

CITY COUNCIL  
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON CONTRACTS

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HELD AT: 250 Broadway - Committee Rm  
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B E F O R E: BEN KALLOS  
Chairperson

COUNCIL MEMBERS:

Inez Barron  
Bill Perkins  
Helen Rosenthal  
Kalman Yeger  
Deborah Rose

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

Jonnel Doris, Senior Advisor and Director  
Mayor's Office of MWBE

Jee Kwon, Deputy Director of Strategic Services  
Mayor's Office of MWBE

Gregg Bishop, Commissioner  
Small Business Services

Ryan Murray  
Mayor's Office

Jaclyn Tacoronte, Small Business Owner  
JMT Media

Ravi Shenoy, President  
Shenoy Engineering

Harshad Lakhani, President  
Lakhani and Jordan Engineers

Jerry Grayhawk  
Native American New York Resident

Ken Fisher  
American Council for Engineering Companies  
(ACEC)

Vicki Arbitrio, Chair  
American Council for Engineering Companies  
(ACEC)

Ram Tirumala, owner  
Distinct Engineering Solutions PC

Bryan Cunningham  
Building Contractors Association (BCA)

SERGEANT-AT-ARMS: Check. Check. Check.  
Check. Today's June 20th, 2019 hearing is on  
contracts being recorded by Cherise Torres.

[GAVEL]

CHAIRPERSON KALLOS: Good afternoon and  
welcome to the Contracts Committee of the New York  
City Council. Today is Thursday, June 20th, 2019. I  
am Council member Ben Kallos. I have the privilege  
of chairing this committee. If you are watching at  
home or on the live stream, please feel free to  
participate. You can always Tweet me at benkallos if  
you are a member of the public with the press and you  
have ideas for me to submit for me to ask. We need  
to it that way, too. You can even email us. I would  
like to thank our task force leader on MWBE in the  
Council, Council member Robert Cornegy, who does have  
legislation before this committee, as well as Debbie  
Rose who has a very important bill today that does a  
lot of the heavy lifting in response to the  
disparities report. For those who haven't seen it,  
this is the disparities report. It's really cool.  
Who here-- can I just say a show of hands how many  
folks have read the disparity report? Awesome.  
Awesome. Awesome. Thank you. And it's--

[background comments]

CHAIRPERSON KALLOS: It compete-- the last document of this size that I read was the city charter. It's competitive in terms of how thrilling it can be. There's fewer surprising things, as you would find in the charter. I want to also welcome we have Council member Rosenthal who has legislation before the committee today, as well as Council member Brannon, and for their continued support on MWBE issues. The city Council is long supported the city's minority and women owned businesses and through its various MWBE initiatives, the Council has assisted MWBEs in expanding their role in the both city procurement and private sector. And just to make this clear and very plain language, the city has a 92 billion dollar budget and this is just about making sure that we stand up to racial disparities and prejudice that MWBEs were just minorities and women face in the private market place. And so, under the 14th amendment-- and it's cool as I got to wax constitutional as a lawyer every now and then-- there's the equal protection clause and there's strict scrutiny any time there is anything related to race-based anything in legislative law. But where

there is a history, and there can be shown, and that there is a pattern of discrimination that we are trying to offset, that is when the City Council can do something about it. And so this disparity study is actually mandated by the United States Constitution and the 14th amendment and allows us to do the work that we are doing. In 2005, the city established its MWBE program in order to address the disparities in city procurement between the number of minority and women-owned businesses available to do business with the city and the number that are actually awarded city contracts. We, on the Council, applaud the work being by the Department of Small Business Services lead by Greg Bishop and as well as the Mayor's Office of MWBEs by Jonnel Doris. By the way, I don't know if you know this, but you have the same last name as one my favorite city agencies.

[laughter]

[background comments]

UNIDENTIFIED: I love that.

CHAIRPERSON KALLOS: And the SBS Commissioner gets the gold star for being the only other government nerd. The--

[laughter]

CHAIRPERSON KALLOS: The agency is called the Department of Records and Information Services and it is fondly referred to as DORIS. So, there you go. And I want to thank you for coming to testify today. In fiscal year 2018, which ended on June 30th of last year, the contracts' budget was 19.8 billion dollars. With a B. Of this, only 5.3 billion dollars of these contracts were subject to the MWBE program. And of that, only 16 percent, roughly 835 million dollars, was actually awarded to MWBE prime contractors. When MWBE subcontractors are included in that analysis, the number is still only around 19 percent of all eligible contracts as of June 2018. This falls short of the Mayor's stated goal of achieving 30 percent MWBE utilization and, just to be clear, according to the census and the city of New York, I as a male am in the minority. I think that's actually a good thing for my prospects, but 51 percent of our city is women and so, if women had equal representation in the marketplace, we shouldn't even be talking about 30 percent. We should be talking about over 50 percent. And then, when you add in the fact that minority groups and women hit around 51 to 53 percent according to the

disparity study, it's a huge concern for me that it's only at 19 percent and this is, again, 19 percent of a percent of a percent and we're talking about less than a billion dollars instead of-- and forgive me for talking about the 19.8 billion, but like we should be talking about 94-- 93 billion dollars which we just passed.

Into the bills before the committee today is designed in its own way to improve access to the city procurement for and MWBE vendors and look forward to discussing these bills with the administration and the public this afternoon. The bill that I am-- if I'm not already signed on, please sign me on as a sponsor, is Introduction 1293 A, sponsored by Council member Debbie Rose. It would update the definitions of minority groups for the purposes of MWBE programs to include Native American owned firms and would also right side the citywide MWBE program goals to be consistent with the most recent disparity findings relating to the distribution of amongst different racial and ethnic groups. I want to thank Debbie for carrying this bill. It does a lot of the heavy work. I will get to you soon for your opening statement.

Intro 1452, sponsored by Council member Robert Cornegy, who is chairing our MWBE task force, would require more frequent updates to the operational protocols in the city's MWBE program from the city's chief procurement officer and the Mayor's Office of MWBE. And I think I will note that both of these legislations were introduced at by request of the Mayor, so we want to thank the Mayor for his leadership on this and we hope to have supportive testimony on, at least, these bills.

Introduction 346, sponsored by Council member Helen Rosenthal, as well as Intro 1379. The first would require the city Comptroller to conduct annual audits focused solely on MWBE procurement and would require the city contractors to hire an independent MWBE consultant for contracts over 10 million dollars.

We're also hearing to pre-considered bills today. The first, sponsored by Council member Justin Brannon, would require agencies to use the most recent data available when considering revisions to the citywide MWBE participation goals. That's because, as we were looking through this study published in 2018, the number that was actually cited

and 2017 and then, a lot of the day that and it actually goes further back and so we want to make sure that, when this comes out, it's as accurate as possible with data as recent as possible. So I want to thank our Justin Brannon for that and-- Give me one moment. Oh.

There's a second pre-considered bill before the committee which has anyone here ever read the MMR? So, it's the Mayor's Management Report. It is one of my favorite books that comes out from the city every year and it comes out twice a year. There is a preliminary Mayor's Management Report and a Mayor's Management Report that comes out in September and that really goes through the indicators and how we track things. And even better than the MMR is something called the CPR. Who here knows about the CPR? It's NYC.gov/CPR and it gives you live up-to-date tracking on this MMR, which is this semi-annual report. I used to be Gov. Ops. Chair. This is like the stuff I love. And so we took inspiration from that and the fact that so much of the data that's happening, especially with passport is going to be live data and the concept of why are we still focused on doing a report every two years where we can put

the indicators into a query and just have that query coming out and create dashboards. So the idea behind my pre-considered legislation is for as people are registering and becoming MWBEs, for that to be reflected and I'm hoping to have a conversation with you about just the A version as we were doing the pre-considered about how do we make sure that we're also keeping live track as passport becomes better and better of how close we are to matching those goals so that on a daily basis and then quarterly or whatever we think is feasible, people can actually see how are we doing on a day-to-day basis and use that for managing.

We, on the Committee, believe this package of bills is likely to spark a lively debate and we hope the hearing will help overcome some of the roadblocks to MWBE procurement by identifying ways the administration can improve its process and get to 30 percent utilization citywide that the Mayor has set. I hope to convince him to get to 50 percent.

Before I turn the floor over to other sponsors to discuss the bills, I'd like to take a moment to acknowledge that we are joined by Council

member Bill Perkins and I want to apologize that I was late and both of us had Government Operations contemporaneous with this committee, so that is why we had to come over. And I've already acknowledged two of the additional members who are here. I'd also like to thank the staff. They've been doing this for, I think, longer than many of us at this table have been in the city Council. Legislative counsel, Alex Polanov (sp?), policy analyst, Casey Addison, finance analysts, Andrew Oburn (sp?), finance unit head, John Russell, as well as my chief of staff, Jesse Towsand (sp?), legislative director, Wilfredo Lopez, for all their hard work putting this hearing together. It's funny. I rarely think my staff and I've always said to them, if you want to be thanked, just add yourself to the talking points and they finally did it, but it took them five and a half years. I'd like to moment to turn over the floor Council member Rose to discuss proposed Introduction 1238 A.

COUNCIL MEMBER ROSE: Thank you, Chair Kallos, and I'm going to see if I can get you the New York Times reading lists for some summer reading other than MMR and--

[laughter]

UNIDENTIFIED: Nice.

COUNCIL MEMBER ROSE: I want to-- but I want to begin by thanking you. I want to thank you so much for expediting this hearing. I know it was a while getting it together and I want to thank you for agreeing to hear this bill so quickly. So, thank you and our small businesses, collectively, employ more than 3.9 million people in the city and, while many of them are minority and women owned, they have two starkly struggle with participation in city contracting. Our city has made an attempt to correct these disparities with outreach and procurement goals for minority and women owned business enterprises, or MWBEs. It came to my attention that this program contained a glaring omission. Our nation has a darkened checkered past regarding the treatment of members of Native American tribes. Centuries of genocide, forced removals, and other deplorable acts of violence and discrimination have left is a shameful legacy, resulting in higher rates of poverty and unemployment among members of Native America tribes compared to the general population. And, yet, members of the Native American tribes have not been

included in our MWBE outreach. Intro 1293 will remedy this omission and add Native American to the list of business owner categories who can register as an MWBE in New York City. It is a small but significant step towards righting the past wrongs. This bill will very importantly also address the updated citywide procurement goals for all historically underrepresented groups across procurement categories in accordance with the findings from the 2018 citywide disparity study. And I'm really glad that we've gotten to this level. I want to get special thanks to the constituent who brought this issue to me and has advocated for this bill, Jaclyn Tacoronte. She is here with us today and will be testifying in support of the bill. I want to thank, again, Chair Kallos, and I want to think on some Mayor DeBlasio and SBS Commissioner Greg Bishop for recognizing this omission and proposing solutions. Speaker Corey Johnson, who is a big supporter of anything that improves the quality of life for all New Yorkers. I want to thank him for his support. This legislation and my cosponsor, Council member Robert Cornegy and Daniel Collins who

has worked on bringing this legislation to life.

Thank you.

CHAIRPERSON KALLOS: Thank you. I'd like to acknowledge we have been joined by Council member Inez Barron who has in and out spoke-- has been in this Council outspoken on these issues and issues of recognizing our city's past as it relates to people of color. And I want to thank her for being a champion. We have additional opening statements, but I'm going to just ask-- I see a lot of people in the audience and so far we have six people signed up to speak, so this is the apparent card. You can get it from the Sergeant-at-arms. If you haven't filled with that, please make sure to do so. If you have remarks, please make sure they are written. If you don't have written remarks, do your best to kind of trying to write some of them down. You are free to just get up and give testimony. We will take it and, alas, but not least, if you are watching at home and it is right now or within a couple of days of the 20th June of 2019, you can actually submit your testimony. You can email it in to us within 72 hours of this hearing and you can email us at [contracts@benkallos.com](mailto:contracts@benkallos.com). We want to make

sure everyone has their voice heard and is able to participate wherever and whenever they wish. I would like to turn it over to Council member Helen Rosenthal for an opening statement.

COUNCIL MEMBER ROSENTHAL: Thank you. I'm actually going to pass. I am anxious to hear from the audience and from the administration. I'm really glad that we are doing this hearing. Thank you, Council member Kallos.

CHAIRPERSON KALLOS: Thank you. I'd like to-- now, we are joined by Greg Bishop from the Department of Small Business Services, Jonnel Doris, director of MWBE for the Mayor's Office. D. Krunam from MOCS and Ryan Murray from MOCS. MOCS needs to work on penmanship.

[Laughter]

CHAIRPERSON KALLOS: But that being said, what a call it? I now ask the committee counsel to swear you in.

LEGAL COUNSEL: Would you all please raise your right hand? Do you swear or affirm to tell the truth, the whole truth, and nothing but the truth, in your testimony today and to and honestly to Council member questions? Great. Thank you.

CHAIRPERSON KALLOS: You may begin.

JONNEL DORIS: Tested. Okay. Good afternoon, chair Kallos and members of the Council committee on contracts. My name is Jonnel Doris and I'm the senior advisor and director of the Mayor's Office of MWBE. Today, I will provide an overview of the citywide MWBE program, including the progress made toward our MWBE certification and utilization goals set by this administration. With me today are Greg Bishop, the Commissioner of the Department of small business services, and Ryan Murray, first deputy director at MOCS and Jee Kwon, deputy director of strategic initiatives of the Mayor's Office of Contract Services to answer questions that you may have specific to the agencies. In the fall of 2016, Mayor Bill DeBlasio announced the creation of the Mayor's Office of MWBEs as a critical next step in the administration's commitment to increase and contract and opportunities for minority and women entrepreneurs. The mayor pledged ambitious goals achieving 30 percent MWBE utilization by the end of 2021 and having 9000 city certified MWBEs by the end of 2019. In 2015, the mayor outlined a separate citywide goal to award 16 billion to minority and

women owned businesses over the next 10 years. This one NYC goal, the 30 percent goal, covers both mayoral and non-mayoral agencies on the heels of their may 2018 disparity study, the mayor announced that we were 1.8 billion dollars ahead of schedule on our one NYC goal and decided to increase that goal from 16 billion to 20 billion dollars. Under the leadership in bold vision of deputy mayor Phil Thompson his career long justice and equity work includes increased economic development opportunities by calling out the challenges and structural and historical barriers in the marketplace within government, we have doubled down on our commitment to our MWBE goals and more than approach-- sorry. More than ever approach them through the broad lenses economic democracy and equity. Under the supervision of the deputy mayor, SBS, MOCS also plays an integral role in implementing the MWBE program. SBS certifies MWBEs and provides essential capacity building services and technical assistance to ensure they can compete for and execute city contracts. MOCS tracks and reports on utilization data for the city, subject to local law one. The purpose of the cities MWBE program is to remedy the impact of discrimination in

the market where the city makes its procurements. This impact is statistically analyzed in the disparity study. The latest disparity study, published in May 2018, demonstrated that, based on the availability of MWBEs or minority or women-owned firms in the city's marketplace, they are underutilizing city procurement. The MWBE goals set out in this legislation before this committee today are supported by the findings of the recent study. Along with my colleagues here today, my office will continue to play a strategic role in ensuring the city's agencies to remain focused on achieving the goals of the program. Since the start of the administration, the number of certified firms have increased by 86 percent, thanks to the good work of Commissioner Bishop and his team. As of the close of fiscal year 18, the number of certified firms were at 6829. Additionally, the end of fiscal year 18, MOCS reported that MWBE utilization to be 19 percent, representing 1.069 billion in awards towards MWBEs of the city's contract under local law one. As compared to the eight percent or 465 million dollars value of city contracts in fiscal year 15 at the start of the administration. The preliminary fiscal year 19 Q1 to

Q3 data reflects a 24 percent MWBE utilization and a won NYC value of over 11 billion. We are also very happy to report that, since 2015, over 10 billion has been awarded to MWBEs by both mayoral and non-mayoral agencies pursuant to the one NYC goal. The city has implemented a number of creative initiatives to help build MWBE capacity and obtain capital. We have also advocated at the state for legislative initiatives that give the city that MWBE certified under our law parity with respect to powers and benefits applicable to this state MWBE law. Pursuant to local law one and the goals therein, the percentage of dollars awarded to MWBEs subject to the cities program has trended up from eight percent in 2015 to nearly 20 percent in fiscal year 18. Just to put this in perspective, at the close of fiscal year 18, we were proud to report that we are doing this in record time. The city is closing in on its 30 percent goal, which we know we can achieve by 2021. Still, we have more to do. We are lowering and, wherever possible, removing structural barriers to enter into the city's procurement marketplace by providing resources for increased programming at city agencies and creating strategic initiatives to increase MWBEs ability to

compete successfully. And in accordance with the four core principles of our program accountability, assess ability, capacity building and sustainability, we have implemented initiatives to address issues MWBEs face in the marketplace, namely access to capital, which is a common obstacle of many small and midsize firms. In order to respond to this need, the administration is launched contract finance loan fund and bond collateral assistance fund, both administered by SBS and the emerging developer loan fund administered by EDC. Together, the initial investment from the administration across these funds was 30 million dollars. As you may know, the mayor also convened to the city depository bank to begin a discussion about partnership to increase and create accessible capital for MWBEs and small businesses in New York City. On February 21st, 2018, we announced that three of those banks had made the commitment to invest in those city's MWBE to the tune of 40 million dollars. Since then, we have raised an additional dollars from another city depository bank bringing the total amount of capital invested in our program to 71 million dollars. In the spring of 2017, we are joined by many MWBEs, advocates, and stakeholders,

including the city's agencies in calling for the passage of S 6513 and A 8505. The bill proposed increased the discretionary spending limit for goods and services purchased to MWBEs and giving the city the authority already provided to the state to offer MWBEs at price or points preference. The bill passed overwhelmingly in the Assembly and Senate and for that we are thankful to our elected officials, including the Council members here today who supported us on that bill. The change provides-- this change, sorry, provides MWBEs with access to more and larger contracts to help build capacity and success as prime contractors. The discretionary threshold for goods and purchases was implemented on March 5th, 2018 and, by quarter three of this year under this increased threshold, roughly 900 contracts were awarded to MWBEs in the amount of 68 million. In fact, yesterday, through collaborative effort-- and I'm happy to announce today-- a collaborative effort with our MWBE advocates and the city, the state legislature passed the bill S6418 A8407 that would allow the city's MW program to gain even more parity with the state's MWBE program that will provide greater opportunities [inaudible 00:25:55]

for New York City MWBEs. New York City MWBEs well now, once the governor signs the bill, have they been a set of up to 500,000 and discretionary threshold for goods and services and construction contracts with the city agencies. They will also benefit from a prequalified list of agencies and the mentorship program to be established at the city Department of Design and Construction. We're just very excited about this.

