JOINT HEARING BEFORE THE NEW YORK STATE SENATE
STANDING COMMITTEE ON LABOR
AND
STANDING COMMITTEE ON ECONOMIC DEVELOPMENT

PUBLIC HEARING:

TO EXAMINE THE MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES PROGRAM, AND CONSIDER POTENTIAL LEGISLATIVE SOLUTIONS TO CREATE A MORE EFFECTIVE AND EFFICIENT PROGRAM TO ENHANCE NEW YORK'S BUSINESS CLIMATE

Dulles State Office Building
11th Floor Conference Room
317 Washington Street
Watertown, New York

July 17, 2018, at 10:00 a.m.

PRESIDING:

Senator Frederick J. Akshar II (Sponsor)
Chairman
NYS Senate Standing Committee on Labor

Senator Patty Ritchie, Sponsor

CO-SPONSORS PRESENT:

Senator Betty Little

ALSO PRESENT:

Senator John J. Bonacic

Senator Kemp Hannon

Senator Thomas F. O'Mara

Senator James Sanders, Jr.

SPEAKERS:	PAGE	QUESTIONS
Christina Schneider Chief Financial Officer Emily Zayre (ph.) Protege Purcell Construction	9	20
Greg Lancette President Central-Northern New York Building & Construction Trades Council	38	51
Patrick Carroll Business Manager U.A. Local 73	38	51
Amy Criss Director, Women-Business Enterprise and Supply Diversity 84 Lumber Company	64	71
Patrick Murnane II Project Manager Murnane Building Contractors	80	90
Andy Breuer Owner Hueber-Breuer Construction	102	128
Edward Casey Burns President Tuscarora Construction Company	102	128
Kim Bovee Owner J&R Electric	102	128
Danny Fitzpatrick Government Relations, Onondaga County Water Authority Also, Town Supervisor, Lafayette, NY	136	
Holly House Owner Allsource Fire Supply	136	

SPEAKERS:	PAGE	QUESTIONS
Barry Smith Vice President Northern Tier Contracting	136	
Patrick Scordo Director of Engineering, and President GYMO Architecture, Engineering, and Land Surveying	175	188
Eric Pond Vice President Barton and Logudice	175	188

SENATOR RITCHIE: Good morning, everyone.

Thank you for coming out this morning.

And, we understand having a hearing in July is a little more difficult because there's a lot of things going on, but this is certainly an important subject.

This is the New York State Senate's hearing on the MWBE program.

I want to welcome the Co-Chair of the Task Force, Senator Akshar.

I want to thank Senator Sanders for coming all the way from New York City today to hear the concerns and, you know, the discussion on how we can tweak the program to help those that live in my district.

I want to thank Senator Bonacic from coming all the way from Orange County, and Senator O'Mara from coming from...?

SENATOR O'MARA: Pulaski this morning.

SENATOR RITCHIE: -- Pulaski. All right.

So I --

SENATOR O'MARA: (Indiscernible) Elmira.

SENATOR RITCHIE: Yeah.

-- I appreciate you all being here today.

I look forward to hearing from the witnesses

that are going to provide testimony.

Once again, the MWBE program is a program that has a lot of merit, I think people support.

But we also know that there are certainly challenges that go along with it, considering the geography, and especially in northern New York.

From my district I hear, pretty much, on a daily basis that businesses are struggling to meet the quotas. Are not on possessioned to try to make that happen. Just, they need some changes in the program in order to make that happen.

So we appreciate you being here.

And with that I will turn it over to Senator Akshar.

SENATOR AKSHAR: Senator Ritchie, thank you very much for having us. We appreciate your hospitality.

It's good to be in the North Country. It's just a short drive for me from Binghamton, just a couple of hours.

I too want to thank Senator Sanders for being here and making the trip all the way from New York City.

I thank him because he's been a great friend and a great colleague to all of us on the dais.

And, it's important to note that some would think that this Republican Conference is doing these hearings because we don't believe in the program.

It's been suggested.

And to the contrary, that's not the truth.

We do, in fact, care about this program. We think it's a very important program. We want to make this program as effective and efficient as we possibly can.

So, Senator Sanders, I want to thank you for bringing your expertise and your knowledge on this issue to the table.

Thank you for serving with us to try to find solutions to make this a better program and make it the best it can possibly be.

I think the best thing we could have ever hoped for last year was to not expand and keep the existing program in place, to get this one-year grace period, which will allow all of us to work and to find solutions to make the program even better and make it work for everybody, regardless of where we are throughout this great state.

So, Senator Ritchie, thank you again for your hospitality, and it's great to be here.

Anybody else have any thoughts they want to

share?

Tommy?

SENATOR O'MARA: We're good.

SENATOR AKSHAR: Senator?

SENATOR BONACIC: We're good.

SENATOR AKSHAR: Senator Sanders?

SENATOR SANDERS: With your permission?

SENATOR RITCHIE: Please, of course.

SENATOR SANDERS: Senator Ritchie, Senator Akshar; fellow Senators, incoming and outgoing.

I am -- I'm really glad to be here.

It's a -- it's a very necessary experience to go from New York City to -- to northern New York to really get an experience in what is going on.

It has led me to understand that we need to put a renewed effort to support our fellow New Yorkers; that we have to make sure that this economic boom that is in some parts of the state is shared, and that we need to find ways of ensuring that.

One of the ways may be MWBE.

Now, anything -- any program made by people is going to have in it flaws, because people are flawed.

And that means that people can work at it and see, how do we make it better?

If the spirit is to mend it, not end it, then I'm here to be of assistance and see what I can do.

If there are ways of making it better that come out of this, then I'm going to champion it.

As you may know, I am the father of MWBE in New York City. I wrote Local Law 1 and Local Law 129 in New York City.

So I have one or two -- I picked up one or two traits, experiences, on the journey.

But this is a very important hearing at a very important place.

So I'm here to show a commitment to the north, a commitment that all New York must join in, and this boom that we are going through has to be extended up here.

We'll start with this, but Senator Ritchie is already speaking to me about other ways that we can be useful to her district and the districts north.

So I'm thanking you for allowing me to be here, and the hospitality that the good people of Watertown have shown so far.

Thank you.

SENATOR RITCHIE: Thanks, Senator Sanders.

SENATOR AKSHAR: So why don't we start with, we'll invite Christina Schneider from Purcell Construction to come up and give testimony.

CHRISTINA SCHNEIDER: Hello.

SENATOR AKSHAR: Christina, welcome.

CHRISTINA SCHNEIDER: Thank you.

Thank you, Senator Ritchie, for inviting me.

And I apologize, I didn't know all your names at the time, so they're not on my testimony.

Just you are, 'cause you're special.

Thanks for allowing me to come today.

I'm the chief financial officer of Purcell Construction. We're based right here in Watertown, New York.

We do projects, we range in size, from about 2 million to 50 million dollars around the state in "upstate," what I define as Upstate New York.

We have contracts through Empire State Development, New York State Homes and Community Renewal, Department of Health, and DASNY.

So we have a full gamut of state contracts and state grants.

We recognize the importance of the MWBE program, and I'm not here to tell you to eliminate this program today.

I'm here to offer some suggestions on how we can improve it, and I hope that's what you're looking to hear.

So I have four major areas that I want to address.

One is --

And this isn't your first rodeo, I can imagine, so you've heard some of this stuff before.

-- but the goals are applied -- the same goals are applied across the board across the state.

So 30 percent goals last year were applied in Brooklyn, and were also applied in Watertown, New York.

I got to tell you, there's a big difference between Brooklyn and Watertown, New York.

Our availability to obtain minority participation in Watertown is very limited, as in upstate. We have to really juggle the system in order to make it work.

And I was surprised that Senator Ask --

I'm sorry, how do you say your last name?

SENATOR AKSHAR: Akshar.

CHRISTINA SCHNEIDER: Akshar.

SENATOR AKSHAR: You can say it however you want.

CHRISTINA SCHNEIDER: Okay.

SENATOR AKSHAR: Nobody, especially Bonacic, can't say it.

CHRISTINA SCHNEIDER: Okay.

SENATOR AKSHAR: So it's okay.

CHRISTINA SCHNEIDER: Well, I wouldn't be able to say his name either.

-- I was surprised to hear you say that things were kind put on hiatus until you evaluated this.

I became aware yesterday of a state procurement that's current, it's out on the street, with a minority goal of 38 percent in Upstate New York.

So, I'm concerned about this increase.

I'd love to see the data that indicates how 38 percent can be useful in Upstate New York.

We, as a contracting community, would love to understand how these goals are determined.

Obviously, thus far, there hasn't been a lot of thought put into the goals because they're just arbitrarily applied, same goal everywhere in the state.

Is -- we're -- I'm very fearful that this 38 percent is going to be applied everywhere now

also.

So I'd encourage you to really dig into that. I can provide your staff with more information after this meeting.

So that's my big first point is, you know, these universal application of goals.

The second point I have is, I really question whether the term "goals" should be used.

I think it's more a mandate, more a quota.

I heard Senator Ritchie refer to this as "a quota."

And I'm going to give you some specific examples that have happened to our company.

We were involved, we were a general contractor on a project in Senator O'Mara's district, in a rural area in Upstate New York where a 30 percent goal was imposed on ESD grant funding.

We had -- we knew this was going to be a struggle. We didn't know how we were going to pull this off.

So we requested the owner to have a conference call with ESD, and we asked for a waiver.

You know, how can we apply for a waiver? We think we can make 20 percent, but 30 percent's going to be a huge stretch for us.

So we got on the phone with MWBE compliance officer for ESD who said: No way, no waiver. It's not going to happen. It's going to delay the project six months to a year. I have no idea. I really can't -- I can't help you.

So here we are, we're stuck with no ability to apply for a waiver.

We also learned on that conference call that the award recipient would be penalized, a portion of the grant would be withheld, if we didn't meet our 30 percent goals.

That's a big deal for contractors when you're working on a project and your financing is unstable.

So here we were in a situation where we couldn't apply for a waiver. We were told we might not get all the money. And we couldn't get paid in the end, maybe, who knows?

I was going into this project with just, really, not knowing anything.

So what is the waiver process?

I'm anxious to hear from others here today in the room, because I've never been through it because those people scared the life out of me.

I would love to hear how the waiver process actually works, and why the State is telling people,

and discouraging people, to apply for waivers.

So these built-in penalties are a big deal for us.

We have a DASNY contract that contains 200,000 in liquidated damages if we don't comply with the MWBE program.

200,000 is big money.

So there's no relief through a waiver process and the financial penalties are significant.

So these aren't really goals, are they?

My third point is, we have a capacity issue in the MWBE, and a performance issue.

There aren't enough qualified MWBEs to perform work in certain areas. And I'm sure you've heard that theme throughout.

Right now there's so much work and so much demand on these companies, that there's -- they just simply don't have enough resources to meet their contractual obligations.

So in construction, like with some industries, more volume doesn't mean more profit.

In fact, when you're stretched, and you're mismanaged, more volume can lead to disaster whether you're a minority company or not.

More volume doesn't translate.

So, we're stretching the limits of our MWBE-certified contractors, and many of the challenges that we face on projects are performance-related.

We have several projects that MWBEs simply can't perform.

We're having to supplement, we have unhappy clients, we're not making deadlines, and it's causing significant financial hardships for us, because these goals, or quotas, are unrealistic in Upstate New York.

My fourth major point is, and this is one that gets to the, kind of, heart of the problem, I think, for Upstate New York, I truly feel that state economic development incentives should be used to promote the local economy.

The MWBE mandates here in Watertown, in Corning, in southern New York, force us to go outside our area and hire MWBE contractors from outside the area. We have to bypass qualified contractors in our community.

On a recent project right here in Watertown, that was a significant high-profile project, we had to bypass local companies and bring a company in from Buffalo, New York.

SENATOR AKSHAR: (Microphone off.)

Could you do me a favor --

CHRISTINA SCHNEIDER: Sure.

SENATOR AKSHAR: -- (indiscernible) because I may not come back to it. I'm sorry.

Would you just peel back some of the onion on that particular issue?

What happened in that particular case?

CHRISTINA SCHNEIDER: Sure.

There was a 30 percent goal on this project. It was an ESD grant.

It was historic ground -- or, not historic -- but a renovation of a downtown building.

We got a CFA award. We were the contractor. And the grant was such that we had to find significant MWBE capacity.

There's some here in the North Country, but there's not enough. We have -- for -- for -- to find minority contractors we have to go outside the area.

SENATOR AKSHAR: This was, like, for facade replacement --

CHRISTINA SCHNEIDER: Yeah.

SENATOR AKSHAR: -- or something, on a building?

CHRISTINA SCHNEIDER: Yep.

And interior -- some interior renovations.

Yep.

SENATOR AKSHAR: Okay.

CHRISTINA SCHNEIDER: So the other related story is a project in Senator O'Mara's community, where we had a significant ESD grant, where we were general contractor on a project. Significant money.

We had to bypass four highly-qualified local union electricians and go all the way to another community 85 miles away and bring a non-union electrician in to do the job to meet our MWBE goals.

The unions weren't happy.

We weren't happy.

We didn't employ local labor.

It's a disaster for local economies to have to shift our dollars outside where the projects are.

So we need to reevaluate that whole scene. We need to keep local incentive dollars in the community.

So those are my four big points.

I know a lot of other people have some -- some good things to say, but, in closing, I have, like, kind of three -- three big suggestions.

One is: Please, please, dig into how these

goals are set, and please try to customize how they're set in each community.

Brooklyn and Watertown are not the same area, they shouldn't have the same goals.

One of the missing pieces for me, related to the performance issue, is there's no measurement of the performance of the MWBEs.

So can we implement some type of performance system that is like a rating system?

Oh, yeah, these guys did great on my job over here.

Maybe the owners can opine.

And then that would allow the State the ability to really determine capacity in local areas.

Like, who can really function and perform?

I think that would be a great tool for the State when they're trying to evaluate goals.

And, lastly, my biggest recommendation is this capacity issue.

If we're going to keep going down this path, we need to increase capacity, not only for minority- and women-owned businesses, but for workforce.

Construction is experiencing a huge labor gap, okay, just many other industries are as well.

But this current program just promotes

ownership of MWBE companies.

Are we doing enough to promote women and minorities in management and in trades?

So I've been working in construction for 27 years, a male-dominated industry.

This is Emily Zayre (ph.), she's my protege. She's going to be coming up in the company. She's a Clarkson grad. She chose construction as a career.

We need to do more for women and minorities. Not just -- not everybody wants to own a business.

Some people want to work for companies.

Some people want to work in construction, 'cause isn't it fun, Emily?

EMILY ZAYRE (ph.): It's fun.

CHRISTINA SCHNEIDER: So, really -- really evaluate that, because not everybody's meant to be an owner of a construction company.

So we're -- we're missing a whole demographic in our state if we're ignoring trades and management and supervisory personnel in -- for women.

So I would encourage you to -- we have strong trade industries, associated general contractors, associated building contractors, our local building exchanges.

We're engaged. We can help the education,

the recruitment.

So we're available to help you on this plight, and I really thank you for your interest.

Thanks.

SENATOR AKSHAR: Senator.

CHRISTINA SCHNEIDER: I don't know, do you -- do we do questions --

SENATOR SANDERS: Yes.

CHRISTINA SCHNEIDER: -- or how's this go?

SENATOR RITCHIE: Yes.

CHRISTINA SCHNEIDER: Oh, I can get out of here.

[Laughter.]

SENATOR RITCHIE: I would just like to start off by saying for the record, that we did invite a number of agencies, the second floor, to be here, which we hope, at some hearing in the future, they will be able to attend and hear the comments, so that we can all work together to make the program better.

CHRISTINA SCHNEIDER: Great.

SENATOR RITCHIE: So your question about the waiver, it would have been helpful if we would have had somebody here from the second floor to answer those questions.

So, point well taken.

You know, just your comments are things that I have heard, you know, many times; something that I have discussed with my colleagues, including Senator Sanders, about the economic-development issue here in the North Country.

And I know, at a meeting that I was at with the people who run the program, the comment came up about capacity and trying to get to the goals.

And the response back to me was, that if we couldn't, that it was okay to go to New York City.

For me, personally, it isn't okay.

CHRISTINA SCHNEIDER: No.

SENATOR RITCHIE: We have enough economic struggles here, that going outside the area to hire is not acceptable.

And, you know, to talk about capacity, there certainly is an issue there, but it's not like we haven't tried to address capacity here either.

We've partnered with the people in Albany who administer the program for a couple boot camps.

We sent out, you know, information trying to garner interest.

And it still has not done anything for capacity.

So I just want to make sure that people understand, it's not like we just didn't try to help encourage.

This is going to have to be an aggressive approach in order to get people involved.

