're pretty
14 clear.

15 [laughter]

16 HAZEL DUKES: Thank you. I think you've
17 been clear for two years.

18 CO-CHAIR CORNEGY: Yes, ma'am. Yes,
19 ma'am.

20 BERTHA LEWIS: I'm next. Thank you all
21 for having this hearing, finally. I'm here to
22 testify regarding Intro 705-A, 752-B, 1382-A, and
23 1400. But let me just say, as some of you who know
24 me, every time I testify on the record I request one
25 thing -- one day in committee hearings the public
will be allowed to go first before the

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4 Administration. Thank you very much; just wanted to
5 make sure that was on the record.

6 So I am here and I'm very happy to be
7 here; as my sister, Miss Dukes say, we've been
8 fighting for several of these things; I would be
9 remiss if I didn't single out the Women's Committee
10 and the Women's Caucus for helping to push this
11 forward and also to the Chairs, Rosenthal and to
12 Mr. Cornegy, who's an honorary sister [sic], and to
13 our Public Advocate.

14 For those who don't know me -- and you
15 too, I... and as you're the sister of sisters, my name
16 is Bertha Lewis and I am an activist, an organizer
17 and an advocate for fair practices in housing and
18 labor for working people of color. I am the founder
19 and president of The Black Institute, as well as the
20 founder of the Black Leadership Action Coalition
21 (BLAC). My entire life's work has revolved around
22 shaping public policy to affect positive, equitable
23 change in minority communities. It is in this
24 capacity that I am here today to offer my full-
25 throated support for all four bills heard today. And
as some of you who know me know, that was unheard of;
I rarely ever come to say yay for everything.

4 But employment in New York City's
5 construction trades has historically been a vehicle
6 of economic mobility -- a vehicle which, also
7 historically, has been to the exclusion of people of
8 color. Equal Employment Opportunity laws are not
9 enough to remedy this injustice, or to turn the tide
10 of bigotry against people of color in the
11 construction trades and I might add, against women.
12 This is why it is imperative that we keep the light
13 shining on projects that receive assistance from the
14 City, to make sure that the diversity of this City is
15 truly reflected in the labor force working on these
16 projects. Anything short of this transparency is an
17 insult not only to workers excluded from such
18 projects, but to the public which is helping to
19 subsidize them. Developers are not entitled to this
20 assistance -- it comes with the responsibility to be
21 a part of a community, and that means a diverse
22 community.

23 We also must recognize that transparency
24 alone is only the first step. We have to be
25 aggressive in making sure that diversity is the rule
and not the exception on projects that receive any
City assistance. We now have the ability to use data

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4 to make this a reality, and there is no excuse for
5 why we aren't using these tools today. After all,
6 without data, you cannot make public policy. Without
7 data you cannot make effective legislation. This is
8 why we need the oversight necessary to guarantee that
9 data is collected properly and impartially. Passing
10 these bills would be a victory for Minority- and
11 Women-Owned Businesses, of course that I have
12 advocated for for my entire career. Now they stand
13 ready to help continue to build this great city, and
14 there's no good reason why at all why they shouldn't
15 be getting their fair share of contracts, especially
16 on City-assisted projects.

17 As committee members, you are the trusted
18 inheritors of a checkered past. And so it is on your
19 shoulders to help remedy the failures and injustices
20 of our past, to make sure that the developers and
21 businesses which wish to use City assistance for
22 their projects understand their responsibility to the
23 people. Over the years I've had many opportunities
24 to talk to developers, to builders, and I always tell
25 the story about a developer that told me, "If I could
make one penny less than what I could; I'd consider
that a loss. I just follow the rules, miss, I just

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4 follow the rules." And so I am thankful today that
5 some of those rules people will have to follow by
6 giving us disclosure and I, The Black Institute and
7 BLAC, we stand ready to support you in any way we
8 can. I am proud that this City Council pass this
9 legislation; we'll have a new City Council in
10 January, and so you all have set the standard and I
11 hope that they can improve on what you so boldly and
12 courageously have done. Thank you all. Thank you.

13 CO-CHAIR CORNEGY: Thank you. Tish

14 James.

15 PUBLIC ADVOCATE JAMES: Miss Lewis, you
16 were here when the Administration testified and they
17 indicated that currently the form that they receive
18 discloses health benefits, name, work, trade, salary,
19 union affiliation, address, and social security, and
20 that it is their position that personal data which
21 includes gender and race violates General Municipal
22 Law. What is your position?