[Laughter]

JONNEL DORIS: I know you can see my excitement. I could barely get through this here.

[Laughter]

JONNEL DORIS: But this is the first time I am publicly famous, so we are very excited that they were able to do that. Many of the applicants in this room and the MWBEs in this room went up to-- with us to Albany to advocate for that bill and we are so entirely grateful. And now onto when-- once the governor signs we will be able to implement it. This mentorship program previously-- this mentorship program is also at SCA and the MTA and now we can actually have it at the city DDCs Design and Construction Agency. These authorities

and programs have been successful and are the basis of what we're doing at DDC and so we're very grateful to the legislator for passing that.

On today's Council bills, we support bill Intro 1293 sponsored by Council member Rose which would update citywide procurement goals for all minority groups across groups in all industries, a classification of MWBE program.

We will also support bill Introduction 1452 sponsored by Council member Cornegy and we are extremely proud to be working with the Council.

Regarding bill Intro 1379 sponsored by Council member Rosenthal, would require an independent MWBE consultant for every city contract value over 10 million, especially for larger contracts. There are significant potential benefits to this idea and we look forward to further conversations with the Council to work through the details of that bill.

As it relates to bill Intro 346 sponsored by Council member Rosenthal, which would require an annual audit of procurements from the MWBEs by the Comptroller. While we agree with the goals of the

transparency, we would defer to the Comptroller and the Council member on this particular bill as of now.

Yesterday, to preconsidered bills related to data, LS 10225, sponsored by Council member Brannon, and LS 11187, sponsored by Council member and our Chair Kallos, were added to the hearing agenda. While we will need more time to full review the legislation, we share the value of transparency and look forward to further dialogue with the sponsors of those bills.

Looking ahead with the new twos [sic] gained in Albany this session, we anticipate significantly more awards going to MWBEs. We will continue onward in pursuit of our goals and in our continued advocacy for MWBEs and promoting diversity and equity in the city's marketplace. Going forward, we will continue to work closely with the Council and our elected partners on MWBE outreach, network, and educational events. We will also continue to meet regularly with interest Council members to share updates on the program's milestones. Thank you for the opportunity to testify today and your continued support and advocacy for our program. We would be

happy to answer any questions you may have today.  
Thank you.

CHAIRPERSON KALLOS: Sounds like a lot of good news, especially in your testimony regarding getting from 19 percent to jumping five percentage points to 24 percent in quarters one through Q three of FY 19, which is not data that we had access to. Is that inclusive of both prime and subcontractors or not?

JONNEL DORIS: It is.

CHAIRPERSON KALLOS: Okay. Do you have the number for prime contractors only?

JEE KWON: We are at 18 percent for prime contractors only through quarter three. That's our preliminary numbers.

CHAIRPERSON KALLOS: So that's about two percent additional. So, it's still an increase. We're still headed in the right direction.

JEE KWON: Yes.

CHAIRPERSON KALLOS: And versus 19 percent which is when you consider them together. So, sub-- so that means-- What was the uptick in the subcontractors?

JEE KWON: So, our subcontractor utilization increased to 60 percent. So, we had record achievement in our subcontractor utilization and we had 18 percent in our prime contractor utilization and combined, based on the calculations that we do to calculate utilization, it comes to 24 percent.

CHAIRPERSON KALLOS: Great. And so it sounds like you are really excited about what happened in Albany.

JEE KWON: Absolutely.

CHAIRPERSON KALLOS: So, if you're already at 24 percent even without Albany and, hopefully we are already on track to hit 30 percent, how does this change things? How soon do we hit 30 percent with the new change in Albany?

JONNEL DORIS: How we--

CHAIRPERSON KALLOS: Have you already done the numbers to look at how many of the contracts were at that 500,000 threshold?

JONNEL DORIS: Yeah. We've done the numbers. You know, we are confident we will get to 30 percent in 2021 and that is our commitment and we will continue to push for that.

CHAIRPERSON KALLOS: Not to move the field goals, which I've been told is that thing because I don't play sports, but--

[laughter]

CHAIRPERSON KALLOS: the Mayor has, on occasion, moved his own field goal like on the affordable housing plan he said-- he started with, I think, 180,000 and now he said 300. You're hitting your numbers. 2021 is pretty far away. Would you be open to reconsidering and setting a more aggressive goal sooner?

JONNEL DORIS: You know, we really feel that 30 percent is an aggressive call based upon the current structure and the current market with the current tools we have. And as we gain more tools, I think we will have the ability to reassess. But, at this time, we are confident, first, that we have to get to 30 percent goal before we make any adjustments.

CHAIRPERSON KALLOS: Uh--

JONNEL DORIS: Oh, yes. Yes.

Commissioner--

COMMISSIONER BISHOP: So, I appreciate your excitement, as well, but just to remind people,

the governor is not signed this. So, if he has not signed it, we cannot even implement it. So, let's get the governor to sign it first and then we can talk about implementation after.

CHAIRPERSON KALLOS: Okay. So, in the despair in a study on page 6-2, which is not actually page 6. It's actually like page 60 something. There's a recommendation DE related to disparities in the private sector and-- I'm sorry. That is not the right section. It is 6 dash-- give me one second. Sorry. Sorry. In the executive summary at 6 dash-- will find it. It's a big document. Sorry for misplacing it. Within the executive summary, recommendation D in the disparities study made a recommendation for tracking compliance and, ostensibly, through passport in real time which is something we are trying to capture with our legislation, how is the city planning to implement the second bullet in recommendation D? Implement an online tracking compliance information management system to notify subcontractors when payments are made to primes and verify payments, which were in give us in a position where we could actually track where we are on a payment by payment basis.

RYAN MURRAY: Hi, Chair. As you know-- Ryan Murray from MOCS. As you know, we are still in the design process for phase 3 of passport where we are looking at citywide invoice in specific to these types of contracts, but we will have the ability with tracking subs in passport and having alerts in place to actually send out notifications in the system. So that is one capability that exists.

CHAIRPERSON KALLOS: So, that's already in existence in phase 2?

RYAN MURRAY: For-- So, phase 2 is specific to the goods contract, which are different.

CHAIRPERSON KALLOS: Okay.

RYAN MURRAY: But phase 3 where we are looking at invoicing over the course of the implementation. For that time, we are looking at making sure that we utilize those alerts.

CHAIRPERSON KALLOS: And--

RYAN MURRAY: We do have alerts right now that are used in the system citywide and those are available to any contractors said that they know when disbursements happen.

CHAIRPERSON KALLOS: And then, when is phase 3 due to being completed and delivered and live?

RYAN MURRAY: We are tracking right now for phase 3 to be next spring, so around about a year after when we launch. So, sometime in the early spring next year.

CHAIRPERSON KALLOS: Okay. And so-- and that will allow us to keep track of when that prime gets paid and when the subcontractors get paid and whether those subcontractors that have been selected are getting paid or tagged as MWBEs and you'll be able to pull a report?

RYAN MURRAY: Right. We are designing all those features now, but the capability will exist and, as you know, we have phased implementation, so throughout the course of the launch period, yes, we will have capabilities to make sure that folks are alerted. That's-- we are tracking for that.

CHAIRPERSON KALLOS: I think agile development is a good thing as an agile developer. And so, the pre-considered legislation we put in that you didn't have a chance to really dig into too much would, basically, take that reporting information

that you have and, as you know, I have asked for a passport account myself but--

RYAN MURRAY: Aware.

CHAIRPERSON KALLOS: still struggling to get back, by to have a public facing export and dashboard and report on that. So, is that something that is feasible within what you're planned for phase 3?

RYAN MURRAY: For phase 3, we are always looking at anything that can be exported to open data, which I think is also one of your-- the goals that we share. That is a goal for us. I think, on the dashboard side, when we last met with you at our office, we talked about a reporting portal for ours that will be available to executives and agencies and I think we are actively looking at how to make sure that you are provisioned. But the biggest thing that we can do here is make sure that data is sent out to the open data. I should know that, currently, a are able to-- any contractor look at FMS to see when payments are going out to primes so that already exists. But, yes, we are tracking to make sure that the data is exportable.

CHAIRPERSON KALLOS: Is there a process to verify that a business is capable-- Sorry. Along those lines, some MWBE subcontractors said prime contractors are slow on their payments. They have also said that sometimes they will get dropped after the winning bid and subcontractor with a different non-MWBE firm, which is counter to the spirit of the program. Have you heard of this? How have you handled it if you have, and are their consequences for primes that engage in this bait and switch?

JONNEL DORIS: So, I think-- and one of the challenges that we do face, Council member, as in the program, and in all MWBE programs is really holding our prime contractors really accountable for their MWBE utilization even in this process. And so, we've heard of that in some instances where, in public forums, MWBEs my mention they were a part of a bid and, you know, they didn't and working on that project. I think part of what we have implemented in the city and what we are looking to increase on, this is where some of the tools, the electronic tools we are talking about, is going to be helpful is that, you know, more transparency into that process and to figure out, you know, when prime contractors to come

to us with a utilization plan, that the agencies are holding them accountable to the utilization plan. Part of our job is to hold those agencies accountable to the processes that they have already had. And while this is not something we hear on a consistent basis, but, and open forms, we have heard that MWBEs bid on a project with the prime and didn't really get work from that. You know, part of what we are here to do is to be a one-stop shop for our MWBEs and they do come. They do speak to us about some of the concerns they have and we are looking to rectify even these types of concerns. And we just want to remind everybody, also, that the contract is a legal binding document and so, if a prime contractor is not doing what they have said to the city and also what relationships they have with their subcontractors that they have communicated to us, we at the agency will hold them accountable for that.

CHAIRPERSON KALLOS: You have heard it here first. So, if you are a subcontractor, particularly an MWBE, that finds yourself joffed (sic) for one reason or another, but does not seem to be legitimate, please fill free to reach out to the mayor's office and you can email our committee.

[contracts@benkallos.com](mailto:contracts@benkallos.com) and we will look forward to working with the Mayor's office to force people to follow the contracts that they signed with the city. That is really good news. This has been a lot of good news. Thank you. With regard to the business directories maintained by SBS, one of the questions that has been brought to us is that sometimes somebody might check a box to get a vendor that they think is qualified that something and they might not get somebody. So, somebody might say, well, I do-- they might check a box that says they qualify to do one type of work and then they'll spend the time calling through the folks in the database only to find out that they didn't actually have the expertise that they had checked in the box. Is this accurate? I mean, I want to make sure I'm hearing from both sides of the story is of something that happens and is there a method to indicate the levels of expertise a business might have such as licensing or certification and, if it is and currently there, is it something that will be integrated into phase 3 of Passport?

COMMISSIONER BISHOP: So, our online directory, which is available at [NYC.gov/buycertified](http://NYC.gov/buycertified)

for all the prime contractors who always say they can't find an MWBE--

CHAIRPERSON KALLOS: Can you give that link one more time?

COMMISSIONER BISHOP: So, NYC.gov/buycertified. We-- obviously we, at Small Business Services, we are the agency that populates that most once an agent-- once a company gets certified. We try as much as possible to make sure that all the information that's on the online directory is up to date and accurate. It is possible, because our certification period is for five years, that a company that was certified maybe two or three years ago may have changed their business capabilities. We, on a yearly basis, we connect with companies to up-- and we try to get them to update their records. We've invest in reaching out to companies, ensuring their [inaudible 00:42:08] code correctly matches what they currently do to make sure that they're most on the-- on a business profile what anyone that's looking to connect with an MWBE will see is their top three largest contracts, so that gives you an idea of what type of work and the capacity and what they do. And

then their code which gives you further idea of the work that they do. We have worked with industry organizations who have talked about how we could actually fine-tune that list and we added like bonding capacity to the directory and we've also added some other things that they can search for. We are happy to continue fine tuning what individuals can search on. We continue to look at ways we can make it as real time as possible. So, happy to work with your office and with any other advocates in terms of what other challenges are there. We've heard about certainly the licensing. At the end of the day, it is up to the either prime contractor or the agency to look at the MWBE to ensure that they do have the pre-requisites to operate on the job. The online directory is just a start in terms of people able to connect to those companies.

CHAIRPERSON KALLOS: Thank you for being transparent, open, and honest about it. So I guess the question is could this be something that could be-- is Passport something that could be helpful or is it a situation of having SBS work with your folks and, I guess, the-- do you have your technical folks here today or-- what were the technical-- we'll be

the technical folks. So, I guess just perhaps throwing an application program interface, but an API that will talk to DCA and the other agencies so that the person just puts in their license number. It does look up automatically and then, when it expires, it tells your system it's expired and then it can send a message to the vendor to say, hey, you're expired and you should remember. And the agency should be doing it anyway, but--

COMMISSIONER BISHOP: Right.

CHAIRPERSON KALLOS: just trying to add a little bit of intelligence so it's a little bit more than a form and it also might save you some staff time because it sounds like you're spending considerable time following up with people to say, hey, you filled this out three years ago. Are there other things we want to update? Maybe you have new experience. Different things.

COMMISSIONER BISHOP: I would be totally happy to work with you. So, I smile because I think you and I are probably the only computer science nerds in the room, but totally get what you're talking about in terms of we are trying to accomplish this on the business side through NYC.gov/business

where we do have data exchanges and we do have information from different agencies for small businesses who are actually permitting with the city, so they can see a global view of all their interactions with different agencies. I think what you just talked about is an interesting idea in terms of how we can get our online directory to be much smarter and connect to other agencies. It is-- It's a simple concept, but it's--

CHAIRPERSON KALLOS: Hard.

COMMISSIONER BISHOP: It's hard work and it costs a lot of money, but I'd be happy to work with you to figure out where we-- we can get some funding and hash out the ideas to make sure that all our systems are talking to each other.

CHAIRPERSON KALLOS: I will code pair with you any day.

[laughter]

CHAIRPERSON KALLOS: We should talk about which programming language and settle, but I'm a lamstack (sic) kind of guy on the open source.

RYAN MURRAY: On the Passport side, so I know, as the Commissioner shared, the online directory will remain. We currently pull in the file

from our financial management system that, basically, says whether or not they are and MWBE group. The thing that we were contributing to this, I think, to make it easier to find vendors who actually have certain-- who are in a certain category, so the codes and finding the right codes. I think many of the vendors here can tell you it's a little hard sometimes to figure out which one to pick or they pick a whole set and then they get solicitations that are relevant. So, one of the projects that we did in human services and we will do that we are undertaking now and we have engaged some of the vendors here in the groups is a taxonomy project. So, were going to be nerdy now know little bit more, really, the classification system. So, the underlying classification system will remain, but the higher key that we place on top of that, so it's easier to describe what you do and get to the right codes, I think, would help both on the agency's side and the sender side to figure out if they are making the right selections. I think, as the Commissioner shared, do you have the right license and making sure that process is more robust. Can continue to collaborate on the, but online directory will be

separate. We will be making sure the classification system on top of the codes that don't make sense are updated.

CHAIRPERSON KALLOS: Five and a half years. In five and a half years you are the first folks to mention the word taxonomy to me accurately.