But, the point that you take about, you know, getting -- getting others into the -- into the business without actually having to own the business, I think is a great opportunity, because you know, it's intimidating for a lot of people.

But I think there are other avenues.

In your story about not being able to reach the goal, and, potentially, not receiving the rest of the money, that's something that I've heard from a number of companies, to the point now where many companies don't want to bid on any of these projects anymore, which definitely is not what we want to happen.

CHRISTINA SCHNEIDER: Yeah.

SENATOR RITCHIE: So I appreciate your comments. I certainly appreciate you coming out today.

And, with that, I'll turn it over to Senator Akshar.

SENATOR AKSHAR: I think it's important to

note that, to Senator Sanders' point, this effort of the task force is, in fact, to amend the program, and not to end the program.

There's nobody on this dais that wants to do that.

And I think it would be beneficial if the Governor's Office would, in fact, participate in this process, and allow the agencies to testify or to be part of this process, so that we could all, collectively, make the program better, because the fact is, we're not looking to end it. We're looking to amend it and make it better.

So could you just tell me a little bit about this project that has the 38 percent goal?

CHRISTINA SCHNEIDER: 38 percent.

SENATOR AKSHAR: What is that project?

CHRISTINA SCHNEIDER: Sure.

It's a procurement out at SUNY Poly through DASNY.

EMILY ZAYRE (ph.): 20 percent minority, 12 percent woman-owned, and 6 percent service-disabled.

SENATOR AKSHAR: Do you find in -- in -- in -- with the service-disabled veterans there's no attention being paid to that, and all the attention

paid on the minority and women piece?

CHRISTINA SCHNEIDER: It's relatively new.

And you know a little bit more about that. Why don't you --

EMILY ZAYRE (ph.): Well, it's -- the way that I understand it is that, yes, it's relatively new. And, it's covered under kind of a different executive law; is that correct?

Yeah.

So -- right, you would have to -- you may want to bypass a service-disabled in order to hire a minority- or women-owned because there's penalties if you don't -- if you don't meet your minority- and women-owned goals. But there's not penalties per se if you don't meet your service-disabled goals.

So it doesn't really lend itself well to us, you know, wanting to hire service-disabled unless they can cover one of the other goals as well.

SENATOR AKSHAR: So my last question will be about the penalty process and the financial piece.

So just walk me through this. I apologize for my ignorance. I'm not a contractor.

CHRISTINA SCHNEIDER: That's okay.

SENATOR AKSHAR: So you bid a particular project, and you get it, knowing that you have to

meet certain goals.

CHRISTINA SCHNEIDER: Right.

SENATOR AKSHAR: And you say, on the front end of that bid, that I will, in fact, meet my 30 percent goal, or whatever the number ends up being. Right?

At the end of the day, if you can't do that and they're not receptive to the waiver process, you've been subject to financial penalty before?

CHRISTINA SCHNEIDER: Actually, we have not. We've just been very aware.

Like, one of our contracts right now has a $200,000 fine if we -- you know, if we don't comply.

And then the other penalty would have been for the owner not receiving the grant.

The problem, just to clarify, of the construction process, the day that we put in the bid, we're all optimistic; we're going to do this, we're going to meet these goals.

And then stuff happens.

Contracts fail.

People, yeah, get busy and say, So sorry. I took this job over here. I can't help you.

It's a dynamic, constantly moving process. And you're, literally, holding your breath till the

very end to see where the numbers come.

And it's extremely stressful and extremely dynamic, and there's like no tolerance.

SENATOR AKSHAR: But you paying -- you being very diligent and paying attention to that has forced your company to have to go elsewhere --

CHRISTINA SCHNEIDER: That's right.

SENATOR AKSHAR: -- outside of the North Country.

CHRISTINA SCHNEIDER: That's right.

SENATOR AKSHAR: Pass up people who are ready and able to work on these projects, and give the work to people in Buffalo or Binghamton or Brooklyn?

CHRISTINA SCHNEIDER: Yeah, at a premium.

SENATOR AKSHAR: Right, which, by the way --

CHRISTINA SCHNEIDER: People aren't coming --

SENATOR AKSHAR: -- the taxpayer is paying for.

CHRISTINA SCHNEIDER: No question.

SENATOR AKSHAR: Right?

CHRISTINA SCHNEIDER: And people are not coming to Watertown, New York, voluntarily. We're having to beg.

SENATOR AKSHAR: Senator Sanders (indiscernible).

SENATOR SANDERS: (Indiscernible.)

SENATOR AKSHAR: That's right.

SENATOR SANDERS: Great place.

CHRISTINA SCHNEIDER: Yeah, in the summer.

So, yeah, you've pegged it.

It's very difficult. And we do have to go out of the area very -- I mean, that's the norm. That's not -- it's not the standard to look -- to find MWBEs in your area.

SENATOR AKSHAR: Great.

Senator O'Mara.

SENATOR O'MARA: Ah, yes.

Thank you, Christina (sic). That was an excellent presentation.

I agree with -- 100 percent with all the points you make.

And, in particular, the last point you make, about spending our economic-development dollars outside of the region they're intended to benefit, has been a pet peeve of mine, because of this, for sometime now.

I do want to note for the record, that I find the second floor, the Governor's, lack of involvement in this process to be, at best, disrespectful to all of us here on this dais, and

disrespectful to everybody in this room that's concerned about this issue.

We have been hitting a brick wall with the Governor's Office for years on this issue.

These quota/mandate numbers came out of thin air.

I put direct responsibility of this on the Governor's counsel, Alphonso David, that dreamed up these mandates and quotas; yet they failed to get into negotiations with us and try to deal to fix these issues.

And their lack of involvement in these hearings is just completely disrespectful to all of us, and is personally offensive to me.

I would like to, if you could characterize, or quantify, what kind of cost increases you see having to go to MWBEs outside the region, and how that affects the overall cost of the job?

CHRISTINA SCHNEIDER: Do you have a feel for that?

If my estimator was here, we could rattle off figures.

I -- I -- I don't totally feel comfortable quoting numbers because I'm just not knowledgeable enough on it, but it does cost more.

There's travel expense --

OFF-CAMERA SENATOR: Can you follow up on that?

CHRISTINA SCHNEIDER: -- sure.

We'll follow up.

We can follow up on that?

SENATOR AKSHAR: Of course.

CHRISTINA SCHNEIDER: We'd be glad to.

SENATOR O'MARA: When you have to search far and wide to find a company to qualify, to meet these quotas, what do you find the quality of work to be compared to local contractors or regional contractors that you're more accustomed to dealing with?

CHRISTINA SCHNEIDER: It's terrible.

SENATOR SANDERS: How much time do you have to spend cleaning up for their shoddy work?

CHRISTINA SCHNEIDER: A lot.

SENATOR O'MARA: Thank you.

SENATOR AKSHAR: Of course.

But, first, allow me to welcome and introduce Senator Little, our distinguished colleague, who has joined us on the dais.

Senator, go ahead.

SENATOR BONACIC: Miss Schneider, thank you

for a very informative presentation.

I'd like to thank Senator Ritchie, Senator Akshar, for holding this conference.

I'm going to retire at the end of the year.

OFF-CAMERA SPEAKER: Oh, no.

SENATOR BONACIC: So I don't have to say things that are soundbites to get re-elected.

CHRISTINA SCHNEIDER: Great. Let it go.

SENATOR BONACIC: I've done that for 20 years.

Let's talk about what's happening in New York.

Two people are leaving for every one that's coming in, and the people that are coming in are looking for the benefits. How can government help them get social benefits?

The people at this dais fight for the upstate economy.

It's a war. We have it every year when budget time.

And this program reminds me of the minimum-wage fight, where the Governor started with $15 for the whole state.

We say upstate is in recession. They can't -- small businesses will be gone if do you

this.

Now I have never been to Watertown, but I came up yesterday.

I talked to about 10 people.

I talked to ship people on the boat tourism.

I talked to waitresses.

I talked to hotel people.

I talked to the retail people.

How are you doing up here?

Things are slow. The economy is slow. Not as good as it should be.

While we talk about this program, the Governor's initiative is solely for political pandering to women for the elections.

So we're not going to make progress.

We could talk, but we are not going to make progress between now and the election.

Women vote more than men.

So all he cares about, and what has dominated in the last five years, is politics, not good public policy.

This is an example of it.

It may work in a metropolitan area, but it sure as heck doesn't work upstate.

And you've made that clear, and I don't mean

to be so blunt, but that's what we fight every day; not to kill the program, because we believe in women empowerment. We want to see qualified women work more.

And by the way, we opened up a resort casino in Sullivan County. 70 percent women jobs out of about 2,000 jobs.

We like to see that, but they have to be qualified.

And sometimes the job doesn't match the person, which you spoke so eloquently about.

So, for the time that I'm here, and for the warriors that are still going on, we will try to amend this program to make it more upstate to New York needs.

And I thank you for speaking.

And I thank Senator O'Mara for having the courage to speak out loud of what the facts are really like, being a realist.

Thank you, Miss Schneider.

CHRISTINA SCHNEIDER: Thank you.

Thank you for your candor.

SENATOR AKSHAR: Senator Sanders, do you have questions?

SENATOR SANDERS: I will, but I'll yield to

Senator Little first.

SENATOR AKSHAR: Senator Little.

SENATOR LITTLE: Yes, I do.

Thank you.

I'm sorry I was a little bit late, but we started out early.

So, thank you for having this.

And, we've been involved in this for a long time.

I just want to thank you, because your testimony brings out all the points that we've been talking about, but you have very specific examples.

And, you know, Senator Ritchie mentioned having the State here.

We're in a state office building.

Is there anyone here from the labor department or economic development, state offices, or DEC, or any of those offices that are probably -- I don't have a state office building in Glens Falls, but, they're probably in this office.

So, we have to make sure that we get these people at our next hearing; but, it's a good point.

But, the one thing you brought up, and it's something that I don't think has gotten enough attention, is, you know, with -- when we're spending

state money, we want to spend less of it so we have lower taxes, but we also want to get best value for the dollars we're spending.

And, in my mind, best value has just fallen right off the table with these goals and all.

And evaluating being an MWOB is one thing.

The certification's hard to get. The recertification happens too quickly.

That's another problem.

But once you are there, we ought to be able to rate them, because I know a contractor who had one, and hired an MWOB for asbestos removal, and they could not do it. And then they had to scurry around after firing them, and come up with another contractor that really wasn't the best contractor to do the job anyway.

So, good points that you brought up.

And as we said, these things would improve the program, and would make it more reasonable and more beneficial to local businesses in our area.

So thank you for being here.

SENATOR AKSHAR: Senator Sanders?

SENATOR SANDERS: Sure.

Thank you for your points that you've raised.

I too will encourage the second floor to

participate.

That it's just good to hear what people -- these are the people of New York. These are our bosses.

It's good to hear what your boss thinks. It doesn't hurt.

I will encourage them to participate also.

As a Marine Corps vet, I kind of liked hearing the service goals that were mentioned.

I know it's a new program, and it will take a little bit of time to get right.

I do want to alert people that it's not a MWBE goal, mind you. That's a -- it's a different program, and it shouldn't be seen as 38 percent MWBE.

It's possible to do a rating system that had been described. But it's fairer if you rate -- if you rate everyone. That way, you don't fall into any holes or traps of any type.

If you rate everybody involved, then you could do that, and you could actually do the rating system that you speak of.

And we downstaters have the same complaint that you have.

We too see jobs and companies coming into

these communities and the local folk are not getting.

So that may be a point where -- of agreement that we can have.

We too want local folk to get whatever is local.

If it's money in Watertown, I suspect that people in Watertown could spend the money-- you guys can spend it wisely up here, couldn't you?

CHRISTINA SCHNEIDER: Yes, we could.

SENATOR SANDERS: Well, then, if that's the case, then that money should stay up here.

CHRISTINA SCHNEIDER: That's right.

SENATOR SANDERS: And the people in Brooklyn, the same, et cetera.

So there may be common ground that we can speak of, where we can figure out, how do we make sure that the money gets there?

Now, notice that we're speaking of a goal of 30 percent. We're not speaking of the 70 percent.

Now much of that, if not most, is going to the big boys; the same guys who always get, and they're not from Watertown either.

They are the big guys who, you know, perhaps are untouchable, whatever, but they're not the local

folk from here and other places.

While we look at that 30 percent, don't cheat yourself out of that 70 percent.

If we're going to look at it, let's look at it real hard, because there's far more money in 70 percent.

And I want to you have every dollar that you deserve up here.

We are -- there is a Supreme Court decision called the "Croson" decision, which said -- which informs much of what we do. And we're allowed to do many different things, but you can't mess with the Supreme Court.

And under those conditions, when they set goals of 30 percent, it -- it -- there may not be a lot of people of color up here, but there are a lot of women up here.

And if -- and women are under that "MWBE."

CHRISTINA SCHNEIDER: MWVBs, service-disabled.

SENATOR SANDERS: I like it.

CHRISTINA SCHNEIDER: Fort Drum.

SENATOR SANDERS: Well -- oh, yes, right. We have them right up here.

So under those conditions, it may -- we may

be -- perhaps you're looking at it wrong.

Perhaps we need to be more flexible and say, okay, maybe there aren't a lot of people of color up here, but, are we encouraging the women to get into the business, or, are we looking at them?

Just some points.

And -- but I thank you for putting those things out, and I think, so far, it's a great hearing.

Chairs.

SENATOR AKSHAR: Thank you.

Anybody else?

Okay.

Thank you very much, Christina.

SENATOR RITCHIE: Thank you.

SENATOR AKSHAR: Appreciate your time.

So let me do this, I'll be the bad guy in the hearing:

In an effort to keep things moving, I think I'll call -- we'll call two people up to testify next.

Excuse me.

All right. So let me call Greg Lancette, Central Northern New York Building and Construction Trades Council, as well as, Pat Carroll, the

business manager for Local 73.

Would you both come up and provide testimony, please?

GREG LANCETTE: Good morning, Senators.

Thank you very much for taking the time to do this, especially in the, quote, off-season, when there's actually no-off season.

Pat Carroll is actually going to read his statement that he had prepared, and then I will be elaborating on our talking points also.

Thank you.

PATRICK CARROLL: He's the puppeteer over here, so we're doing good with that.

Thanks, Senators, for taking this task on; I really do appreciate it.

I did have the opportunity to speak at the first roundtable in Albany, and I think it went very well. And I'm glad that it's -- this is what it's grown into, so...

All right. My name is Patrick Carroll. I'm the business manager of Plumbers and Steamfitters Local 73 in Oswego, New York.

In regards to the Article 15-A, in 1988 the legislation created the office of minority and women's business development, right, to develop

participation goals for the minorities and women businesses in state projects.

I believe the original goal was 20 percent, which compromised (sic) the labor, the services, supplies, equipment, and material, or some combination of.

In 2014 Governor Cuomo directed the division increase participation to 30 percent. All right?

This is based on a study that stated 55 percent of the construction companies are owned by women and minorities, the study that came into question during my first roundtable.

The mechanical contractors who are represented are unable to sublet their labor portion of the contract to other companies unless they are also union-affiliated contractors.

If they do, they would violate the terms of our agreement of collective bargaining.

Many of these projects require specific equipment on the job.

Most of the mechanical equipment required on these jobs are spec'd and do not qualify for WMBE (sic) credits, in which the mechanical portion of it is usually a very large portion of the bid, so, which limits our opportunities for the labor and

the existing material part.

I recently reviewed the New York State's directory of certified firms and found very few that deal with construction, and even fewer that service the real upstate and northern New York.

I did notice there were several from out of state.

What once was a good idea has now become a burden for us, specifically in the North Country.

The demographics of the counties I represent, Cayuga, Oswego, St. Lawrence, and Jefferson, are, roughly, 88 to 90 percent White, 50 percent women, and very small of minorities.

We as the building trades struggle yearly in a recruitment of minorities to help us with boots on the ground, and it's not from lack of effort, because we attend all the state, schools, high schools, the BOCES, every job fair that we can attend, we're there, putting our name out to recruit these people.

Recently just took in a class of 12 apprentices; one Latino boy and one woman.

The Latino boy was very qualified.

The young lady was not.

It was such a struggle to reach these goals,

we have to bring some of these -- some more minorities into the program. And I'm sure she'll be fine after five years of school.

But that's a task that the building trades has to address in the North Country.

But, by their unable -- or, their inability to reach these goals, it requires our contractors reach far and wide to bring in these WMBE (sic) contractors. Right?

And to the lady's point prior to us, that's chasing the dollar from out of town and bring it -- when these people come in here to work, they bring that money back to their communities and it doesn't stay here.

I mean, I've personally worked all over the country, as far away as Arizona, and I know what that's like.

You make your money there. You support your family here in Upstate New York, and that's where the money comes back to.