23 BERTHA LEWIS: I totally disagree with
24 that. There is personal and then there's personal.
25 Everybody can see what my gender is and if I am on a
job, especially on a City-assisted job, those are
pertinent data. The Census Bureau collects that type

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of data and so I think that we always -- you know,
activists like myself always run into this barrier of
like -- ooh, that's personal; ooh, that's
confidential -- and so we find ourselves in the
dilemma that we are when things are hidden behind
confidentiality or behind something that is personal.
If you are going to apply for public works, public
assistance, then the public needs to know basic facts
about who you are; not going into your bedroom; not
going into your kitchen; not going into your family,
so I think it's a rather specious argument that has
held us back for an awfully long time.

PUBLIC ADVOCATE JAMES: Do you believe
that disclosing ZIP codes would achieve the same
objective?

BERTHA LEWIS: I believe that the ZIP
codes should be disclosed because I would like to
know where you actually live, because we know the ZIP
codes of what the developments are and where the work
is being done, so do you have a ZIP code from New
Jersey or do you have a ZIP code from East New York?
I think that is pertinent data because the government
should put out statistics about the workforce, who is
working, where they're working, and where they're

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4 living; where their primary residences are, where
5 they're registered to vote, so the ZIP code of the
6 workers would be highly informative.

7 PUBLIC ADVOCATE JAMES: Thank you.

8 CO-CHAIR CORNEGY: Thank you.

9 DENISE RICHARDSON: Good afternoon.

10 Thank you for the opportunity to testify today. I'm
11 Denise Richardson, Executive Director of the General
12 Contractors Association (GCA) of New York.

13 I'd like to start out my testimony by
14 stating that we support Intro 1400 and so that is not
15 the subject of my comments today. We do however have
16 serious concerns and must oppose as they are
17 presently written Intros 705, 752 and 1382.

18 Let me be clear; the GCA and our members
19 strongly support workplace diversity efforts and all
20 EEO standards. There are currently 68 different
21 federal, state and local anti-discrimination, EEO,
22 and pay protection laws, rules and regulations, all
23 of which we support and abide by. Since 1980, the
24 GCA members, like all construction contractors doing
25 business with the City, have been submitting
workforce utilization reports in compliance with
Executive Order 50. That is 37 years worth of

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4 information that the City already has in its
5 possession that will provide a more than adequate
6 snapshot of the composition of the construction
7 industry workforce that works on City projects.
8 Based on both the number of existing EEO statutes and
9 the reporting that the industry is already subject
10 to, the GCA must oppose the burdens that will be
11 imposed by 705, 752 and 1382.

12 I'd like to also point out that these
13 bills unfairly target construction contractors,
14 impact business competitiveness and disclose
15 confidential pay information. And interestingly,
16 construction managers, architects and engineers and
17 other professional services that are key to
18 delivering the City's capital program and which
19 provide the promotional opportunities as people move
20 up through the ranks of the industry are oddly
21 excluded from these bills, as are the multitude of
22 other companies with which the City does business.

23 Based on MOCS' own information, actual
24 construction represents only 19% of the City's
25 overall procurement expenditures, yet these bills
only look at construction contracts. In FY16, only
three of the City's 15 largest contracts, only 7% of

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4 the total dollar value represented by these awards
5 were for actual construction work, and yet the
6 proposed bills target only this very small piece of
7 the City's overall procurement portfolio.

8 It is ironic that the City now seeks to
9 require employers to collect data about their
10 employees' race, ethnic group and gender that under
11 laws is a voluntary disclosure. But the data
12 requirements go further, mandating disclosure of
13 total compensation, ZIP codes, date of hire and pay
14 trends for each worker. This is confidential
15 employee information that the Council is asking to be
16 reported quarterly and posted on the City's website.
17 The potential for identity theft is significant, as
18 most construction projects do not employ hundreds of
19 people in either their executive staff or their
20 workforce. In fact, the average number of executive
21 and senior managers at a construction company is
22 seven and the average workforce is less than 20. A
23 simple cross-matching of information among various
24 websites would easily yield individual information.
25 The City should not be in the position of enabling
identity theft.

The disclosure of this pay information is also contrary to Local Law 67, recently passed by the Council, which prevents prospective employers from inquiring about a worker's salary history, yet this same information could easily be obtained under this proposed legislation. Please note also that firms bidding against each other for City contracts will be able to use this data to figure out their competitor's approach to work and use that information in their bids. This is not the intent of the City's competitive bidding statute. Firms will also use this information to poach people from each other as the salary information will easily reveal a business' overall compensation program. Again, this is a City-sponsored intrusion on private business decisions and it does nothing to ensure that the City's bidding opportunities remain fair, open and competitive.