[laughter]

CHAIRPERSON KALLOS: I'm very happy. I have one less line of questions and then I want to turn it over to Council member Rose, followed by Baron, followed by Rosenthal. The use keep mentioning money. Apparently, that's a thing that folks need to do a lot of the work to even get some of it done. And so, you mentioned some pretty great news relating to some of the funds that you have that it was at 30 million dollars and you've been able to work with the depository banks to do another 40 million dollars and adding a last million dollars getting that up to 71 million dollars. What are the names of the banks? If somebody is watching that home and want some of this 71 million dollars, which banks should they be going to? Is it on the corner? Where do I find these banks? Along those lines, I'm curious to know how many certified MWBE have received

loans from these programs? What criteria is required to be eligible? Do they have to be certified to get this money? And how much is actually been allocated? What's the utilization rate? Do you have any examples? And just if you could tell us how you convinced the depository banks to throw 40 million dollars out there? That's pretty impressive.

JONNEL DORIS: Yeah. So, I-- I don't know if-- I'll just answer and I hope I get to everything--

CHAIRPERSON KALLOS: Do your best.

JONNEL DORIS: and, if not, then you can certainly ask again. So, you know, when we talk about access to capital-- and I'll just take a break here from my current role and go back to when I was a small business owner and went to and aid bank, right, and asked for a loan and was denied even though I had everything in line.

CHAIRPERSON KALLOS: What was your small business?

JONNEL DORIS: Well, we were a consulting firm. And so-- a business development consulting firm. And so, part of the challenge was not that we had the business or not, but certainly

was the interest rate that we had. And so, our interest rate is at three percent and we capped that. And we are very proud of that.

[background comments]

JONNEL DORIS: Okay. And since--

CHAIRPERSON KALLOS: That was [inaudible  
00:49:23]

JONNEL DAVIS: Okay. And since the inception of the program for the contract finance loan fund, which is three percent you can get up to 500,000 per loan with up to 1 million dollars total over a calendar year if it is needed. We have done 64 loans totaling 11.1 million dollars in that program alone in the first year or so. A little over that period for the bond collateral assistance program which gives MWBE thinking bond assistance up to, again, half 1 million collateral. So, you need collateral to get the bond and sometimes folks put up their personal assets, their, you know, their home, etc., which is something that is-- we don't advise, possible. And so, we saw that that was the need and certainly we have 10 million dollars in that fund. And we put out about two awards 800,000 dollars as we had 64 applicants also assisted through this program.

On the EDC program, as it pertains to the developer loan fund, I believe we are up to about close to 8 million out the door from that program. And the banks that are associated with these particular fund are Amalgamated Bank with 20 million dollars to our emerging developer loan fund, which provides some gap financing for the most expensive financing in the market for our MWBE firms and small business firms and then also Bank of America 10 million dollars, and TD bank 10 million dollars for the contract finance loan fund. So, how did we get the banks to move? I think the mayor convened the banks, I believe, back in 2016 and we, from there, I had conversations over about nine months or so with the banks about contributing to our efforts and, since then, we were able to speak with them and their colleagues in, I believe the banks that are partnering with us are very excited. And Union Bank, which was a bank that came in at 1 million dollars, as well, is one of our depository banks. And so, we are very excited that we are not just utilizing the city resources, but we went to the private sector to find partners and we are doing so. I think that covered all of the--

COMMISSIONER BISHOP: The last, and probably the most important, is how do MWBEs find out--

JONNEL DORIS: Oh. Yes.

COMMISSIONER BISHOP: and actually get this money. So, through our network of NYC business solution centers, we have a finance access to capital product that we help all small businesses find capital, so this is one of the tools that, if MWBEs looking to actually-- and the MWBE has to be bidding. That's the best time for them to actually come to us. So, if they are in the process of bidding, we will help them as we help other sm-- similar to how we help other small businesses to apply for the loan and, ideally, when they win the contract, then they can draw down on this fund. It has been-- It has actually been a great tool and we want to make sure that other MWBEs know that this is available. And I'd be remiss to not say that, with the extra tools that we got from the state yesterday, we expect to see an uptick on the bond side because one of the challenges-- we run the bond readiness program, but a lot of firms would not actually go through the process of actually getting a bond

without a guarantee work. And now that we have this mentorship program and the ability to sort of create opportunities for guaranteed work, I suspect we will see more utilization on our bond collateral fund, as well.

CHAIRPERSON KALLOS: And so, just to be clear, and in addition to being a certified MWBE, in order to qualify, you must be applying for financing as a prime or subcontractor toward a city-- toward a contract with the city agency or city funded entity.

COMMISSIONER BISHOP: Right. So, the way that the program works is that you have to actually have a contract with a city agency or, if you are a subcontractor, that prime contractor agrees to an assignment. So, either or and we work with the-- CDFI is the community development financial institutions that are part of-- did I say that too fast? The community--

CHAIRPERSON KALLOS: No. I just would like you to tell--

COMMISSIONER BISHOP: Okay.

CHAIRPERSON KALLOS: the names of those institutions so folks can reach out to them, too.

COMMISSIONER BISHOP: Well, they should reach out to us--

CHAIRPERSON KALLOS: Okay.

COMMISSIONER BISHOP: because we make the determination on which CDFI is the best CDFI for that particular business. Again, business owners spend an enormous amount of time trying to find capital and our value add as a city through our NYC Business Solution Center is that we will look at the business. We will look at the way the business is at that point in time in terms of their financial capacity and then we will make a determination on where they would have the best success and actually getting the capital that they need and we are employing that same strategy for this program.

CHAIRPERSON KALLOS: And the name of that program is the contract financing loan fund--

COMMISSIONER BISHOP: Correct.

CHAIRPERSON KALLOS: and folks can visit NYC.gov/NYC business. It's actually a lot easier just to find if you Google contracting finance loan fund or it is the first link if you Google NYC MWBE loans. That's my first round of questioning. I'd like to turn it over to Council member Rose.

COMMISSIONER BISHOP: I see a strategy is working.

CHAIRPERSON KALLOS: Barron and Rosenthal. We have been joined by Council member Yeger. We tried to run hearings that are good enough that people will keep watching and then Mike tweet in and say thanks. I got 500,000 dollars because I watched this.

COUNCIL MEMBER ROSE: Wow. Those kind of match the procurement goals, right? I like that. First, I want to congratulate you on S6418 A and A8407. That's huge. I'm really glad to see that. Parity seems to be the word for this budget session. City Council fought for parity for a lot of different groups and I'm really glad to see that we're going to have parity with the state. So the disparities study ultimately made three recommendations to the city. Two of which are covered by my proposed Intro 1293 which was to expand the minority category to include Native America-owned firms and reestablish goals for Asian-American firms in the professional services category. And I did understand you to say that you're supporting this legislation, right? Okay. And is the administration pursuing the third

disparity study recommendation to expand the 100,000 dollar cap on goods and commodities contracts?

JONNEL DORIS: Yes. That is, I believe, in Council member Cornegy's bill.

COUNCIL MEMBER ROSE: Yes.

JONNEL DORIS: Yeah.

COUNCIL MEMBER ROSE: Yes.

JONNEL DORIS: So that's in 1452.

COUNCIL MEMBER ROSE: Yes.

JONNEL DORIS: And we do support that.

COUNCIL MEMBER ROSE: But you are supporting that?

JONNEL DORIS: Yes.

COUNCIL MEMBER ROSE: Okay. All right.

The disparities study released in 2018 did not include the last three years of the city utilization data for MWBEs. You know, could you tell us why that is and do you believe that the study is an accurate reflection of the current utilization or available trends?

JONNEL DORIS: Yeah. I would start saying yes we do believe that and stand by the disparities study. The disparities study historical use been a capture of a sort of moment in time and

which we then have to base policies on. Once we get the disparities study consultant and to do the work and then there is the report that is made and then distributed to the public, then we to have to come to the legislative process to update that work and then, again, start to execute on those implementation recommendations. So, for us, yes. You know, we believe that it is accurate. The process begins again in earnest.

COUNCIL MEMBER ROSE: Uh-hm.

JONNEL DORIS: The state has these similar process and we have a similar process. I think how we govern utilization on how we go about goal setting, that is a very accurate and real-time assessment of what is-- who is there and who is available, etc., based upon the firms that are on the SBS directory. And so, we are very confident concerning those goals and, particularly, because of the rigor that they went through in order to do this statistical analysis to make sure that we are constitutionally sound.

COUNCIL MEMBER ROSE: But it didn't include the last three years. So, do you see that

there would be in the disparity or any difference in the outcomes or data?

JONNEL DORIS: Well, I'll-- I'll let Commissioner Bishop speak a little bit more on it, but we well-- I wouldn't say that we would know for sure if there would be additional disparities from examining the last three years, but what I can say is, once we complete a disparities study and it goes into implementation and the goals are set, every contract is assessed for goals based on that contract and based on the availability of the MWBEs. And so, I think there is a real time component to this that actually happens. I think that the disparities study is the underpinning for the program for constitutional basis, but when we are dealing with the availability of firms that are currently in our system, how we do goals set in the stipulated local law one, as well, that every contract must be assessed for goals based on the current availability--

COUNCIL MEMBER ROSE: Okay.

JONNEL DORIS: and proven that way, I think that's how we stay current, you know, in the

interim as we do go from disparities study to disparities study.

COUNCIL MEMBER ROSE: So, it will be a constantly evolving reference point, rather than just a rubberstamp.

JONNEL DORIS: You've got it. Yes.

COUNCIL MEMBER ROSE: Yeah.

COMMISSIONER BISHOP: So, just to clarify in terms of timing, because the very nature of a disparity study, this is not something that happens in three months. So, every municipality has to do a disparity study and the timing is about the same, which is we put out this RFP in 2015. So the vendor was selected in 2015 and the data collection happened in 2016, which is why you are seeing that sort of disconnect. So, you know, the process of actually creating the disparity study, we have to make sure that there is enough time for community engagement, for example. We have to make sure that the analysis is-- because this is the underpinning-- the legal underpinning of the program, so disparities studies typically take about a year, a year and a half, so that's why you always see that lag with the data that's cited in the study. It because it's based on

when the actual data collection happened. But, as Jonnel said, as agencies are actually making-- putting the goals on, they are looking at current information.

COUNCIL MEMBER ROSE: Many of the MWBEs provided recommendations that they believed would improve the interaction in the city's procurement process. Were any of these recommendations implemented and considered?

JONNEL DORIS: Yeah. You know, we-- We meet with our agencies on a regular basis to communicate to them some of the recommendations. We do have policies within sort of compliance we're all monitoring. Outreach is one that many of our MWBEs had concern about and are we reaching out to the firms? How do they get connections with the actual buyers at the agency? So, what we've done together with SBS and our office and our city agencies, we started-- I know the Commissioner will talk a lot about this, as well, our borough forums. So, we come to your borough, wherever you are. We are going into the third iteration of that and we have MWBE fairs in every borough. We use it just have one big fair and now we have fairs in every borough so the MWBEs in

that particular borough can actually have interaction with those senior agency folks at those particular forums and, also, we encourage agencies themselves, not only on a citywide basis, but agencies also hosts several fairs to speak to their specific procurement processing. So, those are recommendations that we heard from a lot of our MWBEs, but also some of the things that we have advocated for, such as raising the discretionary threshold, parity with the state, having it prequalified list of best value provision. All these things we have heard from them and we have implemented through state law which, as you know, is a fee within itself to get that done. And we got it done last time to 150, now 500,000. All of the other components. And that's how we sort of term that feedback into action at the city.

COUNCIL MEMBER ROSE: One of the issues MWBEs have is that they are not notified when they are awarded a contract or they receive little feedback about their contracts. Is there a process to communicate how this might improve their bid or the reasons why they didn't when or get some constructive feedback?

JONNEL DORIS: Yeah. So, I'll start and then Commissioner Bishop will talk specifically about the line of work that his agency does, but so we encourage every agency to have deep reefs. So, if you apply or if you submit a bid or if you have an RFP and you did not win, you can request a debrief with that agency and say, I would like to know why I did not win. And sometimes it's just sharpening your pencils, as we say, that you need to do. Tweaking here and there. Maybe some of the estimating is off. Maybe something is awry over here that will help and MWBE get a contract. We have started that process and I think, you know, we want to say, you know, starting off at eight percent and, after three quarters, you know, in 15 and [inaudible 01:04:04]. Third quarter of this year we were at 24 percent. A lot of that is really a white glove service that we are providing to our firms to understand the city's processes and to learn about them. And, SBS, of course-- I always like to say this-- and so he doesn't say it. I say it all the time. Really, about two thirds of the firms that win contracts with the city have utilized one of those services that SBS has. And so, we are very excited about that that

what we are giving our firms is actually working and helping them to win and succeed. Commissioner?

COMMISSIONER BISHOP: So, this gives me a perfect opportunity to talk about our technical assistance because I think a lot of MWBEs should be aware. And, course, this is due to, and part, the investment that the mayor has done in the MWBE program that we are now able to provide that white glove treatment for-- if any business is looking to get help with responding to a bid or RFP, we have that we'll sit down with them and review their RFP or their bid for technicalities because we want to make sure that their bid is not tossed out because it's unresponsive. That service is free and, as Jonnel said, we do-- and it's part of our agency training-- we do remind agencies that if MWBEs are unsuccessful and request a debrief, that they should provide that. If MWBEs are having issues with getting that, we, through our vendor services team, will work closely with the MWBE and with the agencies to facilitate that meeting because it's helpful to understand who and-- who actually won and what was some of the reasons why they won so the next time the MWBE bids, they can take into account those factors, as well.

COUNCIL MEMBER ROSE: Once this proposal, this Intro passes and I'm sure it's gonna (sic) pass, how will you notify-- just how will you get the word out that the term-- the definition of minority group has been amended?

COMMISSIONER BISHOP: So there's a couple ways we can do that. We have a robust network of committee partners that helps us and, actually through funding from city Council, that helps us with providing one on one assistance with certification. We have our NYC business solution centers that works with individuals who also need help with applications and through generous support from the Mayor's Office at MWBE, we also have been able to aggressively market the program. So, between-- and, of course, you, our Council partners. So, literally, between the four areas, we will work to make sure that, if there is someone who is now of Native American origin, they will be able to learn about that. We've also, in the past, we've worked closely with the state. So we do have data exchange relationship with the state, so we know where some of the state certified firms are who are Native Americans, so we will be able to contact them to let them know that,

hey, now that you're-- since you're certified with the state, you can now fast-track into with the city. So, there's a number of ways we can do and happy-- if there's anything else I left out, happy to take suggestions from you and from advocates out there.

COUNCIL MEMBER ROSE: And businesses that had previously tried to be a part of the process, but were not able to because--

COMMISSIONER BISHOP: Correct. And I don't think we have a large number, but we will look at our database for anyone that was rejected because they were not eligible and reconnect with them, as well.

COUNCIL MEMBER ROSE: Okay. And I can't wait until we extend to the. I've gone have been as soon as we passed, right, Chair Kallos? Was there any-- when you considered expanding the cab, what were the metrics you looked at? What determined-- what was the determination?

JONNEL DORIS: It was the 100,000--

COUNCIL MEMBER ROSE: Yes.

JONNEL DORIS: on goods? So, the disparities study, for a very complex methodology and data that they looked back, you look at the available

market, look at the available firms in that market, what we buy and say, do we have enough firms to actually supply and is there a disparity with the utilization? And so, just as the other components with the disparities study, that was also looked at. Is there a market for goods above back? And we found-- or the disparities study found that there was. And so, yeah. With the bill being passed, I think we can put that into application as soon as rules allow us to because I know--

COUNCIL MEMBER ROSE: It's 120--

JONNEL DORIS: there are rules--

COUNCIL MEMBER ROSE: days.

JONNEL DORIS: that we have to go through and etc. Yes.

COUNCIL MEMBER ROSE: Okay. Thank you.

CHAIRPERSON KALLOS: Council member Barron.

COUNCIL MEMBER BARRON: Thank you to the Chair. Thank you to the panel for coming. How long does it take a business to get certified from the time that they apply to the time that--

COMMISSIONER BISHOP: So, this-- I want to be clear because there is always confusion between

the state and the city. For the city of New York, we are 6 to 8 weeks. You may have heard some businesses complaining about a year or two. That is not the city of New York. I feel for my counterpart at the state, but we have the resources, thanks to the mayor, where we are doing it-- and in some cases even faster, if they are certified with other entities.

COUNCIL MEMBER BARRON: And how many-- the certifications that you have issued, do you keep them categorized by race and by gender?

COMMISSIONER BISHOP: Yes. We do. So, in terms of the numbers that we gave you months for the end of fiscal year-- FY 18. But we do keep it categorized by race and gender.

COUNCIL MEMBER BARRON: And is that information indicated in the vendor directory?

COMMISSIONER BISHOP: Yes. So, for example, if you are on the online directory and you want to find out how many women-owned firms are certified, you can just check the box for all WBEs and the directory will spit out every WBE. If you're looking for how many minority women, you can just check both boxes. It allows you to check multiple

boxes for you to figure out how many firms are certified.

COUNCIL MEMBER BARRON: Okay. So, according to the briefing material that I looked at, of the, I think, it's 835 million that was awarded in prime contracts for FY 18, the total dollar value of these prime awards is indicative of 74-- no 47 percent going to Asian male owned businesses, 23 percent going to businesses owned by white women, 10 percent going to businesses owned by black males, and two percent going to women-- Hispanic women owned businesses. And I'm missing black women. I don't have that number here. Do you have that number?