Nobody in Phoenix, Arizona, other than a few restaurants and the hotel that I stayed in, benefited from my ability to work there.

But, I do have a few suggestions I'd like to offer.

And it's -- one is, the survey.

I think we do need to determine the actual number of minority-owned contractors and the services they provide.

Because I did notice --

Bless you, Senator.

OFF-CAMERA SENATOR: (Indiscernible.)

PATRICK CARROLL: -- I did notice that a lot of the areas in construction were site work, gardening, some stuff that's really not the stuff that we're looking at as far as mechanical contractors that Greg and I represent.

As the woman previous to me stated, if we could run 30 percent in the city, let's do 30 percent in the city.

If it's 20 percent in the Albany, Hudson Valley, do 20 percent.

If it's 10 percent in Upstate New York, then I think that's the goal we need to look towards.

Let's cut down on the red tape to qualify these WMBE (sic) contractors.

And I don't think we should penalize the ones who have become successful, and which also limits our pool even more. And I know that was brought up in the Albany area.

And back to the veterans, I brought that to your attention in Albany.

And I think that -- I know it's a separate law, but if we could supplement the use of veteran, either -owned businesses or members, to reach those goals, I think that's a big thanks, especially with Fort Drum being here in Watertown.

That's all I got to say.

And I think, as well as I know Greg, he's going to be able to run with this one, so...

GREG LANCETTE: Well, Senators, how do you want to handle that?

Did you want to ask Pat questions first, or would you rather ask us both, collectively?

SENATOR AKSHAR: Yeah, why don't you go ahead and give us your testimony, Greg, and we'll ask you both questions.

GREG LANCETTE: Yeah, okay. Very good.

Thank you.

So, yes, Pat and I are both -- we both run our United Association local unions.

Pat's up here.

I actually cover down into Senator O'Mara's area, to the Pennsylvania border.

But I don't come into your area,

Senator Akshar.

We are seeing this, it's actually on a statewide level.

So, our building trades council goes from Canada to Cortland County, Little Falls to Cayuga County. So it's a pretty good geographic footprint that includes the cities of Syracuse, Utica, Oswego, and here in Watertown.

And even the four cities, just in our building trades council, there's four different totally different demographic compositions in the region.

So, instead of trying to point out a lot of the obvious things that a lot of the great speakers have said over the last couple of -- you know, the previous hearing in Albany, and what you're going to hear today, and what we've already heard today from the contracting community, what we're seeing here is, we're seeing that there is a cost escalation going on in public work.

I don't have a hard number to give you, but I would not be shocked to say 10 to 15 percent, because, you know, as the previous speaker has spoken, and I will never suggest that that's how they are operating, but if you're bidding a project

as a contractor, you're now entering a higher-risk management component into the construction industry, because the construction industry is challenging enough as it is, just meeting customers' schedules and deadlines, and obligations with your own staffing and in contracting.

But now, with the potential for the penalties and the mitigation, that's being baked into your pricing. It absolutely is.

I mean, the employers are taking on more risk, but they're taking on less potential for reward, so they're covering the risk.

You're not seeing it in the line item, but If you carefully watch some of the ESD projects, or any of that, if there was a way to track it, you will see that it is slowly, steadily rising.

And it's not our cost of living.

Our cost of living has been around 2 percent, steady, for the last few years. They haven't varied that much.

Materials haven't gone up tremendously. Some of them are commodities, so they're a little bit fluctuating, but typically not.

So one of the things that I would like to talk about, and, you know, all of the speakers are

touching around it, and we're actually hitting it pretty well, but, you know, the potential for some of the solutions could be similar to, like, the regional economic development councils are footprinted and formatted throughout the state. I believe there's 10 councils.

And if the State were to actually commission population studies, and even if they paired it with disparity studies, in the 10 regions, and then the region that the project falls in, maybe it falls into that disparity and demographic of the residents of that area.

Because, you know, as the last speaker, and as Pat has just spoken, you know, we are really big on hire local. You know, the buy local, my local, programs; everything from the farmers markets, to the small neighborhood store, to the labor workforce.

I mean, it's always been our mantra "to keep the construction dollars home," and, that way, it benefits, because it really is not a union thing or a non-union thing.

It's when there's unemployed drywallers living in Watertown, and there's drywallers coming in from Western New York, just to fill a column, you

know, for example, I mean, we're missing the mark on so many different ways.

So if we could look at maybe the demographics or the regional footprint with the red-sea footprints.

Another thing that I have suggested to other members of the Senate, that are not here today, in all fairness, would be to start a bonding program, New York State.

Because, regardless on your status, we have been encouraging members to go into business as contractors.

As the trades, we firmly believe that some of the best employers, with the long-term relationships, are currently in our rank and file as memberships, that know the industry.

Over the last 10 years or so, the trades have been really trying hard, and doing a lot better, at recruiting members that actually represent and reflect the community that we service.

And those numbers have been coming.

But the second stage of that is to develop an employer base out of that.

And so anybody that goes into business, regardless of your status, for the bonding in the

industry that we're in, you have to show 24 months of positive cash flow before you're eligible for the first tier of pricing with the bonding and the insurances.

Well, okay, so if you're starting out in a business, you're not going to have 24 months of positive cash flow.

So what they then do, the industry does, is it turns to your personal financials.

And, in most cases, anybody that's going into business, they've already pushed everything all in.

They've remortgaged the house, they've cashed in all of their assets to get the equipment, the tools, and their business plan together.

So the bonding capacity is what's lacking in the whole construction community, and it would benefit the whole community, including the minority.

So, you know, something as simple as --

I'm probably going to try to put a statement out there and take us to a place that we can't get to.

-- but even if the New York State common pension fund had a very small sliver of an investment in a bonding program.

And if we could couple that with a WDI

initiative (the workforce development initiative), which is actually a product of the Senate Majority, it's been a product for years of workforce development.

Great program.

If we could open some of that programming up to business development, alongside with career development for craft workers in the industry, I think that will go a long way.

Now, it won't wave a magic wand and fix things tomorrow, but you could see a three-year difference that could be exponential, or a five-year difference.

It's not that far down the road where it would actually make a difference.

So -- but with that being said, I want to thank you for your time.

And I don't want to just keep adding too much to the soup, but there are ways to do this.

And the one year that we have, if we could get some of the pieces in place to do it right, the state could be a much better place for it, because, as the last speaker had said, she's not wrong, when she's talking about trying to submit minority utilization plans.

Like, if they're a potential awardee of a contract, you have to submit your minority utilization plan, and then that's reviewed for criteria and everything else, make sure all the buckets are checked off.

And, if somebody does balk on them, they have to scramble to fill a hole, because the plan is still the plan, you're still supposed to meet it.

And by doing that, it's adding costs to it, and it's also importing folks in and out.

So -- but thank you for your time, and I'm more than happy to answer any of the questions that you have.

SENATOR AKSHAR: Senator Ritchie.

SENATOR RITCHIE: Have you heard from companies that they are hesitant to bid on projects now because of the unknown?

GREG LANCETTE: I have.

We have some typical general contractors that we work with, that are now choosing to go -- they're gravitating towards the private work, where they used to have a pretty steady diet of both public and private work.

It's kind of like spilling water on the floor, it takes the path of least resistance.

So some of the private development that's going on is what's attracting some of the firms that actually have capacity and horsepower, but it may be the difference between submitting this much paper on a project and this much (indicating), and it doesn't have the financial component and the hardships that could potentially come with it.

So, yes, Senator, we do see that going on.

SENATOR RITCHIE: Just a comment for Pat.

I appreciated your suggestion at the roundtable that we look at veterans because of the dynamics of this district; the fact that we can't seem to meet the quotas for legitimate reasons, but that, potentially, the veteran market could certainly help that situation.

And I hope that's something that this panel will take into consideration at the end when we're trying to figure out ways to improve the program.

Thank you.

PATRICK CARROLL: Thanks, Senator.

SENATOR AKSHAR: Senator O'Mara.

SENATOR O'MARA: Yes.

Thank you, Pat and Greg, both, for being here, and for the excellent work you do in representing your memberships and associations.

We do appreciate your input here at this forum, and in many other forums that you participate in.

Greg, you mentioned the basic increase in wages, I guess, that the term you used is about 2 percent a year, but we're seeing higher increases in contracting costs than that, I assume, to take into account this risk and the lack of surety that you're talking about.

So how much is that growing over that 2 percent that we have been --

GREG LANCETTE: Well -- so, without being able to put a hard-stop number to it, I would say 10 percent is a conservative number where cost escalation is happening. And I'm not even going to ask anybody behind me to nod or validate, or any of that, because that's not the purpose of it.

But, you know, whether it's the SUNY projects or any of the building that's going on with the State funding that has those components, the costs are going up because the level of risk has also gone up.

It's not just "come and build a project" anymore.

And, you know, like Pat has spoken, and some

of the others, and, Senator Ritchie, you are spot on, about trying to break some of the silos down, because that is a way that you can, anatomically, hit some of the goals of the overall goal.

If there's a target number where we can help folks, well, maybe it is heavy on the W, or maybe it's heavier on -- or including the vet population, and all that.

We have a tremendous amount of returning service men and women that are coming back, and their lives aren't the same, and their jobs aren't there; they're not. They've been gone for a while.

So -- from the programs.

But, yes, Senator O'Mara, 10 percent is a good number.

It may even be higher, but I don't want to get out of anybody's comfort zone and be on the cover of the newspaper tomorrow, if I can avoid that.

SENATOR O'MARA: It may be too late.

[Laughter.]

SENATOR O'MARA: Pat, I appreciate your comments on the regionalization concept of this. I've thought of that a lot.

And I think what you see, certainly

represented here at this table, are two of the most difficult economies in the state; that being the North Country, where we have both our Senators from there, and the Southern Tier. Between Fred, John, and myself, we cover from Hornell, New York, to the Hudson River, along the Southern Tier.

So we have struggling economies.

That's why it's of such great interest and importance to us, and that every economic-development dollar that we have stays within the region and not goes outside of it.

But I'm very supportive of looking at, somehow, regionalizing of these standards to meet.

So, thank you both for your input on that.

GREG LANCETTE: Thank you.

PATRICK CARROLL: Thank you, Senator.

SENATOR AKSHAR: Senator Sanders.

SENATOR SANDERS: Sure.

Thank you both for testifying again and again. Some of you are part of the traveling routine that we're going to do.

For those who don't know, our Chairs have been -- made a commitment to all of New York State, and are fulfilling their commitment.

They have done hearings all over the place,

and they intend to continue.

It's hard to tailor -- I was trying to think of solutions.

It's hard to tailor an MWBE program by region.

I don't know of any state that has done it that way.

Doesn't mean it can't be done, mind you. Just because nobody -- that's why we're the Empire State.

It may be a good idea for a bipartisan group of us Senators -- mind you, we don't have to wait for second floor, other great places -- it may be a good idea for us to go to DOJ (department of justice) down in D.C., and say, Hey, is this possible?

Is this possible?

Once they say it's possible, then that should aid our efforts. And it should mean that we should stay out of trouble with -- you know, with anyone.

So it may be a good idea for -- at the end of everything, to come up with some concepts and go down there.

I've been there on different issues, so I'd be delighted to go with you on it.

Your idea, Mr. Lancette, of dealing with bonding, and several other things, is a good one.

You're probably -- you're right, you're probably going to be flying a lead balloon if you say "pensions," but I got you a wing.

GREG LANCETTE: I'm all ears, Senator.

SENATOR SANDERS: Well -- well, I got it for you. And I'm trusting that my colleagues will join me in this.

I have a bill for what's called a "public bank."

Public bank.

Right now, New York State puts all of our tax money into these large banks, you know, the giant names, and we get a very miserable return on investment.

I mean, they're like they're doing us a favor.

Imagine taking 10 percent, 10 percent won't cripple them, and put it into a public bank whose job is to -- they have one in Wisconsin -- whose job is to make sure that we support growing businesses, that we support this type of stuff.

And, therefore, the bonding could be taken into that, and things of that nature.

10 percent won't hurt the giants, but it will help New Yorkers.

My bill is there, and I'd be delighted to share with my colleagues more information.

Incidentally, that bank in Wisconsin, I believe, that has this, is the only bank in the -- during the 2008 mortgage meltdown, they boasted a profit, because they didn't make any risky loans, they didn't do any of this junk stuff, so they steadily turned a profit.

We need to consider new and different ways.

If we're going to drill down, if we're going to solve these problems of the new people starting out, creating a business, whether it be from, hopefully, Local 73, or other places, they have to have some source. After they put their house up and after they do all of this stuff, they have to have some source.

I think that the default rate of the public bank is less than 2 percent, which means that that's a dang good investment for the State.

You mentioned a survey.

It would be good to do a survey, an actual survey, of who's out there.

But, again, after all is said and done, we

got to figure a way to grow and develop capacity, wherever it is, and, keep the money -- keep Watertown money in Watertown. And other places, of course.

SENATOR AKSHAR: Senator O'Mara has a follow-up.

Thank you, Senator Sanders.

SENATOR O'MARA: I have a follow-up.

I forget which one of you mentioned about the difficulty of sending your members to other areas of the state to work on jobs for -- was that based on them not being a minority or a woman worker?

PATRICK CARROLL: No.

I just commented -- I commented on the fact that our members do go all over. And I was -- I being one of them, have traveled all over to secure work, right, when work is not booming here in New York.

And it has nothing -- it's not minority-driven at all, why they can't go to work.

SENATOR O'MARA: All right. Because I had heard something from Ernie Hartman down at IBEW, that, you know, there was a lot of work when the Buffalo Billion projects were kicking off, and they were looking for workers, because there was a

shortage of workers at the time. And the IBEW wanted to send workers.

And they said, Well, if they're not female or minority, don't send them, we don't want them.

Do you see that?

PATRICK CARROLL: We did see that, and that was, in the Buffalo area, they were need of plumbers and pipefitters. And they -- if they were not a woman or minority, they couldn't put them on the job to reach those goals.

Yeah, a lot of people stayed home because of that.

GREG LANCETTE: And I would agree with that, Senator.

We've actually seen it statewide, starting from GlobalFoundries a few years back, down to, Senator, your casino is one of the larger ones. And we actually had to do that at Tioga Downs down in Tioga County, inclusive of the Buffalo project.

So, it's not uncommon.

So, with me being headquartered in Syracuse, I have a little more diversity, so to speak, a pool to draw from from the members.

So some of our members had some really good opportunities to go all over the state, but they

couldn't really bring anybody with them unless they kind of looked like them, in a way.

But it was to fill some of the mandates and help assist with the crew compositions in the region that was lacking.

SENATOR O'MARA: Because I think, to that point, you know, we're not seeing as strong of -- we're seeing complaining from the thruway corridors, I'll refer to it, from the Buffalo, Rochester, Syracuse, Albany cities, because they do have that greater diversity to help meet these challenging goals.

And that's perhaps why we -- from the Southern Tier and the North Country, we really don't have that diversity of population, struggle with it much more, in trying to meet those same kind of quotas that the other regions that are more diversified have.

So, I appreciate that input.

PATRICK CARROLL: If could I just make one comment on the use of the veterans, in the -- the building trades, and all of us, we utilize "helmets to hard hats," right, as a direct avenue for people coming out of the military to get into the trade unions, regardless, whatever interests they have,

right, whether it's pipefitters, laborers, carpenters, or whatever, that's there.

The United Association that Greg and I are with also have VIP in piping.

We're going on these bases and we're teaching these men and women how to weld, how to get into the pipefitting industry. And we receive notifications from all over the country, if somebody wants to relocate in our areas and -- it's open arms.

I mean, 30 years ago we weren't looking to do that, whether it was minorities, or even bring the veteran in.

But, we've all changed that, and it's huge.

And I never looked at the demographics in my area until we started talking at this.

I'm, like, Why?

Why am I struggling so much to have -- 50 percent of the people in my area are women, they're not coming in.

I don't know how we can't get them in.

You know, and we're struggling with that.

But, as Greg stated, we bring them in, and that's the best place to start a business, is from the ground, up.

And we can teach them the tools, and -- but

I just wanted to make that with the statement with the veterans. I think it's important.

SENATOR AKSHAR: So Senator Sanders and I have had some spirited and robust discussions about regionalization, both on and off the floor of the Senate.

And I think it's something, up to the Senator's latest point, in terms of seeking some clarification, or a clear path forward, right, from those that have that knowledge.

I think that's something that we should, in fact, look at. And if we have an opportunity there, I think we should follow it.

You know, if in the North Country, in the MBE world, 12 percent is the number, because that's what we currently have certified, why, then, I am of the opinion, that that's the number that should drive the conversation.

And we should do a better job, if that number is that low, right, of ensuring that we're doing everything possible to raise that number and to get more people certified.

I think it would put more of the onus back on us to do a better job of ensuring.