These bills will make it more difficult for businesses, especially small businesses, to contract with the City. The onerous nature of the reporting will also encourage firms to think twice about whether they want to continue doing business in New York or to focus solely on private work or work

4 in other jurisdictions or for other government
5 entities. Just today in speaking with one of our
6 members that does business in other states, he
7 reported what a difference it was to work in a state
8 that partners with their contractors to get the
9 projects done on time and on budget, with a minimum
10 of paperwork. I would not be surprised if that
11 member made the decision to focus his efforts
12 elsewhere and stop bidding work in New York. The
13 impact of course will be on those employees whose
14 personal circumstances would not afford them the
15 opportunity to move with their employer. But
16 apparently, as the City looks to impose more onerous
17 requirements on the businesses that provide private
18 sector middle class jobs, the impact on the
19 individuals is not a consideration.

20 For these reasons, the General
21 Contractors Association opposes 705, 752 and 1382.
22 Thank you.

23 CO-CHAIR CORNEGY: Thank you for that
24 very detailed testimony. Any questions? Public
25 Advocate Tish James.

26 PUBLIC ADVOCATE JAMES: Miss Richardson,
27 you mentioned the 68 various federal, state and local

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4 anti-discrimination laws, the EEO standards, pay
5 protection laws, rules and regulations in the
6 workforce utilization reports in compliance with
7 Executive Order 50; do any of them require disclosure
8 of race or gender?

9 DENISE RICHARDSON: Just purely in an
10 aggregate way; not on an individual basis, and our
11 concern is that this information, in the way that it
12 would look to be reported in these bills would go to
13 the individual level. We have no concern about EO 50
14 and the disclosure requirements in EO 50 and in fact,
15 we support them because it allows you -- if that data
16 were analyzed to determine which firms are providing
17 pension plans, which firms provide health insurance;
18 which firms have health and safety plans. This is
19 all very important information beyond just pay and
20 workforce composition that tells you is a business
21 entity a good business or a not to good business. We
22 have no issue with the disclosure requirements of
23 Executive Order 50 because it's on an aggregate
24 basis.

25 PUBLIC ADVOCATE JAMES: We're
specifically getting to the issue of diversity and we
specifically want sunshine and disclosure with

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4 regards to race and gender as it relates to
5 construction projects in the City of New York, where
6 it's really critically important to us that when you
7 define good that good includes a diverse workforce in
8 the City of New York. We too join with the
9 individual that you spoke about who wants to make
10 sure that our projects in New York City are on time
11 and on budget, but we also want to make sure that the
12 workforce is diverse and that all individuals in the
13 City of New York have an opportunity to work; that's
14 the focus of these bills here today, and so I look
15 forward to working with the Administration as we try
16 to include some amendments to reflect that objective.
17 And I thank you for your testimony.

18 DENISE RICHARDSON: Uhm-hm.

19 CO-CHAIR CORNEGY: Thank you.

20 DONALD RANSHTTE: Good afternoon Chairs
21 Cornegy, Rosenthal, Public Advocate James, and
22 members of the Committees. I am Donald Ranshte,
23 Senior Vice President of the Building Trades
24 Employer's Association (BTEA), an organization
25 representing 26 contractor associations and 1,800
union construction managers, general contractors and
specialty trade contractors doing business in New

1 York City. Thank you for the opportunity to allow us
2
3 to provide testimony today.

4 First, allow me to say that the BTEA has
5 been an advocate for diversity in the construction
6 industry for the entire 20 years that Mr. Coletti,
7 who is President and CEO of the organization, has
8 been at the helm. The organization was a co-founder
9 of Construction Skills, a program that is open to New
10 York City students and is a direct pathway into the
11 Building Trades Union's apprenticeship program. To
12 date, Construct Skills has placed over 1,800 union
13 apprentices, of those, 51% are African American and
14 over 35% are Latino. In addition, 85% of them remain
15 New York City residents. The BTEA is on the Board of
16 Non-Traditional Employment for Women (NEW),
17 furthering the careers of women in construction and
18 also Helmets to Hardhats, a program designed for
19 returning veterans.

20 These programs were born out of a need to
21 increase diversity in the workforce in the
22 construction industry and the successes are many. In
23 addition, Mayor de Blasio has appointed Mr. Coletti
24 to the MWBE Advisory Council.
25

4 In order to increase diversity on the
5 management side of the construction industry, the
6 BTEA entered into a groundbreaking new partnership
7 with CUNY and NYC Department of Education that will
8 enable high school students to earn their high school
9 diploma and an Associate's Degree in construction
10 management, architecture and civil engineering. The
11 program of study, vocational training and work
12 experience will make these students the top
13 candidates for jobs in construction management. We
14 are happy to report that after the first two years of
15 our six-year program, the student body is more than
16 90% African American and Latino; all are New York
17 City residents, with a strong presence from Brooklyn
18 and Queens. The next generation of leaders in
19 construction management is on its ways.

20 With this said, we do have some concerns
21 regarding the vague nature of some of the content of
22 the bills, and as always, the devil is in the
23 details. For example, in Intro 752 it's difficult to
24 ascertain who or what "executive level" staff means
25 and will the size and shape of corporate entities
change in order to skirt the law.