[Background comments]

COMMISSIONER BISHOP: You're asking me--

COUNCIL MEMBER BARRON: Yes. Do you have the number for black women? Of the hundred and 35 million that went to prime contracts.

COMMISSIONER BISHOP: I'm looking at-- Hold on a second. I just want to make sure are we-- Are you talking about FY 18?

COUNCIL MEMBER BARRON: FY 18. Yes.

COMMISSIONER BISHOP: Okay. Just wanted to make sure we were all on the same-- So--

COUNCIL MEMBER BARRON: Okay.

COMMISSIONER BISHOP: So, for black women it's about three percent.

COUNCIL MEMBER BARRON: About three percent. Okay.

COMMISSIONER BISHOP: For prime contracts.

COUNCIL MEMBER BARRON: And of the 258 million in subcontracts, 43 percent went to white women owned businesses, 21 percent to Hispanic male owned businesses, 16 percent to Asian male, 13 percent to black male owned businesses, five percent to Hispanic women-owned businesses, one percent Asian, and less than one percent to black women owned businesses. That's for the subcontracts.

COMMISSIONER BISHOP: Uh-hm.

COUNCIL MEMBER BARRON: So, is that indicative of the percentages of businesses that have been certified by the city? Is that comparable to what we see in the number of businesses that have been certified? You said you keep data as to how many are certified by race and by gender. Is that indicative or--

COMMISSIONER BISHOP: Yeah. So--

COUNCIL MEMBER BARRON: are there other factors? Perhaps the contracts themselves? Does that match-- how can we make some kind of comparison here that would give us an explanation why black women are at the bottom.

COMMISSIONER BISHOP: Right. And that is one of the things that we have talked about in the past. So, when we did our analysis, we look at the types of companies that are certified and that has actually influenced our, in this fiscal year, how we target our certification. Black women-owned firms are in areas that we do not see either a large amount of contract values or contracting. Our black firms that are currently certified are very small. They are about three or less employees, so those firms may not have the capacity. So we have specifically created a strategy in terms of how we can get more black women-owned firms certified. There are black women-owned engineering firms that are out there that have the capacity to work. Some of them have decided not to certify in the city of New York. Some of them did not know about the program. We have worked, for example, with black sororities to get the word out and to actually get the word out and talk about how

certification has its benefits. So, we are very concerned, similar as you are, with the numbers. And the deputy mayor and Jonnel can talk a little bit more about this. That the deputy mayor has talked and he has been very upfront about the disparity within the disparity. And we want to make sure that we focus-- and we have, as an agency, targeted a lot of our resources on our black and Hispanic firms to make sure that we give them as much support as possible in order to be competitive and in order to build their back-office, to make sure that they are participating in the marketplace.

JONNEL DORIS: Thank you, Council member. So, I mean, we-- this is a big concern for us. I think part of why we need more tools is that we-- wherever there is discretion we see that we have higher utilization. We can target more appropriately. I also want to say that, you know, doing business with the city, it's not-- we're trying to make it as easy and transparent as possible, but certainly businesses have to deal with the marketplace as mentioned by our Chair earlier. Businesses have to deal with the marketplace and the marketplace itself is discriminatory against black

women firms, in particular, even when a calmness to venture capitals. We heard this and saw the studies from last year. Less than two percent of dollars of venture capital go to black women and that is-- black women-owned businesses. And they're adding 300,000 jobs to the economy, the only group that is doing that effectively over the last decade. And so, we have a challenge because, you know, these firms are in the marketplace. They have to go get loans. They have to go get insurance. And mayor being discriminated in the marketplace as stipulated by all types of different studies that we have reviewed. But also, when they come to the city, are they ready and able to participate in our program? And so, two things. One, as the commissioners said, we see this as an issue. This is a concern then that's why we are able to speak about some of the things he's doing and this agency is doing to target it. But, really, for us, it's getting more tools where we have discretion. And, I think, at that point, going to the state and getting the state to give us additional dollars for our discretionary threshold which we have done twice now and been successful-- really amazing results. We can use that to really go into where the

disparity study shows there is discrepancies within the utilization versus availability and address those very strategically. And so, those are the tools we have and so we intend to execute and use those tools more effectively.

COUNCIL MEMBER BARRON: Thank you. In the-- also in the briefing paper, it said that there are 35 agencies that are subject to the MWBE participation calls, but mainly three agencies or the ones that awarded contracts and those three agencies were DDC, DPR, and DEP. And the total amount, I think, is 467.6 million that those agencies were recipients of. No. That was just for, I think, DDC. Now, my question becomes that sounds great, but what percentage of their budget is that? It sounds like a great number, but when you look at the totality of what their budgets are, are there other agencies that are doing better in terms of the percentage of awards that are given, even though they have a smaller budget? I guess that's what I'm trying to get at.

JONNEL DORIS: So, thank you, Council member, for that question. I think it goes to the heart of the procurement process and what we sow and how much of it we sell of it. You know? So, when

we're talking about DDC, DEP, DOT, you talk those are significant numbers for capital. And so, a lot of our capital agencies are-- really have large budgets when it comes to procurement because these things cost quite a bit. And, certainly, so you will see higher utilization in those agencies. For the agencies that are non-capital agencies, they actually have a very high utilization because, you know, they are not engaging in the heavy construction, civil construction, etc., where sometimes there is a challenge for some of our firms to come in as primes, but they come in as subcontractors. And so, I think, you know, it depends on the agency and what they actually procure. That's how we're able to determine that level and then, of course, their budgets because, again, the capital is a lot more than their expense. But this is why we're excited about-- again, I keep coming back to Albany because I'm so excited about it. For the first time in our city's history, we went from 20,000 discretionary to 150,000, but it did not include construction. This time we went 150,000 to 500, but it also include construction which is now 35,000. Think of that for a moment. 35,000 discretionary we currently have for

construction. But now, with this bill that was just past, and it's at 500,000. That's one thing. And so, that's huge for us to help build up our firms in that particular industry. And, secondly, now we have authorization to do a mentorship program at DDC where we know that there is a lot of opportunity that is consistent and DDC does also work for other agencies around the city. Not just--

COUNCIL MEMBER BARRON: Uh-hm.

JONNEL DORIS: DDC work, but other capital agencies. So, again, we are strategically looking at where the gaps are in the disparity study allows us to see that. But also some of the work we have been doing over the last two years and so, some of those tactics we are employing now in order to better utilization with those agencies.

COUNCIL MEMBER BARRON: I think you and I look forward to hearing about the success of urination is to increase the number of black women-owned businesses so that they can have some support as they overcome the historic--

JONNEL DORIS: Historic.

COUNCIL MEMBER BARRON: racist obstacles that they have found that they have had to overcome

over the past. I look forward to hearing about your great success at the next hearing that you come to.

JONNEL DORIS: Thank you.

COUNCIL MEMBER BARRON: I'll give you a year.

JONNEL DORIS: Thank you, Council.

COUNCIL MEMBER BARRON: Thank you. Thank you, Mr. Chair.

CHAIRPERSON KALLOS: Thank you. Turning it over to Council member Rosenthal.

COUNCIL MEMBER ROSENTHAL: Thank you so much. I want to pick up on the questions that Council member Barron was just asking. In looking through what the current-- in Council member Rose's bill, what the current disparity numbers are, does-- I noticed that for women-- there's a category called women. Is that just Caucasian women?

JONNEL DORIS: Yes.

COUNCIL MEMBER ROSENTHAL: That's what I thought. And are their goals in the disparity study for black women and Hispanic women? Because I know you track that in utilization.

JONNEL DORIS: Yes. There is goals for black women and-- there's disaggregated calls throughout the disparity study--

COUNCIL MEMBER ROSENTHAL: Uh-hm.

JONNEL DORIS: so, every category, if you are a minority in the group--

COUNCIL MEMBER ROSENTHAL: Uh-hm.

JONNEL DORIS: in the group that you are a part of and also for women, as well.

COUNCIL MEMBER ROSENTHAL: So, is this bill a bird's eye view and the details are in the disparity study and the details are also encompassed in this bill?

JONNEL DORIS: This bill highlights the disparity that was found--

COUNCIL MEMBER ROSENTHAL: Right.

JONNEL DORIS: indicates the change, so I would say, yes. It has all of the details. As to why it is what it is--

COUNCIL MEMBER ROSENTHAL: No. No. No.

JONNEL DORIS: that's in the disparity study.

COUNCIL MEMBER ROSENTHAL: I'm just getting at, if you read the bill--

JONNEL DORIS: Uh-huh.

COUNCIL MEMBER ROSENTHAL: It does not have the category black women. Right? It has a category that says black Americans that, I think, include both women and men.

JONNEL DORIS: Oh, I see.

COUNCIL MEMBER ROSENTHAL: And then there's a category called women that we've established our Caucasian women.

JONNEL DORIS: Oh.

COUNCIL MEMBER ROSENTHAL: And I'm just wondering where I can find what the disparity number is for black women in each of the categories and I think the answer is it's in the thick--

JEE KWON: It's in the minority category.

CHAIRPERSON KALLOS: Can I just ask for a point of clarification? In the disparity study, there are multiple notes and, including in this document and other documents, that the women's category, I believe, should be encompassing women regardless of race--

COUNCIL MEMBER ROSENTHAL: No.

CHAIRPERSON KALLOS: Well, I just want to clarify this. The--

COUNCIL MEMBER ROSENTHAL: That's what they just said.

CHAIRPERSON KALLOS: No. No. I know. But if they did, it would be contradicting to the disparity study because I just want to-- because in the disparity, it says that there is-- there are several asterisks and says that these-- when you add up the women and the different minority groups, that it doesn't come to 70 percent as the number should, if it only included Caucasian woman and it didn't have the overlap. So I guess the thing is--

[background comments]

CHAIRPERSON KALLOS: You already gave a straight answer to Council member Rosenthal and, if you are correct and her hunch is correct, then what have you, but based on the disparities executive study which I can give you a copy of, the definition of women includes all women regardless of race, not just Caucasian women.

JEE KWON: I think the classification category here is specified as Caucasian women in the citywide reporting categories. It's established as

the Caucasian women, right? And so, in each of the ethnic categories, I believe that classification is inclusive of both men and-- male and female owned ethnic owned businesses. But if you are both minority and women owned, for the reporting purposes, for the citywide goals that are established, etc. as the minority group.

COUNCIL MEMBER ROSENTHAL: Thank you.

And then, one thing I noticed is that-- and on that, I will say that I was just looking at the most recent utilization numbers and I noticed that for-- I was just looking very quickly, but for the construction contracts which is the first category in Council member Rose's bill, for black Americans, the disparity goal is 12 percent now in utilization is, in fact, at 12 percent. So, you seem to be meeting the goal just for that one little micro category which I thought was interesting. And then the other thing I noticed that I just wanted some clarification on is that emerging businesses always seem to be at six percent, but in every category and it doesn't seem to change over time. I was wondering and then I was looking at the utilization numbers and didn't-- the utilization, at least in construction, that was

the first chart appendix that I pulled up. That was at zero. And I'm just wondering, one, did I read it too fast, which would probably be the case, or are there very few emerging construction companies?

COMMISSIONER BISHOP: So, emerging news the emerging business enterprise program--

COUNCIL MEMBER ROSENTHAL: Okay.

COMMISSIONER BISHOP: which is separate from the MWBE program.

COUNCIL MEMBER ROSENTHAL: Okay.

COMMISSIONER BISHOP: That program was created with the realization that there may be other disadvantaged groups that may not be eligible--

COUNCIL MEMBER ROSENTHAL: Oh.

COMMISSIONER BISHOP: for the MWBE. For example, LGBTQ. [inaudible 01:27:36] white LGBTQ individuals or white, for example, Hasidic Jews, individuals or even--

COUNCIL MEMBER ROSENTHAL: Or people with disabilities.

COMMISSIONER BISHOP: or people with disabilities--

COUNCIL MEMBER ROSENTHAL: Oh. I--

COMMISSIONER BISHOP: or white male veterans.

COUNCIL MEMBER ROSENTHAL: never knew that.

COMMISSIONER BISHOP: Or white male veterans.

COUNCIL MEMBER ROSENTHAL: Okay.

COMMISSIONER BISHOP: So, the EB program was created many years ago to capture those disadvantaged groups. The program is still certified, but we do not have a lot of companies that are certified. We are looking to build similar to how we did the MWBE program in terms of building the number of companies certified. So, as a result, agencies, as-- because we're here, agencies have focused a lot of their efforts to actually address the disparity for minority, you know, men and women as we, you know, continue building the certification pool for EB.

COUNCIL MEMBER ROSENTHAL: And so-- I looked very quickly at construction. Was accurate that the number-- that the utilization number is zero?

COMMISSIONER BISHOP: It is probably-- I do not have it in front of me, but--

COUNCIL MEMBER ROSENTHAL: Yeah.

COMMISSIONER BISHOP: knowing the goals that we place on contracts, it is probably accurate that EBE utilization is zero and a part of fact, a big part of that, is our certified pool because--

COUNCIL MEMBER ROSENTHAL: And so there are very few LGBTQ companies in your certified pool.

COMMISSIONER BISHOP: As of right now. We are work-- Correct. As of today.

COUNCIL MEMBER ROSENTHAL: Okay.

COMMISSIONER BISHOP: We are working closely with the different stakeholders in those communities and also in our veteran community to continue monitoring and figure out how we can get more companies certified. But, again, I want to remind everyone that, if you are a veteran and you are black or Asian or a woman, you can certify in the MWBE program. If you are a white male veteran, then you will have to certify in the EB program. The same thing if you are in the LGBTQ community and you are black, you identify yourself as a woman, or you are

Asian or Hispanic, you can certify in the MWBE program.

COUNCIL MEMBER ROSENTHAL: And for most of the categories, the MWBE category is higher--

COMMISSIONER BISHOP: Correct.

COUNCIL MEMBER ROSENTHAL: thank six percent.

COMMISSIONER BISHOP: The MWBE program can capture most of individuals who are-- who could also certify as EBE with the exception, as I said, of white men.

COUNCIL MEMBER ROSENTHAL: Well, and it looks like Native Americans would be better off trying to certify as emerging business--

COMMISSIONER BISHOP: It--

COUNCIL MEMBER ROSENTHAL: because their disparity number is so small.

COMMISSIONER BISHOP: Ummm--

COUNCIL MEMBER ROSENTHAL: The number of firms that are out there are so tiny.

COMMISSIONER BISHOP: Well, so in this disparity, we were able to actually get a statistical sample--

COUNCIL MEMBER ROSENTHAL: Yep.

COMMISSIONER BISHOP: which is why we have this bill now because we have shown that there is a large-- there is a large enough number of Native American firms that could actually certify into the MWBE program.

COUNCIL MEMBER ROSENTHAL: But they would be--

COMMISSIONER BISHOP: The reason why--

COUNCIL MEMBER ROSENTHAL: better served going in-- I mean, unless I'm misunderstanding--

COMMISSIONER BISHOP: So, you're not misunderstanding. The challenge, though, is that agencies have to decide on what sort of-- what goals to put on contracts. So the EB program, it's not race or gender based. It's based on a disadvantage and it business size, which is why it is a flat six percent.

COUNCIL MEMBER ROSENTHAL: Uh-hm.

COMMISSIONER BISHOP: I could get into-- I mean, I would have to--

COUNCIL MEMBER ROSENTHAL: No. I mean--

COMMISSIONER BISHOP: you on the--

COUNCIL MEMBER ROSENTHAL: it's fine--

COMMISSIONER BISHOP: details of-- right.

COUNCIL MEMBER ROSENTHAL: and we could talk about why it's--

COMMISSIONER BISHOP: Right.

COUNCIL MEMBER ROSENTHAL: six percent. Whatever.

COMMISSIONER BISHOP: I think we would have to talk about because, remember, for an agency-- an agency only have one contract. So, the question then becomes, in that one contract, of which goals--

COUNCIL MEMBER ROSENTHAL: Of course.

COMMISSIONER BISHOP: do we put. And we, as an administration, has put our focus on the MWBE program because we have a large enough number of certified firms in the MWBE program so that way we don't see agencies requesting, you know, exemptions for prime contractors requesting exemptions based on the fact that there is no availability.

COUNCIL MEMBER ROSENTHAL: Right.

COMMISSIONER BISHOP: However, we are working on we continue to work on building the pool of EBE companies. So, at some point in time in the future, when we get parity between both the MWBE program and EB program in terms of certified firms,

yes, for Native Americans, it could actually be beneficial to actually certify in both areas.

COUNCIL MEMBER ROSENTHAL: Yeah.

COMMISSIONER BISHOP: Actually.

COUNCIL MEMBER ROSENTHAL: Yeah.

COMMISSIONER BISHOP: So--

COUNCIL MEMBER ROSENTHAL: Makes sense.