If I happen to believe that 30 percent is

just an arbitrary number that the Governor has picked, that's up for debate and discussion; however, if that's truly the number that we want to get to, why, then, the onus will be on us to do a better job of getting more folks certified in that particular space.

So, thank you both for your testimony.

SENATOR O'MARA: Thank you.

GREG LANCETTE: Thank you very much.

SENATOR AKSHAR: We'll invite Amy Criss from 84 Lumber to provide testimony, and then Patrick Murnane.

Pat -- Patrick?

PATRICK MURNANE II: Yes?

SENATOR AKSHAR: Could we just have Amy testify first, and then you?

I'm sorry, I didn't -- I didn't do a good job of articulating.

Thank you.

Amy, welcome.

AMY CRISS: Thank you.

Good afternoon.

Senators, I am here again to testify.

Some of you may be tired of hearing my story, but it's going to be the same one a little bit.

My name is Amy Criss. I'm the director of women business enterprise and supplier diversity at 84 Lumber Company, which is a woman-owned business, not here in New York.

SENATOR AKSHAR: Amy?

AMY CRISS: Yes?

SENATOR AKSHAR: If you want, you can summarize this.

AMY CRISS: I am going to.

SENATOR AKSHAR: Okay.

AMY CRISS: I cut out a lot while I was sitting there.

SENATOR AKSHAR: Thank you.

AMY CRISS: I've been with the company for 17 years, and my responsibilities are supplier diversity and WBE development with 84.

We support Article 15-A.

And we, with Senator Ritchie, are showing a pathway to bring MWBEs to be able to grow to their full capacity in New York.

Thank you. I'll talk about that in a minute.

We have a bill, S8870-A and A1074-A, by Senator Ritchie and Assemblywoman Peoples-Stokes. It's bipartisan legislation.

It was passed by both the Senate and the

Assembly unanimously in June, and is awaiting going to the Governor's desk.

We're a building-material supplier.

We have 23 stores in New York, most of them upstate, two of them in Long Island. And I think we have stores in all three of your districts.

Thank you.

And we did have a store in your district.

We were certified in the state of New York in 2010.

Then the personal net worth cap was put in the state. And when we went to recertify, we were declined because our personal net worth went over the cap.

Just having one store cost us.

We own our own property. It cost us about 3 to 5 million dollars to have one store in the state.

So the personal net worth cap is going to kick us out no matter what, and we want to continue to grow in New York.

We were certified in '10.

(Indiscernible) then we recertified.

They said no.

We applied for a waiver twice to get that

certification back, and we heard "no."

So this decertification had major impact on 84 Lumber Company's bottom line.

After losing our certification, we ended up closing Watertown, New York, store, which we had had in existence for 19 years, I believe.

It affect -- in fact, it was 10 minutes from here, right on 12-F. And it affected over 10 families' income from our stores, and, what we could research, at least 30 local suppliers, vendors, such as truckers, local material suppliers, hotels, restaurants, gas stations.

When you shut down a brick-and-mortar location, it has a huge impact on the local community.

No one wants to see loss of business, especially in Upstate New York.

In fact, of the people speaking here today, at least five of them are or were our customers.

Purcell, we did business with, so they were not able to use us as a WBE anymore, which caused them more difficulties.

Also, we are a huge employer of veterans. They work very well in our atmosphere, very militant atmosphere. And so that also lost employment

opportunities for a lot of the people up here that were veterans.

We have a lot of contractors that call me, still, every day, from 2015 to now: Did you get your certification back? What's the story? You're causing us a huge operational hardship.

There was a contractor in upstate. They were building a barn, and we gave them a bid on that.

They thought we were certified.

And when they called me to find out where our certification is, I had to inform them, We are no longer certified.

They had to go with the next lowest bidder, which was much more than our bid, and they also had to go to the city to get that.

So it was a huge amount of money for transportation, just to reach their goals.

That's one example.

I could give you many, many examples like that, but that's one that we have.

We -- the legislation I spoke of is a way to build capacity with everyone.

It says that first opportunity goes to small diverse businesses. And if you can't reach your goals, then you move on to a large diverse business

only if they're giving back to the community in joint ventures, mentorship, training programs, job-training programs, apprenticeship programs.

We have an apprenticeship program.

I think some of have you met one of our apprentices, Jasmine.

We help underemployed and unemployable people that have no experience in the construction trade.

If they want to have -- if they want to learn, we bring them in.

We give them soft-skills training, OSHA training.

We put them out there on the jobs, we pay them. We put them out there with our contractors for six months to learn the trades, to see what -- see if that's something they want to do.

We rotate them into our stores, to teach them about inventory and material handling, or, management training, to go -- move up through our stores and be a manager.

At the end of the six months, they decide what they want to do, and we will pay for it.

Do you want to go into a apprenticeship program? We'll pay for you to go into an apprenticeship program and become a carpenter.

Do you want to come into our store and do material handling? Then that's what we'll do.

There's a labor shortage in this industry, and we're doing everything we can to empower the communities that we are in and build that employment with them.

That's a part of the bill that came up that would help in these.

Who's going to help a small diverse business more than a large diverse business is?

If we've been through it, and we're large, and we can give a hand up to these small diverse businesses, that's the best way to move forward.

So if you're putting that on to the large diverse business, that takes it out of anybody else having to do it, and it puts the ownership on us, as a large diverse business, to give a hand up to these small diverse businesses; do training, do apprenticeships, those things that we should be doing to give back to our community.

I'm skipping through a lot of this, Senator.

I believe that's about it.

If you guys have questions for us.

But, we're here, we want to continue to grow in New York.

We want to build more stores and employ more people and help contractors.

We want to help our customers, like Purcell, and some of these other ones, to reach our goals.

We have the capacity to do that.

We have an install program, where we can come in and do that installed work.

And we can also bring our apprentice -- pre-apprenticeship program into that, and help the people in your communities grow, and gain knowledge and skills in an industry that they want to work in.

SENATOR AKSHAR: Senator Ritchie.

SENATOR RITCHIE: Just have one question.

Could you explain, when you were certified, how the local construction companies would use your business to qualify under MWBE?

AMY CRISS: They used us in many ways, mostly for materials, they need their materials. Some of them were customers of ours anyway.

We have the capacity to perform.

So they would use us for the materials they needed for the job.

We also have an installed sales program, where we install the type of materials that we supply. So we can install roofing, exteriors,

windows, doors, trim, cabinetry, drywall; any of that type of thing. So they can also use us in that capacity if they needed a subcontractor to work with them on those jobs.

We're pretty agile, and we have a lot of things.

We have a sign shop.

If they needed signage, they can use us for that.

Whatever helped them to get to their goals, we were here for them.

SENATOR RITCHIE: Thank you.

SENATOR AKSHAR: Senator O'Mara.

SENATOR O'MARA: Yes.

Thank you for your testimony.

Just so I can get a better grasp on how these qualification requirements fit for a company structure such as 84 Lumber, with -- what I assume is franchises that are -- no, they're not?

AMY CRISS: They're all owned -- we're own -- we're owned by Maggie Hardy Magerko, a woman. She owns all the stores. She owns all the locations. She owns all the inventory and everything in the stores.

It's the only thing that got her through the

downturn, and that's when we became certified.

During the downturn we had a customer come to us and say, We use you anyway, and you're woman-owned. Why don't you get certification?

And so we did that for that customer, and then continued to grow that base.

But, she owns everything, and she runs everything, believe me.

A great lady.

And she empowers her people to really help their communities.

She's a very wonderful lady, giving lady, and she does a lot in her communities.

SENATOR O'MARA: How many 84 Lumber stores are there?

AMY CRISS: 250.

SENATOR O'MARA: Wow.

AMY CRISS: And we'd love for there to be a lot more, especially Upstate New York.

SENATOR O'MARA: And they're based in Pennsylvania?

AMY CRISS: We are, we're headquartered in Pennsylvania.

SENATOR O'MARA: How do the MWBE program calculate this net worth aspect of it?

Is that the -- that's her personal net worth, is my understanding; correct?

AMY CRISS: It's her personal net worth.

So as I understand it, you exclude your personal residence, but you have to include all of the different locations you have, which would take her out of any limits that you would put on there as personal net worth.

SENATOR O'MARA: Yeah.

I have personal experience with that, with a woman-owned cabinetry business, I guess you would say, office furnishings and interior build-outs, and that type of thing, in Horseheads, New York.

Small; yet her net worth grew to over that, and now she's disqualified from the program.

Very frustrating.

So I understand that --

AMY CRISS: It's cost us over -- what I could calculate when we lost it, about $15 million a year it has cost 84 Lumber Company.

I have no idea what it's cost our vendors, our suppliers.

You know, we use contractors to do all our trucking. They all lost business. Those drivers lost work.

SENATOR O'MARA: Did you -- if you said it, and I'm not sure, how much business was lost by 84 Lumber in New York State because of the disqualification?

AMY CRISS: Yeah, I believe it's -- it's upwards -- when I was calculating it, it's $15 million, I believe, at this point.

We could probably gain 20-or-plus million dollars worth of business if we were to get our certification back.

It's been a huge problem.

We have four more stores on our watchlist because of the loss of the business that we had.

Most of our stores do 3 to 5 million Upstate New York.

So, you know, when you lose 15 to 20 million dollars worth of business, you have to consider that.

And we don't want to see -- I mean, we consider ourselves a part of these communities. We don't want to see our families have any difficulty.

SENATOR O'MARA: Thank you.

SENATOR AKSHAR: Senator Little.

SENATOR LITTLE: Thank you.

And thank you, Amy.

I think your ideas that you put forth about apprenticeship program, and doing some extra things, in order to qualify are great ideas, and I thank you for that.

But when it comes to this personal worth, we've run into it with big excavators, big contractors.

I have a woman who has a mechanical place and does all kinds of business, but, she owns all the buildings, she owns cranes, she owns this, because she owns the whole company.

Her husband died, and she took it over and ran with it.

So, somehow, we have to come up with some ideas for calculating capital expenses.

You know, you can't just take everything that's owned by the business, other than your personal home, and say that this is your net worth.

So, maybe we could work together on something like that.

AMY CRISS: I'd be happy to do that.

I truly believe that size shouldn't be a barrier to inclusion.

If you're a woman, you're a woman -- you're a woman-owned business, why should you cap how much

that woman-owned business can have or make or do?

If you're a minority, you're a minority-owned business, you shouldn't cap their inclusion.

That's -- that's what they've been.

I would assume that that's what we want to do, is grow businesses to their capacity, whatever their capacity is.

Every business is a little different, and wants to be at certain -- whatever capacity they can grow to.

But I don't know why there should be a limit put on to that, to their capacity.

SENATOR LITTLE: Well, I think some of that is because we were trying to help women and minority businesses get started.

I don't know that you want to see something like a Home Depot become a minority- and women-owned business and then they get all the business.

So --

AMY CRISS: Well, that's --

SENATOR LITTLE: -- we're not trying to make it easy on everyone either, but, I think there's got to be a happy medium here.

AMY CRISS: -- I think that's where that legislation comes in, because large diverse

businesses would not get first opportunity. They wouldn't even be looked at.

The small diverse businesses would get the opportunity.

They don't even get looked at until after the contractors or the -- they can't reach their goals.

Before they would go to apply for a waiver through the waiver process that Christina talked about, before they would go there, they would be able to look at the large diverse businesses.

SENATOR LITTLE: Yeah, but we're talking about certification. That's where I want to -- that's where we need to make some amendments --

AMY CRISS: Absolutely, to eliminate, because if you own -- I mean, some businesses don't own. They lease -- they lease their land, they don't have any of that.

But, I find that a lot of women businesses like to own their property, you know, and they shouldn't be penalized.

SENATOR LITTLE: Well, the worst part is, once they get certification, and then they get denied, they have built up their business based upon the minority- and women-owned business look that they have of business.

They lose all that.

People lose their jobs, and it's a disruption.

So, thank you.

It's something we need to look at.

AMY CRISS: Yeah, I would be happy to work you, with whatever I can help you with, Betty.

SENATOR AKSHAR: You have a follow-up?

SENATOR O'MARA: I would just add, with regards to the net worth thing, that I agree with you, at least at this stage of the game.

I think that the more successful women and minorities we show in an industry, is going to encourage more women and minorities that they can get into that industry and succeed in it, no matter what it is.

But you've got to have leaders, and you've got to have role models, so to speak, to show that it can be done, and not that there's this glass ceiling, or whatever terminology you want to use for that.

So I appreciate your input on that.

AMY CRISS: Thank you.

SENATOR AKSHAR: I don't have any questions.

I just want to publicly thank you for your

tenacity.

You've been at the forefront of this, and really brought a lot of great ideas to members of the Senate, and, hopefully, some of them come to fruition.

AMY CRISS: I thank you all very much for listening to me over and over again, and anything I can do to help.

Thank you.

SENATOR AKSHAR: Thank you, Amy.

Allow me to invite Patrick Murnane to provide testimony now.

Patrick, sorry about the earlier confusion.

PATRICK MURNANE II: Hey, it's all right.

SENATOR AKSHAR: Welcome.

PATRICK MURNANE II: Thank you very much.

Good morning, Esteemed Senators.

First off, I'd like to start with a little bit about our firm.

Murnane Building Contractors is a second-generation construction company.

The company services the greater area of the following markets: Albany, Syracuse, Utica, Plattsburgh, and what I'm going to call the "Messina-Potsdam-Canton market," because it's all

three little towns that make up what we call "an area."

Our labor force is made up of union employees. These carpenters, laborers, ironworkers, and masons help us complete projects across Upstate New York.

Our public-private breakdown is about 90-to-10 percent, public to private, and our motto is "Building on a tradition of excellence." And we try to bring this to all of our projects irrespective of the state agency that we are working with.

The state agencies we routinely work with are DASNY, the State University Construction Fund, SUNY, New York State DOT, New York State DEC, OGS, and then all the various municipalities and local schools.

I'd really like to take you through, what I would like to talk about today would be, the waiver process.

Tina from Purcell had mentioned that they do not like to go through the waiver process. They try to meet the goals.

We do too; however, since I've been at Murnane Building Contractors since 2015, we have not

had a project meet the goals.

That's across my office, which covers Clinton County, Essex County, Warren County, St. Lawrence County, Franklin County, North Elba, which is still in Essex County, I think.

Anyways.

So contractors on bid day, as has been discussed, it's extremely stressful.

You know, it's like that feeling that you get when you are on a roller-coaster. You're coming to the top of it and you're, like, oh, my; oh, my; oh, my, and you're trying to make sure that you're covering everything.

You make sure that you've got everything covered from, you know, every screw that's going to go into the drywall, all the concrete, all the rebar. And when these contracts are upwards of 15 million, that's a lot.

As low bidders for the State of New York, we have to be as precise and concise as possible in order to get work to keep all of our employees working.

So, in the lucky event that we're a low bidder, we rejoice for about a half second before we then focus on the award letter that we just

received, which says, you know: Please provide your CCA-2s, your statement of ongoing jobs, and then the last bullet point is, your MWBE plan.

At that point, you've either estimated the job and you have all the quotes that were received on bid day, or you go into the office of the estimator and get those quotes.

You then input that data into a spreadsheet, with a nice pie chart, so that you can explain to the owner:

This is how much we're self-performing;

This is how much of the WBEs we have;

This is how much of the MBEs we have;

This is how much of the service-disabled veterans we have;

And then this part of the pie is parts of the scope that cannot be executed by MWBEs that we know of, or any contractors in New York State sometimes.

Sometimes there's specialty items that we have that nobody in the state can perform.

So we then compile all this information and we see where those numbers fall.

And as I just mentioned, we have never actually had a project meet the goals at 15 and 15.

So then we put all the information that we

have: All of our solicitations to contractors, both MWBE and non-MWBE; quotes received from low MWBEs, and quotes received from non-low MWBEs; and the quote from the company that beat them; and put it all into a package, send it off to the state agency.

Now, if your plan were to get approved, likely a week after you submit this initial package, you would get a request to provide bonds, insurance, and execute a contract.

The plan is never approved because the goals are not met. And they do not -- I have never had a state agency accept our good-faith effort on the first try.

So once the plan is not approved, which means that you didn't meet the goals, the contractor receives a formal rejection of the plan. It's not from ESD, but the actual agency itself that is letting the project. And it's mostly a statement that says, you know:

Dear Mr. Murnane:

Upon review of your plan and waiver request, we note that you did not meet the project goals. Please provide additional evidence of your good-faith effort.

So, at that point, I make the call

immediately to the person who reviewed the plan, and said, Okay, what more do you need, because we want to comply with the good-faith effort? We want to do everything we can to keep this moving forward as fast as possible.

And then they'll say, you know, We'd like evidence of your solicitations. We would like copies of the quotes.