I know that when we think of construction companies we think of large multinational corporations such as New York-based Tishman, Turner or Skanska. These companies have EEO officers, recruit diverse members to their staff and often finance diversity training workshops for other small companies. But the heart of the construction industry in New York City is the small companies that span two, three; sometimes four generations of a family, with only a handful of company employees. According to a joint study conducted by the BTEA and the Wharton School of Business, 90% of construction companies employ 25 people or less. I would hate to see a New York City-based, family-owned company punished for being family-owned and local. The second problem is, when we talk about the executive level, will that extend to the workforce? Those foremen and women and superintendents, they are not usually employees of the company except for on that one particular job, but in our contracting world are sent from the building trade locals.

Again in Intro 705, we are asked for diversity statistics on covered contractors; does that mean the construction manager or general

1 contractor who are in some cases exempted, but are
2 usually the permit holders? Or does this also apply
3 to secondary subcontractors or further down the line
4 to tertiary subs?
5

6 This is not a knee-jerk reaction against
7 more government regulation in the construction
8 industry. Construction is one of the most difficult
9 endeavors to get off the ground. Again, in the
10 Wharton report, 90% of companies that were surveyed
11 since 1988 had gone bankrupt. There are concepts we
12 support in all of the bills, such as the lowering of
13 monetary thresholds for small businesses as stated in
14 Intro 1400, but unfortunately at this juncture we
15 need to oppose the bills until we have can have
16 conversations that are thoughtful with the bill
17 sponsors to clarify vagueities [sic]... vague notions
18 in the bill and to prevent duplicitous reporting with
19 Federal EEO-1 reports, New York State and New York
20 City reporting.

21 We look forward to having those
22 discussions with the sponsors and along with each of
23 you. Thank you.
24
25

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4 CO-CHAIR CORNEGY: Thank you. There are
5 no questions; I believe there is a comment from
6 Miss Bertha Lewis.

7 BERTHA LEWIS: We understand the sausage-
8 making preface of legislation; I would respectfully
9 request that as these conversations go on between the
10 legislators and those who are in opposition to these
11 bills, as well as the Administration, that those of
12 us on the other side who have been organizing workers
13 and have been advocating for just the kind of
14 disclosure that these bills represent, that we also
15 be included in those conversations so that when there
16 is a roundtable that table is not lopsided but it is
17 full, and we also think that you should examine very,
18 very scrupulously the language and take into
19 consideration all of the things that have been
20 brought up and also check their facts. So we want to
21 be included in those conversations as you move
22 forward and we are respectfully requesting that.

23 CO-CHAIR CORNEGY: A 100%. Yes, Public
24 Advocate.

25 PUBLIC ADVOCATE JAMES: Sure, I
apologize; I just thought... Donald, this WMBE Advisory

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4 Council; what's the status of it that the Mayor has
5 convened?

6 DONALD RANSHTTE: Well it's been more than
7 a year... [crosstalk]

8 PUBLIC ADVOCATE JAMES: Yes, we know.

9 DONALD RANSHTTE: I know that we attended
10 one meeting; we've received some updates, but nothing
11 recently; we haven't been convened or called back to
12 any meetings. I know that there was a meeting where
13 contractors weren't asked to come to the table, and
14 that was fine and we were notified of that, but we
15 haven't been to a meeting recently.

16 PUBLIC ADVOCATE JAMES: Thank you.

17 DONALD RANSHTTE: Mr. Chair, may I make
18 one more point that wasn't in the testimony just
19 quickly?

20 CO-CHAIR CORNEGY: Yeah, please.

21 DONALD RANSHTTE: Okay. We didn't include
22 it in the testimony, but we have been in discussions
23 with MOCS; we recently released an MWBE report called
24 "Achieving 30%," which we've sent to all the Council
25 Members, and when we talked to MOCS, fully 50% of all
the MWBE dollars in New York City capital projects
went to construction. So in addition to having

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4 discussions about the particulars of these bills, we
5 tend to disagree that construction is an area of
6 concern in that respect, but we'd still love to talk
7 to you all about it.

8 CO-CHAIR CORNEGY: So as you can see that
9 there are varying degrees of understanding of how
10 this goes and I think that there's ongoing dialogue
11 that needs to happen. Miss Lewis, I think that no
12 one could appreciate more than you what it took to
13 get us here today, and that was a lot of dialogue and
14 a lot of hard work on behalf of not only the
15 advocates but the legislature, and the trades, so I
16 think we set a precedent for having those parties
17 present at the table that need to move things forward
18 on behalf, and so I can commit to, from myself and my
19 office and my colleagues, to continue in that vein.
20 Thank you.

21 This hearing is officially adjourned.

22 [gavel]

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24

25

C E R T I F I C A T E

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



Date September 20, 2017