Thank you very much. This is all impressive. I mean, my biggest take away looking at Council member Rose's bill is that you are up in every single category. I mean, that if you look by groupings for each of the contract areas and you look from 2009 to 2013 to 2019, the only direction is up. The only direction is up. The one exception is that in the construction contracts previously in 2009 the goal was 13-- the disparity number was 13 percent. In 2013 it went down to eight percent, likely due to the recession, and then it came back up and now it is sent 12 percent and, in fact, you are meeting the 12 percent number. That's incredibly impressive. The other one that went down, but then came up as the Hispanic contract-- construction contract category. But, I mean, this is incredibly impressive if you just look at the larger categories, that you are up

in every single one, and my guess is here utilization is similar. I mean, it will be interesting to go through each category. Then, if that is the case, I would agree with Council member Barron the next step is to drill down into each of the minority categories and call out the women. See where your utilization is, where the goal is, and focus at SBS on how to get those numbers up. I think you for your time and your response.

JONNEL DORIS: Thank you.

[background comments]

JEE KWON: When I was referring to the WBE, you asked about the disparity study and the table was in the key findings and I see what you're talking about that they had an asterisk there that said that WBE category here is inclusive of all the different minority groups. I think I conflated that with how we report our numbers in our local law one quarterly compliance report. In there we do disaggregate the minority groups, but that WBE category in our compliance reports are just further Caucasian women category. I just wanted to clarify that again.

CHAIRPERSON KALLOS: And so for Intro 1293, purposes and legislative intent, when you say women should go from 18 percent to 25.66, that is inclusive of women in minority groups or not?

COUNCIL MEMBER ROSENTHAL: And the reason I'm curious now about your response is because, in the 2013 Bill, it specifies that it's Caucasian women. So, if now you are including all minorities in the women category, that's just-- you no longer can compare the numbers because what-- the grouping is changed. So has the grouping changed?

CHAIRPERSON KALLOS: And I'll just explain why we're paying so--

COUNCIL MEMBER ROSENTHAL: And I don't--  
[background comments]

COUNCIL MEMBER ROSENTHAL: really need to know, but--

CHAIRPERSON KALLOS: We do need to know--

COUNCIL MEMBER ROSENTHAL: I don't know.

CHAIRPERSON KALLOS: because we receive testimony for the record. They're not going to be testifying today, but the General Contractors Association testified, quote, without any analytical

basis, Intro 1293 would increase the citywide MWBE goals for construction to 73.27 percent, which include six percent for emerging business enterprises and that would be outside of the disparities report which got to 53 percent, so it would take you 20 percent over and I'm encouraging you to go to 50 percent, but, I guess, we want to keep it constitutional. I want to make sure that we address GCA's concerns and GCA may-- If GCA and Council member Rosenthal are correct, I just want to make sure we're-- Yeah.

COUNCIL MEMBER ROSENTHAL: Unfortunately, I have to step out for another meeting, but I'm sure you'll get back to us with the--

[background comments]

COUNCIL MEMBER ROSENTHAL: accurate understanding. Thank you.

CHAIRPERSON KALLOS: Do you have anything on the spot or--

JEE KWON: I think we can follow up with you. I think it's coming or attention. Yeah.

CHAIRPERSON KALLOS: Okay. I want to thank GCA for submitting their testimony so that we could have it on hand. Do we have any additional

questions? Just for the panel, we have additional questions you may submit to you in writing. And it is 3 o'clock, so-- and we have a handful of panels. I just want to-- my staff can take a quick photo and if anyone wants to be in the photo, if you want to smile like this is a pretty packed room, even if we don't have that many folks testifying. So, I want to thank the panel for all the great work. His success in Albany. I look forward to look with you. Possibly code pairing with you and just trying to make it even better. So, thank you. The next panel will bring up is--

COUNCIL MEMBER ROSE: Jaclyn Tacoronte.

CHAIRPERSON KALLOS: So, we want to thank Jaclyn for coming and Council member Rose for inviting her. I'd also like to invite Arshad L. as well as Ravi S. Both of them are from the Alliance of New York Asian Architects and Engineers.

[background comments]

CHAIRPERSON KALLOS: And the final panel after this panel will be Ken Fisher from ACEC of New York, Vicki Arbitrio on behalf of ACEC of New York, Rohm T. of AYE, and Bryan Cunningham from BC-- Building Contractors Association. So that will be

our second panel. And we will start with Council member Rose's guest.

COUNCIL MEMBER ROSE: Identify yourself and your affiliation and [inaudible 01:38:57] and get into the microphone.

CHAIRPERSON KALLOS: And if you brought guests with you, if you want them to sit behind you, they'll be on camera and on TV if you want.

JACLYN TACORONTE: [inaudible 01:39:18]

CHAIRPERSON KALLOS: There should be a red indicator.

JACLYN TACORONTE: Is it on? That's it? Okay. Oh. There we go. Good afternoon and thank you, Chairman Kallos of the Committee on Contracts and the entire committee for the floor, including city Council member Debbie Rose. My name is Jaclyn Tacoronte and I'm a small business owner living in the greenest borough, Staten Island. In 2017, my marketing and public relations agency, JMT Media, applied for the coveted minority women enterprise certificate with the encouragement of Staten Island borough hall, Staten Island development Corporation, Staten Island Chamber of Commerce, and the small business development sponsor. I am a proud

Native American. After nine months of intense and vetted application process, it was truly a shock to find out that my application was denied. Not because I didn't have solid financial statements and not because of a lack of business acumen. I was denied simply because of my minority status. Currently, in New York City legislation, the minority group term means black Americans, Asian Americans, and Hispanic Americans. But what is a minority if it is not me indigenous native Americans? The current poverty level for Native Americans and sent 26 percent where, for the nation, the poverty rate is up 14 percent. With Native Americans having the lowest employment rate of any racial or ethnic group in the United States, economic development and the inclusion to. And apply for city contracts is essential in creating economic from my borough and for my city. In the 2018 making the grade report that we refer to, the city spent more than 1.5 billion dollars through contracts in 2018. MWBEs received only 102.5 million. That is less than seven percent. Of this spending, Hispanic American owned businesses and African-Americans seem to less than one percent combined. Native Americans zero. What's happening

on paper is not happening on real-life. We need to change the paper. This administration has done tireless work to diversify all facets of our great city, that diversity extends beyond three ethnic groups. There are others that also need to be recognized, without Native Americans, that MWBE standard is incomplete for New York City. Native Americans sharing painful history. While we can't rewrite the history, today, you can change the history changing the law to include this group have been marginalized and impoverished. New York City is the strongest, most resilient city in the United States and the inclusion of every race should never be omitted again. Thank you for your attention today.

COUNCIL MEMBER ROSE: Thank you. Next. Please state your name and your affiliation and--

RAVI SHENOY: Yeah.

COUNCIL MEMBER ROSE: you may begin.

RAVI SHENOY: My name is Ravi Shenoy. I am the president of Shenoy Engineering, a minority MEP business organization in the construction industry. Thank you for the committee for inviting-- Jeez. Holding this important hearing to review and

testimony on two pieces of crucial legislation which will greatly improve-- which will greatly improve, expand New York City MWBE program. Consent, my name is Ravi Shenoy and I own Shenoy Engineering PC MEP design firm in the construction industry. It is my honor to testify in the presence of this esteemed committee. I was a partner in a MBE firm in New York City for 24 years where I actively provided MEP designs and services to various city agencies such as DDC, DCAS, DEP, DYS, DHS, DOC, DPR, and Health and Hospitals Corporation as a [inaudible 01:43:57] MBE firm. I designed numerous complex and challenging projects, including sanitation, garages, parks, museums, libraries, courts, hospitals, several new jails on Rikers Island during the 1980s and the 1990s, and various community centers. When I founded my own certified MBE firm in 2003, I hope to use the knowledge and experience I gained over the 24 years, and after starting my firm, I was dealt with a devastating blow of the enactment of local law 129 in 2005, then later amended as local law one and 2013. When I approached the client with whom I had worked and developed a reputation and experience for all those years, the days they were forced to look into

different avenues to fulfill MWBE participation goals. Just to let you know, between the years 2007 and 2016, for 10 years, various city agencies awarded contracts with a gross fee of close to 1 billion dollars [inaudible 01:45:52] can't be around 300 million dollars. Where firms like mine and owned by Asian Americans would have great opportunity to participate. That is something-- the great opportunity we miss. Due to the enactment of this long Asian businesses in New York lost business opportunities in the ability to grow our business instead. Since we believe in hiring a diverse workforce, this has negatively impact in the broader community at large. Not being able to participate in the MWBE program has resulted in the loss of revenue for us, loss specialized knowledge due to loss of work, most of the news, downsizing. We greatly appreciate your leadership and work on behalf of the community and your efforts to increase the opportunity for MWB business in New York City. We anticipate great things coming from our re-inclusion in the MWBE program and look forward to working with the city, and the city agencies, and the citizens. Thank you for this opportunity to share my testimony,

my experience with you, and for your continued commitment to New York MWBE community. Thank you very much.

HARSHAD LAKHANI: Hi. Excuse me. Hi.

I'm Harshad Lakhani, president of Lakhani and Jordan Engineers. First of all, I want to thank you, Chair and all of you on the committee for allowing me to testify for the inclusion of Asian Indians into the MBE program. I have already submitted my testimony, so what I want to do here is to give you a little more my personal experience. I personally started my own firm in 1992 and, within five years-- that's okay. Oh. Oh. Okay. So, I started my firm in 1992 with two employees and, within five years, I had grown from 2 to 40 employees and, Meme, due to the Asians being included in the goals for MBE program. My business mix was about 33 percent-- one third, two thirds. One third private. Two thirds working with the agencies Department of Environmental Protection, Department of Correction, City University of New York, Department Agency for Children's, and Department of Health. We provided engineering services on projects like large water treatment-- one billion-dollar water treatment. We are proud to

be a part of that kind of the project. We worked at the-- just like Ravi said, we were part of the Rikers Island program, libraries, hospitals, and so forth. These kind of projects gave us an opportunity to work with procedures design architects. Again, the MBE was the platform for us to work with the prestigious architect and gain their attention. We-- I'll give you an example. For example, City Hall. Lakhani Jordan has been an engineer for over 12 years. We have worked with various architects for providing engineering services within three mayors, actually, while operating it. And it's a landmark project not only I am proud of being an engineer for such a prestigious building, a landmark building, and we received also and no warrant for him prestigious Lucy B. Moses [inaudible 01:50:52] award for the design of the City Hall. This also gave us-- our employee is a great training to work on a large project, which is about 115 million plus. Since the introduction of local law 129 and local law one, our clients had to look for another avenue. Further engineers, other MBE and then, pretty much, and tractors. So, it was a double blow. Not only we could not work with those clients on a city project,

but because they were introduced to the other engineers, we lost them on a private side of the business also. And, to tell you very frankly, due to loss of that, unfortunately, we had to reduce our staff significantly. Even as of today, I office, which is right across Grand Central, I 16 positions open, 16 foods in which I can add employees. With this new bill, with this amendment to the existing bill, I am sure that I will be able to gain more employees. Be able to train more employees, and will be able to fulfill mayors 30 person quota for the MBE. Thank you.

CHAIRPERSON KALLOS: So, something that's interesting to me-- I just want to make this observation. The purpose of the MWBE protection is to protect against existing discrimination that exists in the private marketplace and where government have the opportunity to protect it. And so, what it is interesting to me is the Asian American community had done successfully enough to no longer have a disparity and then, as soon as-- based on that assumption, the idea is that the market had corrected and that there wouldn't be disparities if you were no longer given the MWBE status. So, I

guess the question I just had to ask to use the, do you feel a discriminatory impact in this modern day MBE private marketplace with government contracts? Either of you can answer.

RAVI SHENOY: Go ahead.

COUNCILMEMBER ROSE: Just turn your light on.

HARSHAD LAKHANI: Mine is on. No. I have personally never been treated second hand citizen in this country or in this city.

CHAIRPERSON KALLOS: Amazing.

HARSHAD LAKHANI: I can tell you very truthfully I've been blessed with that. I'm a city boy. I was born and brought up in Mumbai and I'm here in New York. I know nothing better than that, so I've been the last.

CHAIRPERSON KALLOS: There you go.

RAVI SHENOY: No. I feel the same way. You know, I've been treated while and we've done a lot of work with the various firms, when Asians were taken off of the eligibility for the MW program, our share of the business and size of the firm was greatly affected. You know?

CHAIRPERSON KALLOS: That to me says discriminatory impact because the argument is that, as soon as you are not regulated and you have not added this call, you should continue because the company's relationship with you and they should continue to want to work with you because so very little of the money is MWBE money. Actually, two thirds of it is not. So, the idea would've been that the full 15 billion dollars, you would have been graduating to having access to all of the money, not just a small piece of the piece of the piece.

RAVI SHENOY: No. I agree with you, but also like Harshad had indicated that when we were working with some of these architects, you know, we basically worked for the architect is some consultant in the MWBE gave an opportunity to create that relationship with them. Okay. When they-- When we were no longer a part of the MWBE, that relationship, you know, disappeared and they wanted to hire someone who they can use-- you know, legally require to have-- to meet that quote of 30 percent or 20 percent or whatever it is and, since we were no longer can help them in that area, and they will not hire us. Not only that, you went on private sector

project of any other areas, they have created a new relationship with some other people and--

CHAIRPERSON KALLOS: Where did the other 70 percent of the money that wasn't part-- wasn't being into the MWBE go? Why didn't--

RAVI SHENOY: [interposing] We used to work with them. [inaudible 01:56:26] 70 percent of the work.

CHAIRPERSON KALLOS: Uh-huh.

RAVI SHENOY: What I'm saying is, since we are no long working-- we are not helping with them 30 percent of the work--

CHAIRPERSON KALLOS: Uh-huh.

RAVI SHENOY: and other-- that relationship we had with them-- you know, recently, we had a lot of this project that-- Sanitations project, Rikers Island project. You know, we mostly to the [inaudible 01:56:49] side projects. I mean, public sector projects. To some extent, way to the private sector projects, as well. In the private sector projects, we have a tough time, sometimes, collect the money. Okay. We did get the job, but collection and a big problem. So, on the public sector projects, whenever we have that relationship

which disappears because we no longer can help them meet the quota on some other things, they have created a new relationship with those who can help them.

CHAIRPERSON KALLOS: Understood. And how many members showing you today from the Alliance of New York Asian Architects and Engineers?

RAVI SHENOY: I think we are over 10--

HARSHAD LAKHANI: A dozen.

CHAIRPERSON KALLOS: So, I want and just think all of you. You are welcome to submit your own. You're welcome to Tweet. You're allowed to-- What have you. But I want to thank the 15 of you for coming out. Until even want to know how much it would cost me five billable hours to have--

[laughter]

CHAIRPERSON KALLOS: all of you here, so I just want to thank you and your organization for coming out. And I want to thank our Council member Debbie Rose for being a champion and carrying this legislation. And then I had a quick question for Jaclyn which is just I noticed that some-- the guess you are with her wearing items and I'm curious if

there is any cultural significance to the items that they are wearing.

JACLYN TACORONTE: Abs-- So, you want to chat about your regalia and everything--

JERRY GRAYHAWK: Absolutely.

CHAIRPERSON KALLOS: Can you-- Can you--

JERRY GRAYHAWK: Okay. Is that good?

JACLYN TACORONTE: Oh. Switch seats.

JERRY GRAYHAWK: Okay. Switch seats.

JACLYN TACORONTE: Oh. Switch both seats.

JERRY GRAYHAWK: Yeah.

CHAIRPERSON KALLOS: You can share your name for the record, please.

JERRY GRAYHAWK: Sure.

CHAIRPERSON KALLOS: We're interested in learning more.

JERRY GRAYHAWK: Jerry Grayhawk. I'm of White Mountain and Chirichaua, Apache, Southern Cheyenne Arapaho, and Arawak ancestry. Proud Native American. Proud New Yorker. And I am a co-founder and head singer of Red Storm Drum and Dance Troop Incorporated. Yes. Had to put that in there. And, of course, our standing with the-- of course with

the public and private sector is kind of blended, so there's no one more important to the other-- to us, as well. And the cultural significance of what we have on now, my medicine bag which carries significant items to me personally, the jacla necklace which is a part of my heritage, as well, made out of turquoise, which is a sacred stone to my people, and the ribbon shirt that I wear is, basically, a blend of the old and new. See, if anyone is ever heard about the boarding school system when many of our youth were taken from the tribes and take an input into boarding schools and a lot of our heritage and culture was kind of washed away, be no way from us. Then one of the things that they forbade us to into was to wear any kind of fringe on our outfits because it represented our freedom. So, what the children did was they would save for pins from presence that they would receive and strings from gift boxes and packages and the wood in them onto their shirt as kind of rebellious protest to show that they are proud Native Americans. In that tradition carried on into the mainstream native society when we wear our ribbon shirts, shows that we are proud Native Americans. It shows that, through

everything, through the past, the painful history that we have, this is a reminder to stand strong and show the people that we are still here. New York City, very diverse culturally huge city, but the indigenous cultures still overlooked and we have to raise that awareness through, not only our teachings that we do as Red Storm, but also through allowing businesses that are native American-owned to prosper in this beautiful city which we love so much. Because, back home where we are, we are discriminated against because people have had their personal experiences with Native Americans and it kind of made them discriminating, almost racist, to that point whereas in New York, we can be just like everybody else. We can be whatever we want because this city allows us to be whatever we want and be proud of who we are and not just try to hide and be ashamed. This is why we came today and represented as well as we could. Thank you.