And if we sent out e-mail notifications, they say, Well, you know what? E-mails aren't necessarily good enough. We want evidences of your phone calls that were made to your list of 200 to 300 contractors that you may have solicited, a breakdown of the project values and scopes, and then a letter explaining why the goals were (sic) met.

Typically, at that point, I point out to them that this was already submitted with the original package, as requested, within three days after notice of award.

And they'll tell you: You know what? It's not good enough.

So, since 2015, I have -- I've been a part of this process on seven projects.

I have the list here.

We met the WBE goal on three of them. We

have never met the MBE goal.

One of the interesting things, on Project 6 on my list, was a DASNY project for Whiteface Hall, SUNY Plattsburg, Plattsburg, New York.

They reduced the goals, from 8 percent, to 7 percent.

We were notified that we were awarded the project in January. And, from January until April, we spent time going over and over that initial plan submission, and making more phone calls, only to have no more participation, or, if it was, it was about a half a percent.

So it delayed the project award by four months, and it prevented us from getting started on the important things, like, scope breakdown, scope reviews, making sure that we had all the submittals in place to start the construction. And it can really be quite a hassle.

So that's some of the hardship that we deal with with this waiver submission.

And of these seven projects that I have on my list, that we have not met the goals on, the waiver always gets approved; however, it's always months, months at a time. Always one month or greater.

I think one month is the minimum -- or,

actually, I'm sorry.

I believe it's one month maximum that New York State has to review these waiver requests. And after that, they must approve it, or project it and provide reasoning.

And some of them are going longer because they don't submit your review for a request for a waiver right away.

So companies like DEC, DASNY, the ones that I mentioned earlier, you'll submit their plans, say, Please submit this to ESD, who I believe reviews the waivers.

But they will not.

They will review it in-house, and then they will kind of say, Okay, you know, you did not do a good enough job with your good-faith efforts.

And we have lists, we have the Executive Law 15-A, so we think that we have provided a good-faith effort.

And what I would like to share with you are copies of two approved plans, one by SUNY. And then one that was not approved by DOT.

This is my DOT plan. It's got a binder clip around it. It's one copy.

I have 10 copies of one approved by SUNY that

is 5 pages.

So there's a wide range of discrepancy across the various the state agencies of what is an "approved good-faith effort," and what isn't.

And I will pass these up to you after I'm done speaking.

So it just makes it very hard for construction contractors to do business with these agencies, not knowing what is required.

The next thing I just wanted to touch on briefly was cost.

I heard a lot of discussion about, you know, how does this impact the bottom line for the taxpayers of the state of New York?

I'll give you one example.

For a project -- bless you.

For projects in Plattsburg, we have -- we are union employees, we do State work. It's prevailing wage rate.

So we have a lower rate than the surrounding areas.

St. Lawrence County has a higher wage rate. Albany County has a higher wage rate.

On a recent project for the New York State DOT, we had, I think, three "steel erection" numbers

from WBE firms from Albany. They were all around $120,000.

We ended up self-performing it because we carried our number for self-performing at $75,000.

So that was -- if you're looking for percentages, that's around 35 percent higher to go to a WBE out of Albany, for the very reason that they're not going to ask their employees to travel from Albany to get paid less.

They're going to pay them the same rate that they would pay them in Albany, they're going to pay a per diem.

So all of these added costs are incorporated when they're pricing out a job out of their locale.

And what we have in Plattsburg, Franklin, St. Lawrence, all these counties in northern New York, is a lack of capacity to meet these goals.

So like Priscilla (sic) had mentioned, when you're going out to get these companies from Buffalo, Utica, Syracuse, to travel three hours to Watertown and Plattsburg, it does have an impact on cost for the taxpayers.

So I guess I'll close it there.

I had one more comment, but I think that there's a good dialogue going on here, and I don't

want to extend the session any longer than it needs to go on.

So I guess my two suggestions to cap this would be:

Make sure that there's some conformity across state agencies for what a "good-faith effort" is.

And, to make sure that the elements of cost are looked at when a WBE is submitting a bid, because these agencies will say, "Hey, why aren't you using this WBE steel erector out of Albany?" even though I have given them the information that, you know, it's saving the State money.

Didn't carry them. It was more cost-effective to do it ourselves at a cheaper price, and, ultimately, the taxpayer benefits.

Thank you very much, and I welcome questions.

SENATOR AKSHAR: Senator Ritchie.

SENATOR RITCHIE: Yes.

The first question is just to follow up on the conformity issues.

So there are certain state agencies that the waiver process is somewhat streamlined, and that you can rely on what the outcome is going to be?

PATRICK MURNANE II: What state agency is that?

I'm not sure.

No.

SENATOR RITCHIE: Okay. Well, I -- no, I thought you said that there was a difference between the two. One has --

PATRICK MURNANE II: No, there is not.

They always -- every agency has always asked, If you do not meet the goal, please try harder.

They love expressions in the construction industry.

I hear "Give it the old college try" a lot.

I hear "Buckle down and bear up and do it."

And, you know, sometimes we can squeeze out a little bit more, you know, half a percent to a percent.

But we never actually meet the goals with these second and third efforts that delay the prosecution of the work.

SENATOR RITCHIE: So when you're talking about "conformity," there is still a difference between state agencies.

I'm assuming, are they all bad?

Some are better than --

PATRICK MURNANE II: Some are better than others.

SUNY, I think, has been doing a great job working with contractors, and I think they've been modifying goals per regions.

They've been taking a look at, okay, what is the capacity?

Because -- I have a chart that I submitted to DOT, where I went through the database from ESD, you know, and highlighted: Okay, this is a compatible scope. Out of the 300 contractors that you have listed, 40 work within the scopes of this project, and only 20 would even think about traveling here.

So it --

SENATOR RITCHIE: Just looking at, if there is an agency, and if SUNY is the one that is actually making the process a little easier, it would be good to see what the difference is if we're trying to make the program better.

PATRICK MURNANE II: Yes, SUNY would be the one that I believe is working on it. And DASNY is too.

As you see, as I mentioned, they did lower their goals on a 2018 job that was bid for Whiteface Hall, to 8 percent for MBE and 7 percent for WBEs.

We met the WBE goal, but we did not achieve any MBE participation.

SENATOR RITCHIE: Okay.

And I guess my last is just a comment, that, given how long this process takes you, you know, months out, with delaying the actual project, that if you could have found those businesses, it would have been a lot less work and a lot less money to just hire those companies versus trying to skirt the rules and drag it out.

So I guess what I'm trying to say is, that if we're trying to make this better, capacity is the issue. And, you know, everybody wants to make sure that we're following the rules and everybody's trying.

But it's kind of hard to believe that you wouldn't be trying to do that if you were causing the company to delay a project for six months.

It just doesn't make sense.

You would have just hired those companies in order to conform.

PATRICK MURNANE II: Right. And we love capacity.

SENATOR RITCHIE: So it's a real problem.

PATRICK MURNANE II: It is a problem.

And we love capacity.

In the construction industry we're low

bidders.

We welcome more capacity in the subtrades.

We welcome competition from all of the other firms in the area because it gives us a barometer of where we are with our rates, and it allows us to, you know, fine-tune our pencils and keep working.

SENATOR RITCHIE: Thank you.

PATRICK MURNANE II: Thank you.

SENATOR AKSHAR: Senator Little.

SENATOR LITTLE: Thank you.

And thank you, Patrick.

Murnane is located, headquarters, in Plattsburgh.

Two things:

This program, which I supported, and voted for, was a goal; a statewide goal.

And it got changed, so that it's a goal for each and every project, and it's not even a goal anymore. It's a requirement.

And no place in the legislation did it say that.

And you talked about getting a requirement to have 15 percent minority, 15 percent women.

No place in the legislation did it ever state that.

We never voted for that.

You could meet the women because you had the capacity for a women-owned business.

You could not meet the minority portion.

We had one, the Wild Center in Tupper Lake. They gave them 13 percent women-owned business; 12 percent -- at the time it was 25 requirement -- minority-owned women -- business. They all had to come from Syracuse.

No place did it ever say that.

And we have got to get to the root of some of these regulations that have been added, I think mostly by staff, and, you know, wanting to make this program work, and it wasn't working.

So, let's just up the ante here.

But I know it's cost you a lot of money, and I know you've worked hard to try to meet the goals, and you do a lot of good work.

And as you said, and I never knew this, that when a company comes from Albany, you have to pay the prevailing wage in Albany, the capital district.

PATRICK MURNANE II: Well, they don't have to.

SENATOR LITTLE: But --

PATRICK MURNANE II: They don't have to.

But if you're going to ask somebody to go work out of district --

SENATOR LITTLE: They're not going come otherwise.

Right.

I didn't know that.

So that's an added cost.

PATRICK MURNANE II: Uh-huh.

SENATOR LITTLE: But thank you for being here, and you give some really good specific examples.

SENATOR AKSHAR: Senator O'Mara.

SENATOR O'MARA: Thank you for being here.

In your process in these requests for waivers, has any state agency actually suggested a particular MWBE, saying: You haven't done your full-faith effort. Have you checked with this particular company?

PATRICK MURNANE II: Yes, they have.

And oftentimes we've already checked with them, and they just either missed some of the list.

We'll, also, a lot of times call them, and we'll get no callback.

I've never had a state agency -- actually, I'm sorry.

There was one time I got an extra concrete price that was on budget from a WBE suggested by DASNY out of Albany, to come up and do sidewalks on a job.

So, there was one.

But, every time they say, Hey, have you thought about this company? Have you thought about this company?

And we always ask them, but we never get any response.

SENATOR O'MARA: If that contractor was going to come up and do sidewalks, how far of a commute would that be from Albany?

PATRICK MURNANE II: Two and a half hours.

SENATOR O'MARA: And that would be bringing their equipment -- concrete trucks, the forms, everything else -- driving that distance to do that job?

PATRICK MURNANE II: That is correct.

SENATOR O'MARA: Now, each -- according to the law that we passed, each contract being issued is supposed to have its own particular goal.

Have you seen any difference, from one contract to another, as far as how they've looked at what the goal should be on that particular project?

PATRICK MURNANE II: Of the seven projects that I have on my list, only one had less than a 30 percent goal.

They did vary.

Sometimes it was 15/15, sometimes it was 13/17, sometimes was 18/12; but they were always 30 percent.

Up until this -- up until 20 -- 2018, we have started to see, in Plattsburgh, modifications by DASNY and SUNY to these goals.

So I -- it's a welcomed sight.

But, still, the waiver process is: You're not doing a good enough job. We dropped these goals for you. How come you didn't meet the dropped goals?

Because the problem still exists, there's a lack of capacity. There's a lack of qualified WMBEs (sic) who submitted bids to do this work.

SENATOR O'MARA: Thank you.

SENATOR AKSHAR: Senator Sanders.

SENATOR SANDERS: Thank you.

I'm not familiar with your company, so you'll forgive if I ask you a few questions.

Just -- you have 500 employees, I believe -- around 500 employees?

PATRICK MURNANE II: 350, I would say.

SENATOR SANDERS: Okay.

What percentage of that is women?

PATRICK MURNANE II: In the labor force, it would probably be about 6 percent.

I would say, on the office staff, it's a little bit higher. I would say it's around 30 percent.

SENATOR SANDERS: I'll be kind and not ask about people of color.

Well, I'll -- what percentage are people of color? Less than 6 percent?

PATRICK MURNANE II: It depends.

Albany, it's much higher.

Plattsburgh, the carpenters, laborers, and masons are predominantly White.

Our ironworkers are all Native American, for the most part. About 60/40, Native American-to-White ironworkers.

Albany, our labor force is a little bit more African-American, a little bit more Latino.

Syracuse and Utica, less so, but more diversity than Plattsburgh.

Plattsburgh is, by far, the least diverse.

SENATOR SANDERS: So you're big enough to

compete with some of the big guys.

Every industry has a top four.

How many times have you been beaten out by the big guys?

PATRICK MURNANE II: That's tough to say.

SENATOR SANDERS: A guesstimate.

PATRICK MURNANE II: When you mention "the big guys," I think of the Turner constructions, the Skanskas, the Suffolk, the Samants (ph.).

SENATOR SANDERS: The big guys that you compete against.

PATRICK MURNANE II: Well, the big guys that we compete against --

SENATOR SANDERS: You don't have to name them.

PATRICK MURNANE II: -- okay.

30 percent, we win our bids, I would say.

We -- one in three jobs we're lucky to win.

It's a competitive market up here.

There's Betty and Crane (sic), Northland, Purcell, these companies across Upstate New York, that I wouldn't characterize any of them as "big guys."

I think that they're all pretty small and tight and competitive.

The Pikes, all of the companies in Syracuse, that you'll see seven companies on a bid. It's not like they're giants in Upstate New York.

Everybody is struggling for a piece of the pie.

SENATOR SANDERS: So there are no giants, by and large.

Just trying to figure the economy.

PATRICK MURNANE II: No, the only giants that we actually see are actually brought on as construction managers for a lot of these Wicks Law projects, that have to -- because I believe Wicks Law requires a construction manager to coordinate the trades.

So, sometimes local schools with big $15 million renovation jobs will bring on a Turner Construction Company, who is one of the top ten in the United States, to manage the process. But they will still hire companies, like Murnane, to try to do the concrete, or -- et cetera.

SENATOR SANDERS: My last point, you had shown -- I think Senator Ritchie drew attention, you had shown two different contracts, or two different --

PATRICK MURNANE II: Yes.

SENATOR SANDERS: -- contract ways of dealing with addressing it.

Were they for the same amount or for different amounts?

PATRICK MURNANE II: This one was 6.4.

This one was 4 million.

SENATOR SANDERS: Roughly the same.

I mean, you know, God willing, you won both.

PATRICK MURNANE II: Yes, we did.

SENATOR SANDERS: Now you're talking.

I'm through.

Thank you.

SENATOR AKSHAR: Okay.

Thank you very much, Patrick.

PATRICK MURNANE II: Thank you.

SENATOR SANDERS: Thank you, sir.

SENATOR AKSHAR: Okay.

I'm going to invite Andy Breuer, Casey Burns, and Kim, is it, Bovee? Bovee (different pronunciation)?

Bovee.

We're going to get you another chair, right now.

Danny, wherever you are, Danny Fitzpatrick, you're on deck, my brother. Okay?

Welcome.

Andy, go ahead.

ANDY BREUER: Thank you again for posting this event, Senators, and for those of you participating in the panel.

Andy Breuer, Hueber-Breuer Construction.

We are a Syracuse-based construction manager and general contractor.

And for the sake of brevity, and not being redundant with some of the good comments that have already, I think you can largely draw a lot of parallels in terms of size, bandwidths of geography and projects, to how Hueber-Breuer operates, and how Murnane Construction, and Patrick who just spoke before me.

Geography is a little different.

They're northeast New York-based, where we are central New York-based, but, I could largely paint a picture very much in parallel with everything that Patrick just said.

But for the sake of brevity, I'll just try to hit on some new points.

First of all, Mike Elmendorf with AGC --

So the AGC of New York State, if you're not familiar, is our trade organization. So a number of

us here today, certainly Purcell, ourselves, Murnane, many others, we -- this is the trade organization we rely on.

-- and those of you who participated in the Albany summit will, hopefully, recall Mike Elmendorf, our president's, testimony here.

This document, and the appendices he included with it, is very all-encompassing.

A lot of the commentary that's already been discussed by Mr. Carroll, and, Senator Sanders, you spoke on the Croson case law, the research and the data that has gone into this, while I'll admit it is not a "Harry Potter" novel, you might need a strong cup of coffee to get through it, but, I would encourage you to do so.

There's tremendous information in this document. It, very effectively, establishes not only the position, but, really, the sentiment and the emotion behind this challenge for organizations like ours.

But I really think that the history and the constitutionality of it is very well reflected in this document.

Senator Little, you were very right to say this has gone well beyond a goal.

This is now a mandate, and I'd even say an executive edict.

It is -- you know, pushing back on that edict is where we need the help, respecting the law, respecting how this evolved from the 2010 disparity study.

And I'll call the "23 percent" requirement that, essentially, was established for that disparate study, and acknowledging the lack of effectiveness of the 2016 revisit to the disparity study.

Those are all very important points to how we consider how we got here today.

We spoke -- folks have touched on regionality.

I strongly encourage you to think about the regionality, not just because of the autonomy it can give to agencies, and the authority it can give, but to the accessibility.

I think it would be very helpful to somebody, like a Purcell, to be able to come and meet with someone in this office building, and speak to the challenges of a specific goal.

So I hope you'll, you know, give credence to those local municipalities, local agencies, that are

going to know best what the demographics are that make up their regions.

I think, in terms of qualification of companies, the certification criteria, the application, I want to touch on the fact that it's very hard for us in a mentor role to work with entrepreneurs within our ranks.