[applause]

CHAIRPERSON KALLOS: Thank you very much. I'd like to turn it over to the sponsor of this legislation, Council member Debbie Rose.

COUNCIL MEMBER ROSE: I just have a brief question for Ms. Tacoronte. Can you just tell us briefly how-- the impact of not being included in as a minority in the MWBE? How it impacted your business?

JACLYN TACORONTE: Thank you, City Council member Debbie Rose. So, it's interesting. You know, the process for a city MWBE took us close to nine months, whereas on a state level for MWBE application to get vetted and approved took less than three months. And so, on a city level, we haven't been able to apply under the auspice of MWBE because we don't qualify. We do qualify, however, for the WBE process and we've gotten very close to about three different contracts, but the significance and economic impact has cost us close to a quarter of 1 million dollars in 2018. And so, that's significant for me as a small business owner because, on Staten Island, we tried to employ Staten Island college students. We try to keep the talent on Staten Island. I can only hire and outsource outside of the island, but there is so much talent on Staten Island and so we've missed the opportunity for 2018. Close to a quarter of 1 million. For 2019, though,

you know, I'm the big believer. I'm always using this hashtag farmer Jackie. I'm always planning seeds. So doing a lot of partnerships with SIEDC, with Borough Hall, and with City Council member Debbie Rose's office. We've been able to secure their partnerships as not even necessarily a subcontractor of a subcontractor, but we have been able to secure partnerships on a larger scale, so we're barely hitting June, where we're towards the end of June. So, you know, we're looking forward to success for the fear and I'm looking forward to seeing the next steps of farmer Jackie.

COUNCILMEMBER ROSE: Thank you. One of the arguments early on was that there were not a significant number of Native American businesses. Was that so?

JACLYN TACORONTE: So, back in 2017, I had hosted a meeting at fantastic-- another small business office space. Kevin Lawry that owns Launch Pads. And I had requested small business-- SBS, Debbie Rose attended. We also had my attorney, Julian Verde. We also had a representative from the mayor's office, [inaudible 02:04:16] Barnes, and we also had the disparity report consultants number on

hand because I really wanted to understand why the numbers and the data were not reflected accurately. And to my amazement, unfortunately, a lot of the information was presented on the findings were based off of Dennen (sp?) Bradstreet Reporting. And so, that's a significant piece of information because, a lot of small businesses, when they first started out, they do not apply for-- just to have the basic verification of Dennen Bradstreet. There is a lot of hurdles your first few years of opening a small business. I am in my fourth year. And so, you learn over time that you do need to have your verification, your Dennen Bradstreet information. You need to be verified because, unfortunately, if you haven't had that verification in the past seven years, you are not going to be in the analytics that were part of the disparity report. So, respectfully, the disparity report that was presented in May 2018 that was published, unfortunately, is still inaccurate, even though it is the most recent report. And so, my goal here today is that the outreach and communication efforts between the administration and city Council members and all of the different

agencies at hand, that they are effectively targeting specific small businesses and minority ethnic groups.

COUNCIL MEMBER ROSE: Thank you.

JACLYN TACORONTE: Thank you, Debbie Rose.

COUNCIL MEMBER ROSE: Jocelyn say to the gentleman, often times things I've done and it has unintentional, you know, outcomes. And I'm really proud to be able to say that we are going to try to correct those unintentional, you know, negative impacts you suffered. So, I thank you for being here and giving voice to what the impact was and looking forward to, you know, better outcome.

HARSHAD LAKHANI: Thank you very much.

CHAIRPERSON KALLOS: I just--

HARSHAD LAKHANI: I wanted to--

CHAIRPERSON KALLOS: Sorry. I want to follow up on what Jaclyn was saying. So, if the city is currently u-- if the vendor that the city is currently using and, as we put it out and RFP and may have already done so for a new vendor or the same vendor to come back, if it's not John and Bradstreet and we do want to properly capture the real number of Native Americans who should be reflect-- Native

American MWBE businesses or businesses that could be MWBEs, what is a better metric?

JACLYN TACORONTE: You know, that's a very hard question to answer because, unfortunately, I do not work on the city administration side to understand what resources are fully available, but I do now, and speaking SPS, SIEDC, Chamber of Commerce, Debbie Rose's office, clearly there is analytics that are available and that may be something that another consultant or, based on the RFP-- I know that there is a chief diversity officer position that you all-- the city has been looking forward to really assess and review all of the findings and application for each of the boroughs in each of the agencies. So, unfortunately, chairman, I wouldn't be able to answer that because I don't know where all the analytics currently are at and where the metrics began and where they are ending.

CHAIRPERSON KALLOS: So, I'm a big believer in citizen-- not citizen, but resident drafted legislation in crowdsourcing for booze and believing that a lot of the knowledge is not on this side of the desk, but--

JACLYN TACORONTE: Uh-hm.

CHAIRPERSON KALLOS: So, I guess, to just pull from my own experience as a Jewish person, we do-- we have a-- I just Googled-- there's an Orthodox Jewish Chamber of Commerce. I know there's an Israel Chamber of Commerce. Is there a chamber-- Do the Native American communities have a Chamber of Commerce or are there places where, as Native Americans are interested in doing business with business and I think the thing is-- I'm concerned that, if we as a city-- if we've been relying on Dennen Bradstreet, don't even know where to look and, sadly, I don't think we have a Native American elected into government and I don't know about you represent--

JACLYN TACORONTE: Not yet. [laughter]

CHAIRPERSON KALLOS: There will be 36 seats open in 2021 and we need to have, at least, 26 women on the city Council.

COUNCIL MEMBER ROSE: I like that. More than 21.

CHAIRPERSON KALLOS: That's the adequate representation. Women outnumber men in the city. So, I guess, are there resources you might know of that we can bring to the attention of the city and,

if there's resources you have heard of, or what have you, that we can tell the city that we can subscribe to with our 94 billion dollar budget.

JACLYN TACORONTE: So, in the pa-- thank you. That's a very valid question and I'm sad to say that in the past two years in going through this entire process, there's two organizations that are focused more on arts and culture programing as opposed to business advocacy and education and outreach. There is the Smithsonian affiliates, the Museum of Natural History-- or Native American History in reaching out to them to attend today's hearing. They're excited to hear, but they only have information on archives. Unfortunately, my tribe is Lipan Apache and there's only 5000 left of us left in the United States, so, Chairman, you're staring at a unicorn right now. But to be very candid and honest, there is the Staten Island Chamber of Commerce and each borough has their Chamber of Commerce, but there is not a dedicated New York City Native American Chamber of Commerce. And I think for a variety of reasons. There's lack of information, lack of resources. But on a national level, there are Native American Chamber of Commerce and organizations and

associates, but they are primarily in New Mexico, Arizona, and in Ponca City, Oklahoma where I just went to visit last year.

CHAIRPERSON KALLOS: To the extent that the Small Business Services and the Mayor's Office for MWBE have a mandate to be doing outreach or-- I know that, as the Contracts Committee would be happy to partner with you and to the extend our Council member Debbie Rose to try to host events and, to be honest, I've hosted events where we have 1600 people show up. More often, we have 30 people and sometimes I've have five people show up, but you do it. You keep doing it. The word eventually gets out and one day it goes from three to several hundred or thousand. So, if you can give us a date that would work for you, we'd be interested in organizing, whether you want to do it on Staten Island, in the great county of Richmond, or anywhere else, we will do it wherever you wish.

JACLYN TACORONTE: Thank you so much, Chairman.

CHAIRPERSON KALLOS: Sir, I had cut you off and you had--

HARSHAD LAKHANI: No. I'm good.

CHAIRPERSON KALLOS: additional remarks.

HARSHAD LAKHANI: I'm fine. I don't--

Thank you.

CHAIRPERSON KALLOS: Seeing no other questions--

RAVI SHENOY: Thank you, once again, for your support.

CHAIRPERSON KALLOS: No. Thank you. We will excuse this panel. Thank you, again. And to any of the members who are here, again, you can email [contracts@benkallos](mailto:contracts@benkallos) for 72 hours from when we close this hearing. I had already called out the names of the people on the last panel. We have a former Council member Ken-- the honorable Ken Fisher on behalf of ACEC New York. He is also pretty tough television personality. If you have a chance to watch his show, I recommend it. He'll tell you when you can watch. Vicki Arbitrio from ACEC. Ram T. from ANAYE district engineers. And Bryan Cunningham from Building Contractors Association. Ken, you know the drill. Come on. Let's hussle.

KEN FISHER: Thank you, Chair Kallos, Council members. Thank you for the kind words and Council member Perkins will recall that I served on

this committee for pretty much all of my tenure at the Council. So I--

CHAIRPERSON KALLOS: I'm going to try to be as tough as you are on your show.

KEN FISHER: And when I-- When I--

CHAIRPERSON KALLOS: When is your show?

KEN FISHER: Actually, we off the air. It's an interesting story. I'll tell you offline, but--

CHAIRPERSON KALLOS: Okay.

KEN FISHER: I now do a lot on Facebook and, if you haven't-- you and I aren't friends of Facebook yet. We should be.

CHAIRPERSON KALLOS: Okay.

KEN FISHER: I don't do twitter because your brain has to work faster than mine does to keep up with that. And, actually, after-- shortly after I left the Council, I was retained by the American Council of Engineering Companies and I've represented them on New York City matters pretty much since then. So I am familiar with some of the issues that you all are grappling with and I want to say at the outset, on behalf of ACEC, number one, they strongly support the objectives of the legislation and the initiatives

that SBS and the Mayor's Office of Contract Services have taken in support of increasing participation by certified firms on A & E, architectural and engineering, service says. And, in fact, that extends specifically to our colleagues in the Asian and Southeast Asian community. One of the concerns we had when the disparities study came out was that it established a goal under the category of professional services for those firms, but not specifically for A & E services. And that was a concern, both based on fairness, but also on the ability of the majority firms to be able to meet their objectives. We were told by SBS at a meeting that, notwithstanding the fact that a specific disparity wasn't identified under A & E services, that, nonetheless, the majority firms would be able to claim them under the category of professional services. We don't have that in writing, but that was a relief, I think, on all counts. And it leads me to what we think are some methodological flaws in the disparities study that are, unfortunately, reflected, and to some extent, in the legislation. You know, Chair Kallos, you know engineers, when they do something, they want to do it right and they want

to do it based on the most accurate information. And we think that it's important to understand what those flaws are. There are a variety of ways that I think that that can be addressed, both in the legislative history and in the bill itself. One of them, that I just alluded to is that A & E services, while they were studied separately in the disparity report, are not broken out from professional services in the legislation itself. And, in fact, if you look at the disparity report, if you take the aggregate-- and I know that there is overlap with women firms, but if you just look at the aggregate percentages, the capacity number in the A & E section of the report was 51.84 percent, but the goal, the aggregate goal set under professional services is 67.52 percent. And the reason for that is that there are other professional services that tend to skew more in terms of the availability of capacity.

CHAIRPERSON KALLOS: And I believe you heard me highlight that for the administration.

KEN FISHER: I certainly didn't. There's another aspect of the and I think it's also important and that is, you know, I was stressed when I looked through the committee report at the compliance rate,

if you will, of the various city agencies and the major capital agencies. Their numbers looked pretty low and, you know, I think that any of the professional engineers that deal with the city would say that that's not for a lack of trying either on their part or the agency's part. When we look at the membership of ACEC, it's a trade association. It doesn't necessarily cover everybody, but it sure is a broad sample of the industry. About 20 to 25 percent of ACEC's member are certified firms, women or minority. But if you look at it in terms of employment, because a lot of the majority firms are big and a lot of the certified firms are small, it works out to about eight to 10 percent of the membership by employee of ACEC are certified firms, which is pretty consistent with what the capital agencies are doing. There's another thing that we could ask for your help on also with the administration which is that we've asked them on eight different occasions a very simple question. Which was did the consultant only check licensed professionals in determining what the universe was of available firms? And now you think that would be something you can answer it the first time you asked

it, not the eighth time we've asked it, but we still don't have an answer. How did they actually figure out because there are lots of folks that use the name engineer in their title, whether they're supposed to or not. That doesn't mean that they're licensed professional engineers of the kind that you're concerned about. So there a be a high-- a licensed high--

CHAIRPERSON KALLOS: I take exception to that as a software engineer.

KEN FISHER: Exactly. You know, a perfect example. In fact--

CHAIRPERSON KALLOS: I-- Yes. That was a bit of sarcasm, but correct.

KEN FISHER: No. No. You can be a high pressure boiler operator engineer, but that doesn't mean that you can design the boiler. It seems pretty obvious and it also ties into, I think, the third point which is that, within the profession of engineering, there are a variety of different types of engineers. A civil engineer is not the same type as a mechanical engineer and just as you wouldn't want a pediatrician to do a liver transplant, you wouldn't want an electrical engineer to design a

bridge. So, we think there needs to be some acknowledgment of that. They may all have the same license, but, legally, under the state Education Department rules, you're not supposed to do something that you're not competent to. Now, why is that a concern because you would think that in the RFP process, that would weed out people who aren't really qualified to do the specific kind of work that the city is trying to procure. And there are provisions for relaxing the goals under those circumstances and we support the legislation that would provide additional flexibility in that regard. But the reality is that one of the reasons you set aspirational goals is to put pressure on the agencies to do better and then that pressure gets passed on and, not only that, do you have a situation where you may be using firms that may not be quite up to it, but it also makes a problem for the program itself, in my view. Look, change orders. I'm sure every one of you has been frustrated when there is a capital project that gets delayed because there is a change order and then it becomes the blame game. Why isn't my playground finished or why is my bridge finished or whatever. Courthouse. Whatever. And it turns

out that there was a change in the scope of work or the soil condition turned out to be different.

CHAIRPERSON KALLOS: I keep my projects on track. We just did a ribbon cutting yesterday.

KEN FISHER: Yeah. And there's a couple of mind that I funded that NYCHA still hasn't finished.

CHAIRPERSON KALLOS: How long ago did you leave office?

KEN FISHER: 17-- 18 YEARS. But it's NYCHA. But the point that I want to make is that you want to make sure that the goals are right. So, to the extent that the rightsizing doesn't reflect the overall goal of 30 percent or whatever it turns out to be or the goals specifically within professional services, that there is a level of awareness of that so that people don't think that it's because of discriminatory practices or because the agencies are incompetent, when the fact of the matter is that there just aren't enough engineers in the country, as President Obama pointed out rather eloquently when he was in office and which ACEC attempts to address in which we'd be happy to discuss with you separately. So, a couple of specific things that I wanted to

mention, we have a suggestion. It's set forth in our testimony which is that when the agencies are preparing their RFPs, we would hope that they would go into the SBS database. They-- Which, by the way, is very granular. It's a very granular. There's hundreds of codes for different kinds of professionals and let them identify to us the firms that they believe are qualified to do any kind of work on a major capital project so that we know where to look and not just to go through the database which, as you heard earlier, maybe miscoded or whatever. In other words, a prequalified list of certified firms that would help the majority firms find new partners and not just rely on the ones that they worked with in the past.

CHAIRPERSON KALLOS: The issue of the miss codes was brought to me by GCA, I think, like my first week on the job. To the extent you and GCA-- to the extent ACEC and GCA can find us a handful of examples, and I think you heard a willingness--

KEN FISHER: Yes.

CHAIRPERSON KALLOS: from SBS to be willing to do so. If the city can do it on our own, I'm open to it. I'm also a big believer in public-

private partnerships. So, to the extent we can actually do it together if you know anyone who is willing to do funding be on their tax dollars, that will move things quicker.

KEN FISHER: I think for the engineers, because it is a relatively small universe of people that are in the database to begin with. And, by the way, when we met with SBS two years ago, I think, to try and get our arms around this, one of the things we did right after the meeting was we sent out a communication to every member firms saying, if you are qualified to be certified and you are not in the database yet, you need to do that. And we said to the majority firms that you need to go look at the database because there may be some firms that you are not just meeting in the ordinary course. So, I think for us, having prequalified firms provided in the RFP would help ensure dues and gives some comfort because the engineers are very reluctant to do business with folks that they don't have complete confidence in. I also want to make a suggestion strictly on my own behalf. I want to make it clear that I am not speaking for ACEC on this. But something you said earlier, councilmember, about the MMR, which I used

to read also registered with me, which is I don't believe that there is a section where they report the waivers. In other words, during the RFP process, after the RFP process, even after the contract, the agency can determine that the majority firm made its best efforts, but they just couldn't find anybody and reduced the goals. But I don't know that anybody keeps track of that and, a few days keep track of that, then that could become the basis for refining what the goals should be as the database grows. That that's a personal suggestion.

CHAIRPERSON KALLOS: It's in the disparities study and it was an area that we didn't ask questions about, but I'm glad you brought it up. So, if you go to page-- give me one second. Sorry. Because I'm glad to have somebody paying attention to this, too. The waivers are-- give me one second. You can keep testifying. I will tell you the page.

KEN FISHER: Well, while you're looking for that, Chair Kallos, I want to say that, generally speaking, the fu--

CHAIRPERSON KALLOS: All right. Sorry. I found it. It's on page 2 - 10 of the study. It is the full waivers and partial waivers from MOCS and

from 2007 to 2015-- and, again, we are for use out from this data, but it was 1370 waiver requests. Only 264 were denied. Only about 22.3 percent. 403 were fully approved. That has been a trend upwards over time and there have been 680 partial waivers. And so, the report notes that many of the waivers were awarded to the very same firms. So what was tracked and I was actually just hopping into the MMR right now to check to see if it is been added as an indicator since your time and the Council. But it was in the disparities report and if it isn't something that is being-- I look forward to working with you on some legislative work here, if necessary, because I have some ideas on how to fix this problem.

KEN FISHER: Let me make it-- Just a couple--

CHAIRPERSON KALLOS: [interposing] But thank you for-- would you be willing to submit something supplemental in your own personal capacity?

KEN FISHER: Sure.

CHAIRPERSON KALLOS: Thank you.

KEN FISHER: Let me just mention two other things briefly that, on behalf of ACEC. One is that, generally speaking, we support Intro 1452, which is,

of course, consistent with the notion that the agency should have as much flexibility as they need to be able to get this right so it doesn't look like they weren't doing their jobs or that the engineering firms weren't. We don't feel the same way about 1379 to require them to hire a third party to come into the matchmaking for them. We think that that is a solution in search of a problem. Notwithstanding the fact that the legislation says that the cost is to be borne by the vendor. The reality is all of this work is done for the city and the cost is going to get passed on to them one way or another. It's just one more regulatory burden on top of the broken procurement system and late payments that they deal with. And, quite frankly, whatever money would be involved with that would be better spent on fixing passport, and doing outreach, helping firms get certified, and helping them partner with majority firms.

CHAIRPERSON KALLOS: Under 1379, one is the-- what is the current process for MWBEs subcontractors and primes interacting and getting work and how would that be changed if a consultant was brought into that equation?

KEN FISHER: Well, on the second question, we haven't been able to answer that. What the firms do now-- and I should start with-- by the way, in a minute you will hear from the president of ACEC New York for the Metro region.

CHAIRPERSON KALLOS: I will probably do less of a back and forth with them because I do not need to get--

KEN FISHER: Yeah.

CHAIRPERSON KALLOS: exact revenge for my tough interview.

KEN FISHER: But I think the first thing that I would say is that we should encourage all of the certified firms to become members of ACEC because it's a great way to interact with the firms that they will be able to partner with. In fact, the majority firm should partner with them so that they can meet the 20-- 25 percent of the members who are certified. But more--

CHAIRPERSON KALLOS: [interposing] Is there a fee to join?

KEN FISHER: Of course. It's a trade association. And we can talk about--

CHAIRPERSON KALLOS: And do you know if the Alliance of New York Asian Architects and Engineers are--

KEN FISHER: Many-- This is for individual firms in many of the firms and many of our board members, and the leadership of the organization are from the Asian and Southeast Asian community and it's something that, as I mentioned before both--

CHAIRPERSON KALLOS: Let the record reflect there are a lot of nods of yes from the audience.

KEN FISHER: Yeah. That that is an important constituency for the organization. By the way, the disparities study identifies the Native American firm. I thought some of the testimony we heard on that was very moving and that there is a disparity. But, you know, this came up once before with the state. We have yet been able to identify Native American owned licensed professional engineering company in the state. If there is one then they are added to the category of eligible organizations, you can be sure that they can be kept busy. But, if there isn't one, I think it illustrates my point about-- of knowing whether a

firm is licensed or not. But what happens in the real world is that this is something that the firms talk about with their partners all the time with the agencies. They participate in programs that are sponsored. Some of you know Michael Gardner who has been at the MTA and the SCA. He's sort of the gold standard of how you do outreach and how you do matchmaking. A lot of it comes to just interaction and professional organizations. People meeting on the job sent working with a different team member. If there are other things that they can be doing that they are not doing, I think all of them would entertain it. But the notion that there is going to be a full employment program for MWB consultants who are going to have to be hired to tell them to do the things that they are already doing, respectfully, we don't think that that necessary and we think that the money could be better spent elsewhere.

So, in sum, I guess what we would say is we think there has to be a way-- and we've been told by counsel that there is some limitations from state law about breaking out specific licensed professionals. But we think there must be someone in a preface to the legislation and the committee report

or otherwise, to point out that distinction as the Chair recognize himself. We think that we are-- you are entitled to the answer to the question as to whether or not the A & E disparity that the consultant found was limited to licensed firms because that would be a benefit for a variety of reasons for all of us. We think that the agency should have as much oversight as it takes to make sure that they are doing their jobs, but as much flexibility as they need to be able to set the goals that are actually achievable so that you are not sending them up or the engineering firms up for failure. And we look forward to continuing to work with you on these important issues.

CHAIRPERSON KALLOS: Thank you.

VICKI ARBITRIO: Good afternoon, Chair Kallos and members of the Committee. My name is Vicki Arbitrio.

CHAIRPERSON KALLOS: Is the light on?

KEN FISHER: It's on.

VICKI ARBITRIO: It's on. Am I not--

CHAIRPERSON KALLOS: Bring it closer to you.

VICKI ARBITRIO: Good afternoon.

CHAIRPERSON KALLOS: Perfect.

VICKI ARBITRIO: Chair Kallos and members of the committee. My name is Vicki Arbitrio. I'm a professional engineer and an associate partner at the structural engineering and building envelope consulting firm Gilsanz Murray Steficek, headquartered here in New York City. I've been working in the city for 35 years is an engineer and in the city resident in Speaker Johnson's district for 25 years. I'm here today as the chair of ACEC New York's Metro region Board of Directors. On behalf of our members, I want to emphasize some of my colleague, Ken's points. ACEC New York has a diverse membership. We are reflective of the engineering industry and, as engineers, our members are data-driven and focus on facts. For these reasons, we've consistently asked that the city-based MWBE goals in engineering contracts on data that's accurate and transparent with respect to the number of MWBE firms available to work in our industry. This is the fair, rational, and appropriate way to implement MWBE goals. Unfortunately, for reasons detailed in our testimony, the 2018's disparities study's findings are not accurate nor transparent as they relate to

the availability of MWBE firms in the engineering industry. And, therefore, Intro 1293 A, based on this disparities study, is a problem for our industry. I respectfully ask that you closely review the concerned detailed in our written testimony. We request that the legislation in the committee's report reflect these concerns. And, additionally, I ask your committee to help us in obtaining the 2018 disparities study's underlying data from the city. Thank you and we are happy to answer any questions.

CHAIRPERSON KALLOS: Thank you. Next.

RAM TIRUMALA: Good afternoon. Thank you, Chairman Kallos and members of the Committee on Contracts for holding this important hearing to review and hear the testimony on two pieces of crucial legislation which will greatly improve and expand MWBE program. My name is Ram Tirumala. I'm the owner of Distinct Engineering Solutions PC based in Manhattan and I'm testifying as a member of the Alliance of New York Association Asian Architects and Engineers. For the record, I am also a member of ACEC and other organizations. Now, since passage of local law 129, file of local law one, many Asian business and professional engineers have suffered

because of losing the ability to gain projects through the set-aside goals of-- set aside goals. Especially after 2013 it has impacted significantly. I can say for my company, we have our revenues which went up to 7 million to 2013 dropped to almost 3 million. Now, what is that it has done? It has reduced our ability to use offices in New York, engage qualified people within this New York City to work with us, and also it has, in turn, reduced the tax dollars we presented to the city. And one may say, how is that that disparities are affecting? Earlier you are asking a question. Now, to me, I may wear a suit. I may wear whatever I want, but when people look at me, they immediately say I'm Asian. So, yes, there may not be a clear written disparity to say professionally, but people-- the parents of the same feather flock together and that had engineers, and even among the human beings. Now, if you look at me and the companies where I work and the other companies what we have done-- we have worked on Second Avenue subway. We worked on the Subway Seven extension which were all--

CHAIRPERSON KALLOS: Thank you for the Second Avenue subway. I took it here.

RAM TIRUMALA: And excised some of the important things that we did as a small business, actually, because as a [inaudible 02:37:01] program, we were able to participate-- we designed and developed a nice containment structure I was in the middle of the road that helped the contractor to work third shift. Initially, people were complaining, Ram, it is going to look bad. But I said it helps and-- helping people to unload the traffic, as well as the contractor could work and everybody living in that neighborhood will be happy at the end of the day. Again, I just-- that's the second thing I was-- this was not what I wanted to sell about my company--

CHAIRPERSON KALLOS: It wasn't that loud except for when they blew things up, in which case, the whole neighborhood-- so we didn't hear the explosion, but the ground shook. Thank you.

RAM TIRUMALA: That is something we had to live up to [inaudible 02:37:47] construction happens in the city. I'm sure such vibrations noticeable.

CHAIRPERSON KALLOS: It was just the blasting that upset my cat a great deal.

RAM TIRUMALA: Okay. I can understand that. Next summer take care of that too.

No. The reason I'm just trying to say is when I read the whole disparity study that came out in 2005 and the study was also not properly done. Then the new study also has certain flaws. I'm not here to go over the flaws that the studies have. The point I'm trying to make is there is a disparity that exists then we are very glad-- at least I would say buying the new legislation that there will be Asians that will be included and, hopefully, the results may not be seen right away. It may take a year or so for us to see the impact, but we are looking forward for the change to come through. And, again, I appreciate the opportunity to present my testimony here.

CHAIRPERSON KALLOS: I'm going to ask you a tough question. It may take you a moment to respond. You are a member of two organizations. One of the organizations is testifying that the percentage for A & E for Asian Americans should be 9.56 verses, I believe, a higher number. Would you like to see the number higher or would you like to see it lower? He can take a moment to look at their test-- do you have an extra copy of the testimony?

RAM TIRUMALA: From ACEC?

CHAIRPERSON KALLOS: Yes.

RAM TIRUMALA: I do not have a copy,  
but I can answer the question, though.

CHAIRPERSON KALLOS: Sure.

RAM TIRUMALA: If you ask me  
personally, I would say let that whole percentage,  
whenever 30 percent be open to everybody without a  
division of Asian or black, Hispanic, or anybody  
because, that way-- the reason it is very important  
is because the qualified people-- for example, if  
you're looking for professional engineers, you will  
find more qualified people need to be among the Asian  
community. One of the reasons why people have  
reached out and requested waivers after the 2005 is  
because there were not that many Asian firms  
available-- sorry. Not that many MBE certified  
firms available to provide the services because  
Asians were not included in that MBE goal. However,  
if-- that is the main reason people are forced to  
last, I could say from the point of the engineering  
side for request for waivers. But you keep as one  
number, but let qualified people from different  
ethnic backgrounds pay part of it, I think it may

[inaudible 02:40:19] a proper justif-- again, though be enough pool of people available and it will how last number of waivers to come through. For example, in the construction industry, you may find more blacks and Hispanics. In the professional services, you may find more Asians. Because, again, the background was Asians were allowed to enter USA only if they have professional degrees. If you go back to the US Immigration Laws, Asians were allowed with professional degrees. That's the reason you will find many doctors, many CPAs, many engineers from Asia and especially India and China. Again, that's some other reason why you'll find more professionals.

CHAIRPERSON KALLOS: I thought that-- get the joke, but I thought that is the person who grew up Jewish, I thought it more had to do with our parents and immigration models, but I would accept that the immigration laws state have an impact on that. So-- But that's-- so, you think that it's-- that experience that a lot of us may have had with our parents is also related to immigration status in terms of trending folks in different communities towards engineering?

RAM TIRUMALA: I would say so.

CHAIRPERSON KALLOS: Okay.

RAM TIRUMALA: Like that way you see-- you also see like if you-- I'm sure you've seen a lot of TV shows where they stereotype Asians meaning that children are going for a doctors or engineers because the parents themselves are doctors and engineers.

CHAIRPERSON KALLOS: Fair enough. I am the-- I am one of the few in my family didn't go into the medical field, so in-- at least the stereotypical Jewish family can be a lawyer, doctor, or a CPA and so I ended up being a lawyer and now I don't practice law, which takes me even further outside and I'm doing politics. Thank you.

RAM TIRUMALA: You're welcome.

BRYAN CUNNINGHAM: Last but not least. Good afternoon, Chairman Kallos, Council member Perkins. Thank you for this opportunity to testify. Just a few comments before I get into the sub and substance of what we have outlined in our testimony, written testimony. One, the Building Contractors Association is located in the Iron Workers Building and if you're looking for references that potentially may lead you to Native American contacts, the iron

workers have traditionally been well noted as involved in that specific end of the construction industry. So, may be potentially local-- reaching out to a local may leave you in some direction as far as a database of potential Native American firms.

Two, I hope you are so pursuing prevailing wage on the city level. We are very unhappy to see what happened up in Albany. We've already indicated our support for your introduction and we hope that sees the light of day.

CHAIRPERSON KALLOS: Flattery will get you everywhere.

BRYAN CUNNINGHAM: Yes. Of course. Regarding-- We're here on a couple of the items that are before you today. Specifically and most importantly, 1293 A. We've given you pretty detailed and lengthy analysis--

CHAIRPERSON KALLOS: It was almost longer than portions of the disparity your report.

BRYAN CUNNINGHAM: Yes. And we wanted to be-- we wanted to be very sure that what we are saying in that written testimony is backed up by verifiable information. Basically, and a nutshell, just identifying who we are. The Building

Contractors Association is an association of union contractors, both prime and sub and we have approximately, I think, 42 right now are certified MWBE firms giving us approximately 21 percent of our association are certified MWBE firms. We want the certified MWBE firms to succeed, especially in the union construction industry. That takes a lot of extra effort and a lot of extra time and, again, for it on their behalf because, obviously, wages are higher, benefit contributions have become an issue, so capital capacity building is very important for us, our members, and hopefully for the future of the MWBE program as it exists. Unfortunately, the proposal, as it is-- as it sits here today, the numbers that are quoted as the proposed aspirational goals-- and you'll see in our report here on page 2 looking at those numbers just as numbers, the increase is an increase in percentage value from where they are now to where they would be, it's substantial. It's huge. You're talking about cumulative increase in total categories up to 67.17 percent and a cumulative increase of contract value of almost 77 percent. I think of the testimony that we have for so far today, especially from the SBS and

MOCS is that they are making incremental increases. They are reaching-- I think the number was 24 percent on an industry wide basis and I'm here specifically on construction. I don't know if 24 percent was a number that was specific to construction or an overall number, but there is a big difference between 24 percent and 67.17 percent and once those numbers become law and once those aspirational goals are written into RFPs and contract documents, were talking about waivers. We just talked about waivers. The number of waivers on the percentage of waivers that are approved on a partial or complete bases, that number is going to explode. It's just not realistic. It just does not reflect reality as it exists currently right now. There is just not that capacity to meet those aspirational goals. SBS obviously is providing you with detailed records. We've quoted those records. You can see the last quarter's numbers. We see substantial participation and utilization. 59, 64, 36, 41, 56, 59, 76, 38 percent utilization. Those are big numbers. As it stands right now, if you look-- if you can turn to page 6, I think one of the most important things to pull out of those disparities

study analysis, as far as construction is concerned is the second full paragraph that I have on page 6. The 2018 disparities study states that 94 percent-- 94 percent of all construction contracts awarded by the city had values at or below 1 million dollars. 94 percent of all construction contracts. 97 percent of all MWBE contracts were awarded at or below the million dollars threshold. And even with the outdated disparities study numbers, you can see here the reference to the disparities study shows at the 100,000 dollar level they have 47 percent utilization. From 100 to 200,000, 48 percent utilization. And between 200 and 1 million have 46 percent utilization. In addition-- What just happened in Albany with the discretionary threshold number of 500,000, those numbers are going to increase, as you can tell from the testimony that you received already. We just don't think there is a reality and putting those numbers into the law as they exist as reality exists right now. The numbers that are in the proposed 1293 A, out of an estimate of available firms. There's a table in the disparities study. I reference it in the report here. You can find it in the disparities study.

They just took the numbers out of that document and put it into 1293 A. the estimated available firms now become the aspirational firms. As you will see, hopefully, if you take a few minutes to read our testimony, the methodology employed in this disparities study analysis, they used a 13 County market area. They estimated availability based on--

CHAIRPERSON KALLOS: I was disappointed that they excluded Kalamazoo.

BRYAN CUNNINGHAM: Well--

CHAIRPERSON KALLOS: I was surprised that New York City does business in Kalamazoo, but--

BRYAN CUNNINGHAM: Well, I can guarantee you that SBS is pulling in MWBE firms from far beyond the 13 County market area because they are-- you know, under the mayor's plan, they have to get those numbers up. You know, so there is-- your conversation. You hear talk about this being-- you know, helping city residents as far as, you know, contracts and helping income and income equity-- income inequality here in this any, but a lot of these contracts are going to firms from Putnam County, Westchester, New Jersey, Suffolk County, Long Island. All right. So it's not all--

CHAIRPERSON KALLOS: Putnam has--

BRYAN CUNNINGHAM: city that's benefiting any of these things.