And Greg and I touched on that.

You find an ambitious entrepreneurial person in your workforce, a tradesman, and you want to support that person.

They're worried about keeping the lights on, keeping food on the table.

They are not necessarily worried about contract management, about continuing education, about bonding and liability insurance.

These are the things that folks in the mentor role, like ourselves, we can do to encourage those folks.

But right now, at the certification level, it's almost a stain for me to say: I have supported a person of color or a woman business to get started.

I have kept that person in that 24-month window of positive cash flow by keeping them busy.

If they can only show that they've been busy working for one construction manager, one general contractor, they will not be certified. They'll be roundly rejected.

So, in those cases, I think it actually discourages competition, and the growth of a new business in a state where, frankly, the barriers of entry, labor law.

We don't have to go into 240, 241, but, that's a whole other topic.

So, ultimately, I think that, when you get into Elmendorf's testimony letter here, the white paper, and you look at how the waivers have increased since the 2014 edict, it clearly shows how unattainable these goals are, particularly in this region.

So I urge you to consider it and to help strengthen this position.

Thank you again.

SENATOR AKSHAR: Thank you, Andy.

Kim.

KIM BOVEE: I would like to start out by thanking you for letting me offer this testimony today.

My name is Kim Bovee, and I am the president

of J&R Electric, a small electrical contractor that serves a large part of northern New York.

On the average, we extend up to a 100-mile radius from our office which is in Pierrepont Manor, New York, the southernmost part of Jefferson County.

We are a signatory contractor with IBEW locals in Watertown, Syracuse, Binghamton, and Geneva.

We employ anywhere from 10 to 20 employees, depending on our workload, who are highly-trained electricians.

My father-in-law and husband started the business in the early 1990s, and I became active in the 2000s learning everything I possibly could.

The three of us ran the business together for many years. And with my commitment and hard work, I became the president and majority owner in 2008.

We considered applying for my WBE certification at that point, with hopes that we could capture some additional work in the future, as the WBE requirements were starting to come into the picture.

We decided to wait a few years before we applied for our WBE certification so there wouldn't be any doubt that I was capable to run our company

the way it had been for the past 20 years.

In 2014 I decided it was time to start the WBE application process.

Unfortunately, with the overwhelming amount of time required and time restraints for the process, I gave up.

It was extremely complicated process and time-consuming, and I couldn't run a business and do that at the same time.

My experience with the State's WBE application process was not a positive one, and this is kind of where my story begins.

After reviewing our financials with our accountant in 2015, we were looking back at some projects that we would have typically done, as we do a lot of specialty electrical work. And after a few phone calls, realized we had lost them to contractors downstate, approximately, 500,000 to date.

We discussed in depth with our accountant the impact the WBE certification could have on the future of our company, and decided, with his help, that we would tackle the application process again.

Our accountant also recommended we submit a separate application for our JRE Leasing, as the two

companies are tied together and could also lead to potential work in the future.

We finalized and submitted both applications in March of 2016, with no response after numerous attempts to contact the agency to see the status of our application.

We received confirmation in December of 2016 that they were both under review.

With much regret, on February 3rd of '17, we received our denial letters in the mail.

At first review, the reasons for denial looked accurate, but after a week or so, we decided to talk to our attorney.

He and our accountant recommended asking for appeal, so we did.

After a month with no response, and a call from our attorney into the agency, we had a phone-call appeal.

We explained in depth, as much as we could over the phone, exactly what I have put in this letter.

My husband and I don't have separate bank accounts.

Why does it matter if I make less money than he? We file jointly on our income tax returns.

How does it makes sense that I don't have the managerial experience to run the business, when I've been doing it for 10-plus years?

I'm not an electrician, nor do I plan to be, but I certainly assist in the daily activities with our 10 to 20 electricians that work for us.

I'm active in purchasing materials.

I am active in "WIN," which is Women in NECA (the National Electrical Contractors Association).

I've attended numerous conferences and seminars regarding our industry.

Who is making these determinations and setting criteria to determine who can be president of my company, be the majority shareholder, determine what that individual should earn or possess in knowledge?

How is it fair to the small companies like ours, that have worked hard for many years to establish a business, create great partnerships with clients, and slowly lose work to WBEs due to the State's requirements in this regard because I cannot get certified.

We are often a subcontractor to a subcontractor on public projects.

I question the competitive bid process that

has been in place at our level for years.

Larger companies have the leverage to pick and choose sub of subs, regardless of cost, to help meet the MWBE requirements.

I'm not sure that's the intent of this program.

If this application process is so difficult that you are denying certification to legitimate woman-owned and -operated businesses, what business do you expect will be available to fulfill the current W -- MWBE participation requirements being imposed statewide?

If there are limitations on net worth, which disqualifies companies once they become too successful, how will these goals ever be addressed?

If, and when, I obtain by WBE certification, am I to live in fear of having to revoke once I become too successful?

We have two children, Chelsea and Tucker, who have started working in the business, and plan on making it their future professions when they finish their education.

I'm willing to bet they will work as hard as we have to see the company grow.

I just hope that the State doesn't keep

upping the mandates to put a hard-working three-generation family business under.

I have to, and will, wait another year to start the application process again.

I believe in this program and I want to participate in it.

However, the issues I have previously mentioned need to be addressed; otherwise, you will fail to enlarge the pool of legitimate WBE businesses to address the volume of the construction work being done in this state.

Thank you for your time.

SENATOR AKSHAR: Kim, thank you.

Casey.

EDWARD CASEY BURNS: Yes, thank you.

My name is Edward Casey Burns. I'm the president of Tuscarora Construction Company. We're located in Pulaski, New York.

We are a member of the AGC, as many are here.

I think we're the only heavy highway, because I'm a heavy highway contractor.

And I'm going to cut through much of what I wanted to talk about because it's already been talked about, and, apparently, in other hearings too. So I'm going to try to make this simple.

I think what I'd like to do is, is -- we have a -- we obviously have a problem with ever-rising requirements to hire MWBE firms, and the requirements about pace, the capacity, and I think that's been clear to everybody.

And we've talked a lot, regionally, about because of demographic makeups and things, where our minority firms are coming from.

So -- and we focused on that a little bit.

I also want to make a point, while I can, as a heavy highway contractor, that, although all businesses of all kinds have certain commonality, construction has its own unique features, which I think we understand.

Within construction there's also different types of firms.

And most of the people, you know, who have been here, have been either subcontractors or building contractors.

And, the vertical construction is different than the horizontal construction in a way, that the makeup of the contracts are different.

Buildings have more pieces and parts. They possibly have more opportunities for subcontracting.

As a highway contractor --

We used to do a lot of highway, we don't anymore.

-- we do bridges, are -- which have more pieces and parts, there are less opportunity along the way to subcontract work.

In our bridge projects, and we do bridge projects -- we work more in central and northern New York.

We currently have two bridges in process. We're doing one for St. Lawrence County. We're doing one for Jefferson County.

These are sponsored by the DOT. These are locally-administered projects. They're federally- and state-funded, so we're under all the requirements.

But within that process, our particular jobs, the goals were set low, and, apparently, these projects were in line prior to the goals being raised recently.

We have relatively low goals. They were 7 percent each, combined.

We made those -- we made those easily, but we made those by using the same -- essentially, the same subcontractors on both jobs: traffic control signs, bridge and guardrail, reinforcing steel

installation.

Those same three contractors, subcontractors, we used on both jobs.

On the other job, which happened to be Jefferson County, there is a different item for some -- of a large amount of waterproofing. It's a specialty product.

We have one woman's business coming out of the Hudson Valley area. That's what she does, she travels to do it. They're happy to do it.

And there's some line striping.

But there's relatively small -- these are small subcontracting opportunities.

So when we're setting up goals, I think it's important to look at the nature of each project, and I'll get back to that in a minute.

I guess, looking forward, I'm going to just -- one of the reasons you're here, I think, is to hear, not only what our problems are, but maybe some ideas to move past our problems.

And I've kind of broken it down in my head in a couple of different ways.

One is, what's our immediate future going to be for this program?

I think, right now, what it appears that

we're dealing with, is the lack of available MWBE firms in numbers and in capacity, and that's especially true in central and northern New York.

So I have a couple -- just a couple thoughts, if you would, please.

In the absence of a comprehensive, accurate needs study, I think -- and I know there's executive issues here, but I think we need to do away with arbitrary statewide utilization requirements. That the goal should be set on specific projects based upon the actual work requirements and the opportunities generated by these projects, because that's really what we're talking about here. Right?

The public money, the public funds, are generating opportunities for all of us, right, all of us in our business.

And we do want to get that distributed properly, but it's not the same everywhere, and it's not the same for each project.

And I would suggest that the agencies that are putting these projects out, right, that are doing the design, setting up the lettings, who understand their work.

Whether it be the DOT, they understand highway work;

Whether it be the OGS, or the dormitory authority, they understand their projects, they understand their contractors.

They have history.

They have lists of people they know it works and doesn't work.

That those -- at the very least, the program needs to use their input to establish the goals, and it could be established as easily in the design process as finding out whether you want to have a steel beam or a concrete beam.

Right? It's just part of the process.

I think it could work.

And I -- but I -- I mean, I believe it needs to work.

And I believe that's, essentially, what happened when the program was first set up many years ago, that we -- they try -- you know, there was an attempt to try to figure out what the availability was.

And we've pushed beyond that for reasons other than the physical construction work, which I think goes counter to what's going to be successful.

The other thing that I made note in listening

to people talk here, is I think we need to do away with penalizing the agencies and the contractors who fail to meet arbitrary goals.

Pulling back agency funding, assessing liquidated damages against contractors, and withholding payments for work that's already completed does nothing to increase available women and minority businesses.

It just doesn't.

It does put pressure on general contractors to look harder, push harder, but, in the long run, it's counterproductive to penalize the people you're relying on to make this program work.

I would suggest, and this is more of a regulatory, or maybe an agency, idea:

You know, we've been talking here, and we've been combining in our minds, and we do, you know, even in some of the projects, we call -- you know, as a WBE, we combine the women and minority goals into one, and we talk about one goal, and at least in the highway end.

In the federally-funded projects, that's allowed, and that's encouraged, by the federal people putting the federal money in.

With state -- simply state-funded-only jobs,

we are required to keep those separate. And I understand there might be some reason for that.

Frankly, especially in Upstate New York, we may have less minority firms available, right, and so they don't want to feel bypassed or overlooked. Right?

And I understand it -- that.

However, if we are talking about bringing in people, like disabled veterans, and things like that, that the idea of just adding more on; adding more percentages on to percentages that are already aren't being met, aren't going to make it easier to meet the goals.

It's just going to make it harder and it's going have more problems.

So I think that at least a discussion should be had within the agencies of combining whatever goals, or whatever requirements you think you may want, to further -- you know, further the, I don't want to say the advocacy of any particular group, right, but you could -- should combine that, and try to keep those -- all of those -- the total should be within a reasonable amount.

As I said earlier, if you're only subcontracting 20 percent of the job, you can make

the goal 60 percent. It's not going to be met. It's just not going to happen.

The other thing, as far under an immediate -- I think something immediately needs to be done, is to improve the outreach process.

As Pat Murnane was talking about it, some of the things you do when you're trying to get a waiver, or trying to meet your goals, Tina Purcell talked a little bit about the same thing, oftentimes -- and bidding is a stressful time.

You oftentimes don't -- everybody thinks, well, you have all this time to put all these bids together.

Well, you start putting your bid together, but, when you're waiting for pricing from suppliers and subcontractors, it often happens, literally, at the 11th hour, you get all your numbers, and then you add it up in a hurry.

You've got a month to get ready, and they got a half hour to put it together.

And those things happen.

So you don't always make your goals.

It's nice if you do.

But usually what happens is, you get your solid prices from your solid subcontractors, both

minority and non-minority, women and non-women, because they -- you've worked with them, they have comfort, you know them, they come in.

If you miss the goal, now you're back out looking.

And I can't tell you the number of times that we go back and we say to whatever the agency might be, Well, we've submitted, here we have it. We didn't make it. What do we do?

And the response is, Well, we have a link for that, and you can link on and you can get the list.

It's thousands.

The last time I did it, which was recently, I think there was 4800 firms.

The first one happens to be a consulting firm out of Falls Church, Virginia.

It goes on and on and on.

And you don't know who these people are. It's just -- I mean, it's 4800 names.

And we've had -- and the answer is: Go to them and reach out and get them.

Oof.

I mean, it's -- if you try to look, and then you try to look, and you can -- you know, you can narrow your search.

But it's -- when you get down to it, I tried that, and the last time it came up, I came up with less than 40 who have construction credentials in the North Country, or who profess to work in the North Country.

Some of them we knew.

Some of them don't do the work that we try to do.

Some of them I don't believe are even functional anymore. We used to work with them.

And the list doesn't include people that we already are subcontracting to.

And I guess the -- kind of the point is two things.

One is, that the agencies that have knowledge in the kind of work that they do I think could help foster that list.

You need the whole list, and not -- you know, obviously, the bureaucracy, the people that have to work with -- and try to put this program together, you know, you're a bit of a -- you're at -- you need the input.

You're -- you -- the people come to you, they give the information. You have to put it together in a list. Your hands are kind of tied.

The departments can't make people come and sign up.

However, just by making a list and putting nothing else into it, not trying to sort it through, not trying to help, not trying to put out a list, maybe a department list, does not aid in going out with your outreach after bid.

And I don't want to beat that horse; it's already dead.

One idea that might help, and this is -- I'm not trying to put more work on the departments -- pre-bid.

Pre-bid.

We have advertisements for pre-bid.

If an agency knows they're bidding, you know, a bridge or a building, or whatever they happen to be putting together, and you've advertised for the bid, they also have been receiving the submittals for the packages after every bid.

You know, we call -- they have a -- a -- AAP 19s within the department of transportation. Right? They have your list of your -- of your minority and women businesses.

They have those; they have them from all the con -- competitors, all the different contractors.

They have these lists, they know who's bidding.

It was easy -- it would be easy if they put simply a mail list, you know, a listserv, kind of a list together.

And they could, as part of their bid advertisement process, is simply put out a bulk mail on every job that went out. And you could even attach -- attach a link to the job documents. And if you have an attachment to the plan holder's list, attach it.

There's nothing reason about going out early. Right?

Because they're relying on the contractors to do it now.

And like I say, you're trying to put a bid together, you're mostly dealing with people you know, you're mostly dealing with people you have comfort with. You're not going out to everybody.

So that's just an idea.

It may or may not work, but you can put it in your list of things to do.

Long-term -- intermediate and long-term future.

That's hard, frankly, I think, because it's

going to involve increasing the number and capacity of MWBE firms in construction-related fields.

And, let's face it, we have a problem, I think, in the construction industry.

We aren't bringing young people in.

We aren't bringing people in.

It is not a sexy career anymore.

Everybody wants to be in IT or a professional.

It's tough to find people who want to work in a craft, but -- and part of it is our fault.

And the AGC, I know, has done work, you know, job fairs and outreach for -- in schools and things.

But construction is much more than just driving nails. There's a lot to it.

There's a lot of business into it.

There's engineering with it.

There's a lot to that.

But, somehow, our future in -- for an MWBE program involves bringing more firms together, but you need to build that from the foundation.

And what I -- in the long term, you're going to need to bring youth, young people in, young people who want to be business leaders, people who have an interest and an aptitude, you know, for

construction, and have training in whatever the field it might be.

It might be engineering, it might be business, it might be accounting; all those things that might go into running a business.

Because now we're talking about our business firms.

The point was made earlier, not everybody wants to own a business.

That's for sure.

Right?

And they are a little bit tied together.

But the understanding of this working group is for -- to promote minority businesses.

But, somehow, you need to start that by bringing people into the industry who want to be in construction, number one. And then might realize they might also want to own a business.

And how you do that legislatively, I don't know. That's difficult.

That's -- for me, that's a difficult concept:

How do you get the young people?

How do you get those kids that are 15, 16, 18, 20 years old now, to take an interest, to go to engineering school.

There's plenty of them in New York to go to. They're great ones.

I didn't.

I went out of state, but I came back.

You know, and all that is available here in New York.

It's a great place to be, it's a great place to live.

I spent a lot of time in the North Country. I grew up mostly on the St. Lawrence River.

It's disheartening at times to see the difficulties the North Country faces.

But, thank you for putting this together, and listening to me. (Indiscernible.)

Thank you.

SENATOR AKSHAR: Thank you, Mr. Burns.

Senator Ritchie.

SENATOR RITCHIE: Kim, just, I think what you had to say kind of showcases the whole issue, capacity issue.

If we're already dealing with that, you would think the State would be working across the board to simplify it, to make sure there's resources on the ground to help people who are applying, versus drawing it out and then finding reasons to deny

people certification.

So, I appreciate you coming and telling your story because that kind of showcases the reality of how long it takes to get certified.

And, Andy and Casey, thank you for coming.

You kind of talked about something that we've talked about here, about making sure that there's some kind of outreach locally in the region when issues come up; instead of trying to reach out to somebody on the phone, having somebody there in person who knows what needs to be done to help you make your way through that.

So your comments certainly take those to heart, because we've already mentioned that that's something, along with building capacity, that need to happen.

Thanks for coming.

SENATOR AKSHAR: Senator Little.

SENATOR LITTLE: Thank you.

This is really one of the better hearings I think that we've had, because we're really getting specific examples, and we're getting some ideas, going forward.

So, thank you.

Kim, you, in your discussion, have proven

that being an MWBE is an asset, because you've seen that you lost business to out-of-state, out-of-the-region companies, because you're not.

The second thing is, you talked about your family-owned business and you want to pass it on to your children.

I assume they were a boy and a girl?

KIM BOVEE: Yes.

SENATOR LITTLE: This agency, and this whole MWBE, does not understand family-owned businesses.

So you've got to tell your daughter that she's going to have to have a bigger share of the inheritance than your son, and that she can't make as much money.

Even if, we had one case, where it was a sister and brother, and they were denied. The brother was making more money than the sister.

While the brother was out getting the contracts, and out in the field, where she was doing the management, the hiring, the human resources, all kinds of the paperwork, the bidding, the whole thing, putting everything together.

He could do it, but he had to do it as a commission.

But if it was his salary, couldn't -- they

weren't eligible, and they got denied.

There's something wrong.

That they have to begin to understand that, in the North Country, a lot of our businesses are family-owned businesses, and they're generational, and we're happy about that; that people aren't moving away, that are staying here.

And this doesn't encourage that.

So I thank you very much.

The other thing I think is, someone mentioned the federal minority- and women-owned business.

If we had that as a basis, and then maybe we had some enhancements to it, where it's possible, maybe we could work on something look that, because that's easier to get and more reasonable.

And the other thing, having a face-to-face meeting.

If in the North Country you could come here to this building, meet with people, get a yes or no, you need this, you don't need that, this is wrong, and as a pre, before you apply, that would be very helpful.

So, thank you to all of you for being here.

SENATOR AKSHAR: Senator O'Mara.

SENATOR O'MARA: Yes.

Thank you.

Casey, I want to thank you for your comments, particularly in regards to workforce development, and those issues of how we get younger people interested in these types of careers.

I'm a firm believer that, over the past several decades, our education system has failed a large segment of our youth by forcing everybody towards college.

We've done it in our high school degree programs.

BOCES had gotten away from career technical training.

We are doing a lot of work, all of us here, and the Legislature as a whole; that's the number-one issue we have.

Jobs are out there.

It's skilled people to fill those jobs.

I think we're seeing some progress through our BOCES in getting back into more -- some of this stuff, and, certainly, working in coordination with our community colleges.

In my area we have seen positive steps, but we've got a long ways to go, and it's changing a whole mindset of, every kid must go to college,

which just isn't realistic. And we've been chasing that for far too long. So that's a goal of ours.

And, Kim, your story is one that I hear every other week.

My office, and I'm sure every one of my colleagues' offices, deals, virtually, weekly with a new entity trying to be qualified as an MWBE.

The process is onerous, it's non-responsive, it takes too long, and people give up, like you did.

There seems to be a presumption from -- in the qualification process, that the woman or the minority is trying to scam the operation. That there's no way that you, as a woman, are qualified to run this business, which is totally the anti of what we're trying to do here.

That you, who is not an electrician, but runs the business, is not really running the business.

I see it time and time again.

And, my office, and, you know, work with whoever your Assembly and senator representatives are, because we do a lot of work on this.

And, you know, I wish I could say we get better results.

Every once in a while we pull a rabbit out of a hat, but, things just languish far too long.

For the importance that this Administration is trying to put on promoting minority and women-owned businesses, to qualify as one takes half a decade to do it, and they accuse you of being a liar and a cheat the entire time.

KIM BOVEE: Right.

SENATOR O'MARA: And that's a horrible thing to be put through by our state government.

So, thank you for sharing that with us today.

KIM BOVEE: Thank you.

SENATOR AKSHAR: I want to welcome our esteemed colleague hailing all the way from Nassau County, Senator Kemp Hannon.

Senator, thank you for joining us.

SENATOR HANNON: (Inaudible.)

SENATOR AKSHAR: Senator Sanders.

SENATOR SANDERS: Thank you.

I think that one of the things that we -- that the panel has certainly seen, or pointed out, is that lists a dynamic. That every time you create -- anytime you make a list, it's already wrong.

Somebody's dropping out. Somebody's coming in.

Somebody -- anytime that you make a list,

it's already wrong.

So lists are dynamic. You have to have people prune the list. They have to go steadily into it and make sure that the list is real.

One of the things that we will have to look at is the underfunded -- I hate the word -- compliance unit; the unit that is supposed to -- somebody should be managing the list. And perhaps it should be the agency itself, and, they should, in one sense, vet the list.

Imagine how much time that would cut down for you, Mr. Burns, if there were a true list that was vetted; that everybody on there had the ability to do the work, et cetera.

And under those conditions, it might be good to give that task to them, in exchange for us backing a proper -- I mean, I don't know how many people they have.

I think they have around six to eight people, or something like that, to do the entire state.

Come on now, you can't do it.

I mean, this is not Rhode Island, as worthy as Rhode Island is.

Maybe six to eight in Rhode Island would be more than enough.

But, here, you could easily use three times that amount to cut down on the time that people have.

So, even as we think of things, we should be trading things off and say, Hey, we'll give you more funding, assuming that we can work out what they are doing, what -- you know, making sure that they are going the right thing, whatever that -- we decide that is.

Just observations.

I may have some disagreements with different points that some people have.

But, the points that you're raising are valid and really need to be addressed; they need answers.

Thank you to all of the panel.

Chairs.

SENATOR AKSHAR: Thank you all for your testimony.

In the interest of time, we're going to do a little combination effort here.

So, Danny Fitzpatrick, I'll invite you up, and Barry Smith and Holly House.

SENATOR AKSHAR: You okay with that?

SENATOR RITCHIE: (Nods head.)

SENATOR AKSHAR: Mr. Fitzpatrick, the floor

is yours.

DANNY FITZPATRICK: Thank you very much, Senator.

And, Senators, thank you for being here; it's very much appreciated.

Today I'm here actually in a dual capacity.

I am both an employee of the Onondaga County Water Authority, and the Lafayette Town Supervisor.

And I previously submitted to Senator Ritchie's staff our commentary from the water authority about the potential changes to the MWBE requirements, particularly the ones that were proposed by the Governor's Office earlier this year, which included a 53 percent requirement on construction projects.

As supervisor, which is where I prepared most of my remarks, we have had an interesting experience with the MWBE program.

As, you know, a newly-elected supervisor, I've met with our association of towns in Onondaga County, and I said, What are we doing about this?

And the universal answer was: Nothing.

We're not speaking out, we're not talking to people, we're not getting involved, and, we don't care.

Which I -- to me, seemed to be the wrong approach to this.

This is a serious matter that affects us anytime we're doing business with the State, anytime we're doing business with the County.

And with, especially in Onondaga County, where "consolidation" has become the big word of the day, and we move towards more and more consolidation, this will become more and more the business of the town.

In my short time as supervisor, and following in my predecessor's footsteps, I think it's very important to focus on how the local development in our area, as opposed to bringing in contractors from Buffalo and New York City.

For us, we've been very fortunate.

Our Town employs an engineering firm. Six of those engineers live in town.

Our Town attorney's from our town.

Almost all of our Town contractors have some direct connection to the town or the surrounding towns.

If you take the six surrounding towns around Lafayette, there's almost 100,000 people. It's larger than many counties in New York. And -- but

the demographics there do not reflect, much less a 30 percent, much less a 53 percent, MWBE requirement.

It's just not reflective of the makeup.

We're almost 94 percent Caucasian in those six towns.

There's no way we're going to be able to meet these requirements and keep the jobs where we live, amongst our neighbors, which I think is the most important part of all of this.

And I think, from a Town perspective, from a perspective, not speaking for the association, but in my involvement with the association, I'm going to encourage them to become more involved and more aware of this, especially as we consolidate.

You know, we -- in Lafayette, we've consolidated with four other towns for trash service. And even with the consolidation, and just bidding it out this past week, we got two bids, yet neither were qualified for MWBE.

And even if we bid it another ten times, waiting; meanwhile, trash is building up in our constituents' yards, we would never meet anything close to a 30 percent requirement.

It just wouldn't happen.

SENATOR AKSHAR: Thank you, Danny.

Holly.

HOLLY HOUSE: My name is Holly House, and I have 30 years in the fire-protection industry.

I worked for one of the largest installing contractors in New York State for 26 years. I was their office and purchasing manager.

I purchased all of the materials for the construction inventory, I did their inventory, I did the AIA billings, I did -- negotiated change orders. I just did whatever had to be done.

In 2014 -- '13, my boss decided to do a management change. He decided to step down, part-time, and management turned over.

I knew the writing on the wall was not going to be good for me at this point.

It was the greatest job a woman could have ever had.

I had men who had brought me up in the ranks, they gave me every ability to grow.

But, there were also men that just were not going to have it.

So, I decided I would use the knowledge that I had for the National Manufacturers of Sprinkler Systems, and I went to the five national

manufacturers and I said to them, Will you allow me to open up a woman-owned business, distribution, in New York State?

There is nothing.

If you want any one of those manufacturers, you have to go to an installing contractor. They have the open contract.

So it took them a couple months to come back to me, and said, Okay, we're going to do this.

And I said, Well, you all have to play nice in the sand. You know, I'm selling all of you.

So they're, like, Okay.

So, for instance, if you go to Ferguson Enterprises, you can only buy a Tyco or a Victaulic sprinkler head.

If you go to Webb, you can buy a Viking or a Victaulic.

But if you come to Allsource Fire Supply, you can buy all five, and, from the manufacturer.

So I opened up the business in 2014.

I left AB, my company, in 2016, and I said, Okay, I'm going to do this.

So in 2015, of August, I went for my application. It was easy. They certified me in two weeks. It was a piece of cake.

I had wholesale, but, I had 30 years' experience. I was buying right from the national manufacturers.

Yes, I had an office in my home. I was starting out as a small business.

The subcontractors were elated.

They said, you know, Finally, we have someone who we know knows what a sprinkler head is.

You know, we can buy from you no matter what architect's specs, no matter what manufacturer, we can go to you and get it.

Great.

I was selling, my biggest customers were Cornell University. I've been selling to them since 1996.

Didn't have to do with construction projects, but, they have hundreds of buildings on their site. And each building, as it's built, has a different manufacturer sprinkler head in it.

And you cannot just go in and take out a Reliable head and put a Viking one in because it was designed, per the spacing, per the degree of the sprinkler head.

It could be a 155, it would be a 160, so you can't just take it out and put somebody else in.

So they needed someone who could supply them with everything, and I had been doing that since 1996 with the installing contractors.

So when I decided to open up my own company, I went to Cornell and said, "If I do this," and they said, Yes. And they said, And if you get certified, it's even more helpful for us, but, we will still support you.

And since 2014 I sell them everything that they need.

So in 2015, did the application, certified in two weeks.

Great. Did a little party dance in my office. I'm, like, all right. You know, I've got this. I've got, legit. I'm legit. I can go out there.

I got ahold of the -- I contacted a lot of the general contractors because they knew my name.

They saw me signing the AIA documents.

They saw me, you know, negotiating change orders.

I was the one that told them, Yeah, we'll be on-site here because that's when the materials are coming.

So I went to them and I said, Okay, here

I am.

I went to the subcontractors, there's only a handful, and they were -- you know, I was their enemy for the longest time. So now I'm -- you know, we all have to -- so they were very grateful, because, back in the day in the '90s, I did both.

In the '90s I bought from MWBEs who sold a paintbrush, because they had a certification number that said "construction materials."

So when I got mine, I was just -- you know, it was legitimate. I know I can do this. And there's no way that anybody's going to be able to have to worry about buying materials from me.

So, 2015, so, it was still a little bit of a struggle. I'm still a woman-owned business, and, you know, construction is mainly man-driven.

So in 2016 I decided, in March of 2016, I said, you know, I said, there's not a company up here that fabricates the sprinkler systems.

Takes a 1-inch piece of pipe, threads both ends, puts the fitting on it, codes it. This is the piece. You know, gets it cut to length by the designer criteria.

I said, you know, I'm going to open up something, and I'm going to just do quick-hitters.

Say they got a renovation for a building and they need, you know, each floor done.

We can whip it up and we can deliver it to them, you know, just quick-hitters.

I'm not going to be doing, you know, big warehouses. I didn't want that.

But I thought, this would something that will give me more respect with the industry; that they wouldn't think I'm just sitting there selling an invoice at a computer.

And I enjoyed it.

I am out there.

To this day, I am out there.

I gave up fake fingernails for grease.

I'm out there cutting the piece of pipe, I label it, I get it ready.

And my -- I have one employee, and they get everything ready. And I have a part-time employee.

So in 2000 -- in March of 2016 I had to go -- I went to the State to get another code: Manufacturing.

And no one in Upstate New York does this.

When you buy fabrication for a sprinkler system, it's in Long Island, Massachusetts, New Jersey, they're all down there, because I bought

from them.

So once I put this new code request in, my company, all hell broke loose.

There was the end of supplying fire protection for my company.

I lost 50 percent of my business for sales, is gone.

What I opened up my business to do is no longer even what I -- is my main process.

So they came back at me and said, in 2016, New York State did this thing called "supplier versus brokers."

Now, everybody knows that a broker and an agent in New York State is nothing but a swear word; always has been, always will be.

So what New York State did is, they took it a little bit farther and they said: We're going to take care of this, you know, invoice flipping, suppliers versus brokers.

So what they did, in 2016, is they came out with a criteria to separate suppliers from brokers.

So if you are -- if you want to have a supplier code in New York State, you have to supply, 40 percent of your inventory has to come out of a warehouse and be supplying.

Now, first of all, that's a problem if you're a small business and you're trying to get yourself going.

I mean -- and, for me, it was ten times worse because I'm not selling a toilet.

I'm selling a sprinkler head.

And the five manufacturers, each one of them manufactures 200 different sprinkler heads.

So there's no way at this point, when I'm just starting out, that I would be able to pick a manufacturer, much less be able to stock 40 percent.

I did a very, very large job, a sprinkler job, when I had the supplier code. And I supplied, you know, thousands of sprinkler heads to the job site.

Not me physically.

It came from the manufacturers, because I couldn't -- I'm not going to supply 1,000 -- you know, and the fabrication.

With -- when I did that project, that slingshotted my revenues huge.

I made a very minimal amount, but it was constant money, which was great.

Now, my revenues are so high that I need to stock three hundred and fifty to seven hundred

thousand dollars worth of inventory in order to get the "New York State golden-ticket supplier code," which is 423850.

So, I went to battle.

I went to Lourdes Zapata; I went to Phillip Harmon, which is the legal; I went to anyone who would listen to me, and I said, Look, I am your poster child.

I came in this knowing both sides of this.

You know, there's nobody qualified -- not nobody -- but, the qualifications, as you've heard from all of these GCs, that's what they're looking for.

So -- and they just kept saying, nope, nope, nope.

So in the end, they have given me a -- a bare agent code. Doesn't even say that I supply sprinkler systems.

It doesn't say anything. It just says that I'm an agent/broker.

They've given me a description of "manufacturer," which was great. That saved my company.

But the description on the directory, when you go to look for someone, it says, "fabrication of

pipe and fittings," which is correct. But then it says that I assemble sprinkler systems.

I don't assemble sprinkler systems.

I sell all of the materials, but they don't know that. No one knows that anymore.

And now when I go to a GC or a sprinkler contractor, and say, Hey.

You know, perfect example is Viking sprinkler. Syracuse University will only use Viking sprinkler on their projects.

I could do all of their jobs. I could supply all those materials.

But the minute they look at me and see I'm a broker and an agent, nope. No. No way.

So when I talked to Lourdes, and I talked to Phillip Harmon, which is the legal, his comment was: Well, you know, when you have to prove this 40 percent inventory, you also have to separate your manufacturing materials from your regular materials, and that has to be separate also.

So, now, not only do I have to have 40 percent of sprinkler heads, which, any one sprinkler head probably costs -- I don't know -- $5, up to 80, so I have to have, 40 percent of my revenue is sitting in a warehouse, hoping that an

office job will come up that is 155-degree, chrome, Pendent, 5.6 K-factor, and I got it on my shelf, so, hopefully, they'll buy it.