CHAIRPERSON KALLOS: 1.6 billion dollars and-- what you call it? Kalamazoo County one vendor with seven contracts with a value of 35.2 million dollars.

BRYAN CUNNINGHAM: Yeah. You know, it is what it is. So, when we talk about the city and the city getting the benefit of the MWBE program, we have to recognize that this is a 13 market area and that the MGT looked at when they were putting together this disparities study. Well, the 13 County market area is within the market area of what would be allowable for New York City's certified firms, so there is some match there. But the methodology that they employed to estimate available firms did not take into account that, one, there's an existing MWBE program in the city and that, two, there are certified firms already. So, when you take an estimated number that's going to be falsely enlarged because it's based on estimates of availability and you compare it against actual utilization, which is limited to the certified MWBE firms, you are going to

have numbers that look bad. Right? That's just how that works. All right. So, I hope that there is some recognition that-- The Building Contractors Association has representatives here along with the GCA and the BTEA who didn't appear, but I think have submitted written testimony. We've always been supportive of the MWBE program. We have MWBE members. We have MWBE board members. We work in cooperation with other trade associations that are subcontractor associations that are special and to-- or MWBE minority firm associations. There's nothing here that says we want this program to go away.

CHAIRPERSON KALLOS: Absolutely.

BRYAN CUNNINGHAM: We want it to stand on constitutional-- sound constitutional funding and, when you start pushing numbers up into 70 percent utilization, and you're not talking about remedying, you know, underutilization. You're talking-- you flip the coin now. Now it's an exclusionary--

CHAIRPERSON KALLOS: Okay. So--

BRYAN CUNNINGHAM: program.

CHAIRPERSON KALLOS: So, first up, please give my best to Eddie George. Full disclosure, prior to meeting the city Council I was a

union side labor lawyer representing Leuna (sp?) And the Mason tenders, amongst many other laborers throughout the country, so I hear you loud and clear. I want to just mention that, during this hearing we have had some communication with the administration. It turns out that my counsel and I are pretty darn good lawyers and that our reading of the legislation that the women is inclusive of all women and not just one particular racial group was correct, so we have asked for them to send something into the record within the next 72 hours to clarify the legislative intent around the language. If there is something that folks have in terms of specific language that ACEC would like to see and that BCA would like to see and GCA would like to see that takes the number closer to the 54 percent that was actually in the disparities study, as I said prior to this panel to the administration, while I am all about being aspirational and going from 30 to 50, I am not okay with taking it to something that would render this unconstitutional. Around similar grounds, I think that the case law ties our hands a little bit with regards to being tied to the disparities study, but we are now hearing criticism of the disparities study

methodologies from both sides where one side is saying the numbers are inflated and then we had folks from the Native American community expressed concern that it was under representative and that the measures that they were using in and of themselves or discriminatory. I-- initially, when somebody hands me a stack of paper this high, I usually think that it's pretty good disclosure, but you are right. Some of the methodology isn't there. You have not-- the ACEC is not received the information. We will send a communication requesting it, so if you can please forward to [contracts@benkallos.com](mailto:contracts@benkallos.com) near a previous correspondence-- I'm hoping it is one chain of emails-- that we can add our information to and we have additional powers as the Council, as you may recall that we can chose to document requests which they must hand us. So, I'm interested in seeing the underlying data. Also, there is to pre-considered bills, one relating to the data, so I think one piece would be if you could submit additional information you might have on how we can say that the city,, you can use more up to the date data, you can even build constructs and queries around the data and then, three days before you finalize it, you can just rerun

the data second time just to make sure and update the numbers to reflect the newer data, so I want to piece-- so I guess, first, is there specific legislative language that BCA and ACEC and GCA will submit to clarify the point on women for both the administration, one of my colleagues, and what have you or is legislative intent sufficient?

KEN FISHER: Mr. Chair, Thank you for that opportunity. I think we need to give some thought to that. I also want to apologize in advance to the-- we may be submitting comment informally because we have a hierarchy of committee and board approval and state board approval before we can commit the organizational thing, but we'll work with your staff on that.

And, secondly, with respect to the information we're looking for, just to save some effort on that, attached to our testimony is prior testimony as well as prior correspondence with SBS. I call your attention to the last page which contains a letter date September 12th, 2018 which was around the time that we met with them and asked for this in person. And you'll see on those, in that letter, the specific information that we had requested which, as

in most part, has not been provided yet. And thank you for the opportunity to testify today.

CHAIRPERSON KALLOS: I'm sorry I was busy grilling you instead of going through your testimony in depth. So that is helpful. We'll take whatever legislative language we can. If we are able to get you some of the underlying data if we're able to change some language so it doesn't appear that it's coming out to 70 percent, but it's probably closer down to the 50 percent mark, with that being something where the legislation would be supported enough? That is something that you can live with especially since we have another disparities study coming out next year?

KEN FISHER: I think that-- You know, I was giving some thought to that, myself, as to how do we incorporate our concerns about this and is something that is-- you can go out of the committee. Then I don't believe that the legislation has a preface to it. That might be something that you would consider. Certainly the committee report can address it, but those tend to get lost in the shuffle when people turn to the actual legislation. So I think some recognition, at a minimum-- again, I'm

not-- I don't fully understand why A & E services can't be broken out. We'll have follow up conversation, but I think if there were some recognition in the preamble to the legislation that-- of some of the types of issues that we've been talking about today, that would empower the agencies and MOCS to undertake the authority that they've been given to grant the waivers that they can then point to when somebody turns around in the next Council and says, why'd you grant all these waivers?

CHAIRPERSON KALLOS: Let me ask about the waivers. I was going to ask the administration, but I did not. I wanted to let folks home by five today, otherwise we would have been here all day. So your bidding-- the client--

KEN FISHER: Can I walk through the process?

CHAIRPERSON KALLOS: Yes, please. 30 seconds.

KEN FISHER: Predevelopment of the RFP there will be some interaction with the agency in the industry. The RFP comes out. It will have goals in it. In the course of the quality-based selection where the best technical proposal is being

identified, there is a give and take with the agency on a whole bunch of things that, ultimately, results in those numbers which may be modified from the original aspirational 30 percent goal with the permission of MOCS. During the course of the contract, as the engineering firm is attempting to satisfy its obligations, they may determine that it's simply not possible, possibly because the firm that they want to work with, that they have confidence in, has been picked up by somebody else and just can't do it because of their capacity. So, that's the second opportunity for the agency to reduce the goals to reflect that reality, provided that the engineering firm or other similarly situated can demonstrate that they actually made a good-faith effort to find somebody else. Even after the contract is completed, because the agencies know what's going on during the course of it, there can be a post completion adjustment, once again, saying, we tried our hardest. Here's what we did and we just couldn't come up with it. And the agencies, as you pointed out, from the diversity study--

CHAIRPERSON KALLOS: So, that is clear in the disparities study.

KEN FISHER: Right.

CHAIRPERSON KALLOS: The question I have is how long is that whole process? Is it days, weeks, months, or years?

KEN FISHER: The answer is it depends on the size of the contract, but here is the thing that keeps me awake at night. And, fortunately, I don't think it actually came to fruition, but someday somebody is going to try this. There was a contract that the economic development Corporation put out where they put in a liquidated damages provision, if you didn't meet the goals. And the message that they gave was quite clearly, you can tell us anything you want, but we now figured out a new revenue source and we are not likely to grant your waivers because we are going to bang you with-- we don't want to account to City Hall for a while we didn't meet the goal and, by the way, here's another way that we can make money. That came perilously close to a quota. And that's why think back, if we have some recognition of what the reality is that you have heard today, then that will give a little bit of a buffer for the agencies when made to grant the waivers.

CHAIRPERSON KALLOS: I hesitate what would've happened if both of us had served on the council together. I imagine they would've locked to you and me and Kalman Yeger in a room while we argued in people turned off their TVs, but so, I guess, the question I have is one of the criticisms of the MW B programs, not necessarily for engineers, but in construction, construction becomes very, very highly skilled and other spaces. Is that-- and you heard folks may not have the certifications that they might need and so on and so forth. But so, if you're doing a project and you need widgets and you go around and there is no MW B that does widgets and you ask for the waiver. If it's a months, two years process during which the contract is happening, is there an opportunity to go to Spacely Sprockets [sic] and say does Mr. Spacely, and MWBE for the purpose of this fiction, though on the cartoon he was not, you make a sprocket. It is very similar to a widget and go to the folks who are adjacent and say, there is a contract. The contract is for real money and come with SBS and say we will give you the training. We will pay for that training. We will offer you funding. We will offer you 500,000 dollar loans or

whatever it is that costs for widget makers, widget processors, widget have you-- sorry. Widgets. Yes. Widgets are the things that spacely does not make yet. And then, if they do that and no one responds where they can't get the widget equipment or the certifications in time, then, at that point, the waiver is granted versus the current process of we couldn't find somebody, so-- tell me you about why that is a good analogy or bad analogy and also whether or not that would help deal with the problem. Because, with the disparities study report says is that this is-- it's usually the same firms asking for the same waivers over and over again.

KEN FISHER: So--

CHAIRPERSON KALLOS: Anyone else can answer, too.

KEN FISHER: I think the answer may be different from a contractor than it is for the engineers. I think-- and I'm happy to take this off. I always enjoy talking with you, Council member. Happy to take this off-line. Here's the thing. I can-- it's going to depend on whether you are designing a firehouse or a wastewater treatment plant. It's going to depend on whether you are

looking for some money to do survey work or RFEI inspection work or whatever the specialty is. On big projects are going to have multiple engineering firms doing different kinds of work. Electrical, structural, etc. I think that the city is-- I know that some of the echoes are looking at trying to establish more formal mentorship programs with firms that are not yet qualified so that they can get into the certified program and get work almost immediately. That's for the administration to speak of. I do think that there is-- there are very-- I don't think the waiver data that I have seen breaks down at what point in the contract process through waivers are granted, whether it's beginning, middle, or and. So I don't know that I am competent to answer your question, at this time.

CHAIRPERSON KALLOS: If anyone else wants to speak?

RAM TIRUMALA: Yeah. Again, this is Ram Tirumala. I just wanted to say this waiver program, I think, based on my experience, we are-- whenever we submit our information, we clearly indicate we specialize in geotechnical engineering, we specialize in environmental and construction

inspections. More than 80 percent of the times we request for us to be part of the team to provide services other than that we provide. Now, I can never accept to do something like that, so I always tell them I cannot join the team. So it's very likely people would use that information as a good faith effort. Then, similarly, I-- we do receive a lot of requests from construction firms asking for us to do construction like when we do the construction inspection for concrete, they will ask us to bid on concrete placement, which we cannot definitely do. So, I have to go and tell them we will not participate. Then they also consider that as a good faith effort. So, good faith effort, I think is misused very highly. So, again, one of the suggestions the other gentleman just mentioned that, maybe, if they identified the list of qualified firms for the qualified work, it will definitely help, but I don't know where he is a starting point because, yes, some money wants to spend time and look at the website, like if they look for our company, it clearly identifies what we do and what we specialize in and what we want to participate in. But, again,

because I think there is not enough good checks and balances, these waivers are misused.

CHAIRPERSON KALLOS: Can BCA waive--

BRYAN CUNNINGHAM: I will just--

CHAIRPERSON KALLOS: because I figure you are closer to the widgets and sprockets situation.

BRYAN CUNNINGHAM: Yeah. I mean, I would respectfully disagree as far as from the contracts perspective. At least from the prime contractor perspective that, you know, there is being abuse of the waiver process. There are legitimate reasons why waivers are granted. There are legitimate reasons-- most of the firms, the larger firms that we deal with that are members of our association that contract with the city, especially on larger contracts, have seen most of them have MWBE compliance officers on staff. Either one or two people there on payroll already and that is all they do all day is make phone calls--

CHAIRPERSON KALLOS: Let me get-- Let me move from spaces sprockets analogy just to reality of labor. So, we are at the laborers and the person comes in and says, oh, we can't use this. This is

outside the collective bargaining agreement, plus you don't have the training. And I can recall a couple of instances where we are like, oh, we don't have the training, do we? And then we go to the training hall and we roll out the program. We get a bunch of workers certified and, like a week or two later or however long that certification process does-- and sometimes it's a bunch of 12 hour days, we come in and we say we got these 10 people. They are on the hiring list and you have to take them and so just how-- is that something you have heard of happening? Is there an opportunity to do that in the same way of like if somebody says, oh, these people don't exist to be like, okay, let's go out and train them?

BRYAN CUNNINGHAM: I would find it probably improbable that someone can be created from nothing in real time while a contract is pending or projects are already in the--

CHAIRPERSON KALLOS: Well, in the labor construct, you are going to your-- you go to your hiring list or the out of work list. You go to folks who have similar skills sets and are out of work. And construction tends to be a lots of work in the summer and lots of training fund in the winter.

Then you could go to folks and say, hey, there's this job coming up. No one has the-- there is a, go clean up and do you have your asbestos certification. You have your ground remediation certificate, but this one type of thing involves water hazards, too. No one in the union has that water hazard. We are going to add it to the training thing and, if you get your water hazard-- and I don't know if there is a water hazard certificate. I'm just-- I know we have asbestos and I know we have ground remediation because we did Superfund cleanup in the laborers, so like here's this other thing and this will get you on this job.

BRYAN CUNNINGHAM: I mean, certainly anything is possible. I mean, you know, I don't think the use laborers are--

CHAIRPERSON KALLOS: [interposing]  
That's the analogy I was thinking of for the waivers of like when people say, oh, you can't.

BRYAN CUNNINGHAM: These waivers aren't given away, you know, willy-nilly. I mean, if you go and ask for a one, they are going to-- there's pushback.

CHAIRPERSON KALLOS: Got it.

BRYAN CUNNINGHAM: You know, try again. I'll call again. Call these people. Call them again. Call them again. Call them again. All right? You know, you have to show that you have made a good faith effort and you are going to have to supply emails-- copies of emails, copies of phone conver--

CHAIRPERSON KALLOS: Got it.

BRYAN CUNNINGHAM: You know, all this data for them to be able to say you have done what you could do to exhaust this pool and there is just no one there that makes those widgets, so we will give you a waiver for those widgets.

CHAIRPERSON KALLOS: Okay. Are there-- Has the public engagement started on the 2020 disparities study that is supposed to come out?

KEN FISHER: Not that we are aware of.

BRYAN CUNNINGHAM: Haven't even heard of it.

KEN FISHER: Yeah. I-- Council member, I just want to mention there is a corollary to the waiver issue that, I think, also particularly affects the Asian and southeast Asian firms. Because there

is so much pressure to meet the goals, then you keep going back to these firms for the work they know how to do, Geotech or whatever the case may be. That makes it harder for them to get a shot at the other work. So, when they start to grow when they are successful and when they are able to recruit talent that can do things that they haven't historically done, it makes it harder for them to get considered for that new kind of work because the only thing that people are focused on is meeting the goals. And I don't have a solution for that problem, but I know that it is something that many of our MWBE firms have expressed to us over time.

CHAIRPERSON KALLOS: I think that the fact that the alliance of New York Asian Architects and Engineers is back here and not folks-- that they're-- that once they achieved a sufficient market share to no longer be an MWBE, they stopped getting business and we ended up in a situation where the discrimination that we were trying to offset continued to exist in the private sector and on city contracts. I think this is a good Band-Aid to address a symptom of the discrimination we are seeing in society and in the private sector, but I would

agree with the goals of this under the fourteenth amendment which is trying to create escape velocity is so that-- the goal of this program would be for the Alliance of New York Asian Architects and Engineers to get back in and then get a sufficient market share and then remain with the market share even after they are no longer considered in MWBE. And so, the goal would be to eventually move all the folks in MWBEs into a place where they have sufficient market share that they are no longer facing discrimination and where they-- our private sector is representative of the diverse city of this great city. So, I want to thank everyone at the table. Our doors are open. If you haven't had a chance to testify, please submit testimony to [contracts@benkallos.com](mailto:contracts@benkallos.com) and, if you haven't had a chance to participate in the online conversation, you can tag me at benkallos on every social media platform. I want to thank everyone for this hearing. I want to thank everyone for coming out. Again, I know how many billable hours everyone just spent to be here and I see a lot of engineers in the audience for this entire three and a half hour hearing and I know this is longer than typical hearings, but I

really want to appreciate everyone for being here and sharing their personal stories. Sharing their own financial success and challenges. That is not something folks ever always want to do, but I applaud your courage and it looks like we have a lot of work to do and I am just eager to figure out what our better measures and how we can fix that disparities study moving forward and just take this issue on. Thank you very much. Is there anyone else who would like to testify? Is there anyone else who has submitted a slip? Seeing none, I hereby adjourn this hearing.

[gavel]

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 July 4, 2019