It's not possible.

There are things called "fire pumps."

Fire pumps, and there's --

And I brought you a copy of this.

-- there is a thing called a "dropshipping and a large bulk item," where I would be able to dropship. And you have to be technically. They said that you have to prove that you are this technical entity.

So I said to Phillip Harmon, I said, I am this, I'm technical. I cannot manufacture a fire pump, but I need to ship that fire pump from the manufacturer to a job site, because no one's going to handle it. That's a large bulk item.

I have to do an entire truckload of fabricated pipe from the manufacturer in Long Island up to New York State.

You know what he said?

Oh, well, we really haven't determined the criteria of that yet.

I said, Really? Okay.

So the end of my story is, all I've heard is,

you know, we cannot get qualified MWBEs.

I've heard Kim's story.

I've heard tons of women right now, that have been in the system for two years.

My reapplication is in the system again. I put in it in May.

I have given them as much inventory turn as I can possibly show them for sprinkle heads.

But, it has absolutely destroyed a small business, putting this percentage.

And I said to Lourdes Zapata, I said, Okay, so why don't you take a look at these companies?

If you're trying to stop this invoice flipping for suppliers, why don't you take a look at them?

Why don't you visit their facility?

Why don't you see what they're selling?

Why don't you knock them down and say, Okay, give us 20 percent on your shelf, and then as you grow, we can increase?

Nope.

They got sick of hearing me. They will not return my phone calls, they will not return my e-mails.

I have asked them several times to simply

change the description in my directory to say, I sell fire protection, even though I'm a broker.

Please just say that, and take away that I assemble fire-protection sprinkler systems.

Nope.

No.

So, I'm very disgruntled.

I went to the very first Albany MWBE. They have them in the fall.

I was ecstatic. I thought, this is great.

I've never been back, and I won't go back.

And the fact of the matter is, is that you say that there's not enough people.

There haven't been enough people looking at these applications and doing the recertifications for about four or five years.

So the answer to your problem has already been there for long enough for this to not have changed.

One of the other suggestions I have is, put up a small office in Syracuse, Buffalo, Albany, downstate; one little small office with maybe two people. Let them review your applications. Let them see what it says.

And then the final can go down to New York

City.

But there is no one to talk to except for New York City.

And the other problem is, is they have no edu -- they do not have education.

When I first went in to get my manufacturing code for pipe and fittings, I sent them a schematic that a designer sends to me.

It says: Here's a piece of pipe. It's ten-foot six long. There's a label on it. And you put two fittings on the end of it.

They made me a tool manufacturer.

And as many times as I called her and had a conversation on the phone with her, and said, Okay, you know, not only is people not going to find me, but that's not what I do.

Well, that's what we do.

I said, Well, DBE came to my facility. They coded me as a "pipe and fitting," and they gave me this code.

So she says, Oh. Okay, I'll give you back.

So the education there also has to -- you can't go forward helping these GCs find good companies like mine, if you can't put the education in it, and you can't listen to us trying to make

this program legitimate.

And, hopefully, they'll open up my (indiscernible) application and I'll get the golden buzzer, like, you know, is on America's -- and I'll get the eight -- you know, 423850 code.

There's only one company in New York State that has that supply code. She's downstate, and she only offers one manufacturer out of the five; but she has the supplier code.

The problem is, is that the broker fee, when the GCs come to me, and they're, like, Okay, so what's your broker fee?

Well, my broker fee could be something for a sprinkle head, but it could be something for a dry pipe.

And in the end, they look at me and they say, We just can't. There's not enough for us to get out of you to meet our goals.

And they don't.

I've stopped going to -- I went to LeChase in Syracuse, the last one I went to. I raised my hand and I asked them, I said, What are you views on the supplier versus broker issues?

And they said, We don't know.

We don't know.

So I've stopped going to those.

I -- my manufacturing code is allowing them to get 100 percent of the spin.

So I sell two or three thousand bucks, five thousand bucks, but -- but I'm small, so I can't do the huge jobs to get their goals up where they need to be. But it helps.

It does help.

One other comment I wanted to make is that, when I was going through this huge fiasco in 2006, when they made me an agent from a broker, is the certifying agent put in an email that she's just upstate, working out of her garage.

And I'll tell you what, if I could have drove down to New York City and found that woman, I would have showed her the grease under my fingernails.

I would have showed her how hard I have been working to just be legitimate in this business.

SENATOR AKSHAR: Thank you, Holly.

Mr. Smith.

BARRY SMITH: Thank you very much.

Well, good afternoon now, Senators.

I did provide a copy, so I understand we're trying to cut to the chase, and so I'll just paraphrase for you. It's too much a lunch.

I am Barry Smith. I'm vice president of Northern Tier Contracting.

Northern Tier Contracting is a general contractor based in Gouverneur, St. Lawrence County.

Senator Ritchie, if you just show Senator Sanders where that is, you get out in your vehicle and you just keep going north -- you run out of highway, but you'll get there eventually. But it's up there.

I'm a numbers kind of person, so I'll just kind of hit the highlights of the numbers for you. Okay?

2012 we started our business, my partners and I.

A couple of craftsmen, two laptop.

We rented 400-square-foot of office.

We invested $150,000 off of our own money to start the company.

Today I'm proud to say that we employ 52 full-time employees, and 42 of our employees are classified as trades craftsmen, 10 are in the office, professional support staff.

I think he left.

Did Patrick leave?

He did; right?

When you were talking about who the "big" is when they compete for -- they're the "big."

They're the "big."

And -- he's the "big," yeah.

So that's our staff, that's where we are today, okay, after just six years.

2017, grossed $11 million in construction revenue.

2018, looks like we'll probably do $16 million in contract revenue.

Next line.

87 percent of all our business is done with New York State public entities: OGS, DASNY, State University Construction Fund, local school districts, et cetera.

Okay?

Not necessarily by design, but probably out of necessity, because, again, remember I said, St. Lawrence County.

All public-funded projects are competitively bid, open process, okay, 'cause that's the law.

New York State agencies award contract, the lowest responsible bidder.

In my 12 years I've been associated with this industry, I have never once witnessed a New York

State agency award a contract based on gender or ethic background.

Never once.

Projects are wide-ranging. We perform about 50 percent of our work ourselves, 50 percent subcontract, depending upon the nature of the work.

Okay?

To be competitive, obviously, as a general contractor, we have to use the lowest responsible subcontractors' bids; otherwise, we won't be competitive.

All state agencies hold us responsible for the performance of our subcontractors.

Okay?

So what is -- what is the process?

And I'm about to tell you, this is proprietary information, for those of you who don't know how this works.

First, we solicit bids from 280 MWBEs statewide.

That is the number, last month, of people/MWBEs, in New York State, that have "construction" attached to their name.

Now you just -- you guys know how much business you do, so we're all hitting

280 vendor/subcontractors.

Okay?

So, earlier there was a comment made about how -- are they -- yeah, sometimes they do suck, because they are flat out.

And guess what? They have a lot of choices; they have a lot of choices who they want to work with.

So when they look at the map, and they look, Potsdam, Canton, they go, No, thank you.

Okay?

But we do.

We were informed some time ago by a very nice state agency director, that looking in our geo -- our own geographical area was not an acceptable good-faith effort.

Okay?

So we purchased a software package. I will not give you that name. Okay?

And what we do is, we send digital invitations to bid to all those 280 on every single project we bid, public and private.

Okay?

That program tracks their interaction with the program. It provides them, free of charge, the

plans and the specifications.

Our estimator is available to answer their questions and help them prepare their proposal.

Pretty much, that's a pretty good faith effort.

Okay?

So on bid day our estimators consider all quotes and proposals received.

The lowest bidder in each scope, typically, we have about 15 individual scopes of work for subcontractors.

They consider them all.

They put them together.

No different than New York State, we like to accept quotes, and use in our proposal, the lowest responsible bidder.

Only makes sense.

If the project has an MBE requirement, okay, and the -- we have a quote from an MWBE that is not low, but is not greater than 5 percent, we will consider that bid for inclusion.

Okay?

If it is, then I, and I alone, will value the potential impact of including that higher cost into our proposal; therefore, would it knock us out from

being competitive?

Because we're trying to beat the "bigs." Right?

Okay.

That's how we put together our quote.

I think Mr. Burns highlighted earlier, the last 30 minutes before HR (indiscernible) bidded is absolute chaos-crazy. And it is not a very good time to be making decisions like that, especially if you're receiving quotes from subcontractors from out of the area who you don't know, and you're trying to determine, are these responsible -- is this a responsible number that I should be putting into your project?

Okay. Bond notification, that we're the apparent low bidder, we have 72 hours -- that's your rule -- to submit our utilization plan.

If we don't have enough participation at the time, which we never do, I contact all our non-MWBE selected subcontractors and I ask them to look for utilization opportunities.

If they do have opportunities, 99 percent of the time, it is them buying material from an MWBE supplier.

Okay?

So if I hire a fire-sprinkler installer, okay, and then we'll say to them, "Hey, can you guys, you know, provide us with some MWBE coverage?" they say, Yep, that's fine.

In the right time, place, they would go to Holly and get the material there, and so I can second-tier that utilization on my plan.

Okay?

So within 72 hours we put together our utilization plan; we have commitment, we make our subcontractors commit to it, and we send it off to the agency.

Okay?

You guys have already heard it. You know the number, 30 percent utilization.

We never have been able to offer 30 percent utilization.

In approximately 95 percent of our plans, we submit for what is formerly called a "partial waiver."

Okay?

We have never submitted for a complete waiver. It probably would never float.

But we always submit for a partial waiver.

On average, over the past five years,

Northern Tier Contracting, in St. Lawrence County, has achieved a 20 percent utilization rate on all our state projects.

Okay?

Most of our MWBE participation comes from outside the area; in most cases, as far away as Rochester.

In order to get our partial waiver approved, we submit a waiver package that is no less than 28 pages long.

Okay?

That is for us to demonstrate that we, which is the law, the utilization goal, or, a good-faith effort.

All right?

So to demonstrate that we did have -- put forth a good-faith effort, that's about what it takes to get through the agencies.

That's why we've been successful, in that we have, and I could say, crack the code, but, we have figured out exactly what it is they want at each one of those agencies.

Even though they differ, and each have their own plate that we pull from, to put their template together, to satisfy, whether it's State University

Construction Fund or OGS or DASNY, they all get a different plate because they are all completely different.

Okay?

Put that together.

I even include for them, a spreadsheet that shows every subcontractor proposal and vendor proposal we received, and shows racks and stacks; it shows which ones are MWBEs, and which ones are not.

And then, obviously, anybody could derive that, you know, the State -- or we would not have won, and the State's not willing to pay 25 percent more to have MWBE participation in a particular category, if that's what happens.

These are my observations about the current program:

30 percent, you guys have already heard it, the state's too large, too diverse, for one size fits all.

The current program, as it's set up, as far as utilization of these organizations, puts all the responsibility to perform, and the capability -- for performance capability of the MWBE, squarely on us, the contractor's shoulders.

You guys bear no responsibility whatsoever

for their performance.

Only responsibility you guys have taken is the fact that somebody has said, or has not said, that you are -- you fit into that category.

That's all you've done.

You take no responsibility for their performance.

As a matter of fact, the dormitory authority now has a form that we have to sign, that says that we understand, we, and we alone, are responsible for the performance of the MWBEs, and that they accept no responsibility for their performance.

A little bit of a cop-out, really, if you think about it. Right?

But you said I had to use them, yes, but they're yours.

Some MWBEs, unfortunately, not all, not a lot, but they do believe that regard -- usually the new ones, think that, regardless of the price, we have no choice, we have to use them.

Those -- that kind of attitude usually puts them out of business pretty quick.

You have a program called "Bridges to Success."

Sorry to say, it's funded by Empire State

Development. Sounds like a good idea.

But the terms that the Bank of America want the prime contractor to sign are totally unacceptable.

It's a bad idea.

Our attorney, our bonding agent, and even a representative from the State University Construction Fund, said, Do not sign that.

Okay?

You cannot subordinate responsibility to the bank.

I have to say, the Empire State Development, Division of Minority and Women's Business Enterprises, has done a very good job in the last couple of years of weeding out the not-really-so-qualified companies.

And there certainly were some from day one -- you know, that were leftover from day one.

And then holding, you know, a pretty good hard line on certification of new applicants.

Yeah, there's no doubt, you know, maybe in that tightening up, maybe they're getting a little too much. But, they have actually tightened up on some that really probably deserve it.

Unfortunately, that purge cost me about

15 percent of my go-to WMBE (sic) vendors, so, there you go.

So it's probably gonna -- my numbers are going to have to come down, because those were some of the people I would go to.

There was a question earlier, Senator, about what is this costing you, New York State?

About 3 percent.

That's what we put on you, 3 percent.

You want a 30 percent program, you pay 3 percent.

Okay? That's the number.

We would like -- we use MWBE firms on all of our projects, private and public, even school, SED projects, which is, as you know, there is no mandate for.

We get absolutely no credit for that, none whatsoever. We get no accolade for all the utilization we do. Only ones with the mandate.

Just like New York State, we would prefer to use the lowest responsible bidder irregardless of their gender or ethic heritage.

Why? It's just good business.

I saw on the New York City Comptroller website, that the comptroller reported that the

New York City Department of Design and Construction was only able to achieve 10.5 percent MWBE utilization in 2017.

And I got 20 percent in St. Lawrence County.

OFF-CAMERA SENATOR: Can you say it again?

BARRY SMITH: New York State City Comptroller, on his website, reported, in 2017 -- this is the department of design and construction, so, like and like -- achieved a 10.5 percent MWBE utilization rate.

OFF-CAMERA SENATOR: You got a problem (inaudible).

BARRY SMITH: You got a problem, yeah.

And I won't -- well, okay (indiscernible).

If there's a problem, maybe your focus should not be in the North Country, because that's -- we're not the problem.

We're not the problem.

By hiring MWBE subcontractors to perform work has resulted in a 7 percent reduction in my workforce.

These non-hires, in four cases, layoffs, have impacted North Country people.

This is me laying off people so that I could buy out an MWBE to perform work we're capable of

performing.

Okay?

Senator Ritchie certainly knows that every single job in St. Lawrence County is precious.

Okay?

You know, that's one of things that we lead New York State in, and we're not very proud of, and that's our unemployment rate.

Service-disabled-owned veteran businesses are not included within this umbrella.

I understand they are their own, but they're not included in this umbrella.

In my opinion, this group has earned special consideration for opportunities in New York State contracting.

Watertown, New York, is home to the 10th Mountain Division, which has sent more soldiers to the war zone over the last 16 years than any other U.S. Army unit.

No other unit has sacrificed as much as the men and women of the 10th Mountain Division.

These wounded warriors that stay in New York, and start a business, have earned our special attention.

So I understand you guys would like some

thoughts on improvements.

Include service-disabled veterans on at least an equal par, equal footing.

Okay?

Create regions.

I know we talked about regions in the state, and base your goals on the demographics.

These are not all inclusive. These are all individual options of themselves. Okay?

I'll just give you an example, Senator, because you said earlier that you thought regions would be difficult.

OGS already has, DASNY has, regions -- the State divided up in regions, six or seven -- that they assign -- or, they award one- to five-year maintenance contracts.

They have a contractor assigned. It's like a job-order contract. Right?

If you kind of look at that map, that map's not too-- that's not a bad start.

So if you put pegs where the minority- and women-business entity businesses are, even if you were to say, red, you're in that zone; yellow, it's a neighboring zone; it's not a very difficult map -- algorithm map, actually, to come up with a legit

number.

Rigorously enforce the requirement under Article 15-A in the executive order, that the goals adopted by state agencies should be narrowly tailored to each project based on the location and availability of MWBEs.

Got to stop 30 percent blanket.

My understanding is, that's already in the executive order; that that's an obligation of the state agency to tailor each project to its situation.

Share some of the responsibility for these businesses with the prime contractor.

New York State should take responsibility for actually developing their skills, and assessing, and assisting them with available resources, to be competitive on their own merit.

The money saved on contract costs could go directly to self-development programs.

Create a State-guaranteed payment plan for MWBEs.

Quite often, young and new MWBEs find cash flow is an issue.

Just to give you an idea of how cash flow works, subordinate to me:

I work for 30 days, I bill state agency.

State agency takes -- has 30 days to pay me.

Guess how many days they take?

30 days.

Okay?

So my subcontractor/my MWBE new struggling subcontractor, which I'm trying to help, I have to float them cash.

Do you see what I mean?

Contractually, they don't get paid until I get paid.

I have seven days to pay them.

So you do that math.

If they worked in that first week, they are already 67 days out from having bills.

So in order for that to work, and that's one of the reasons why I think we have good utilization participation, is we float money to our subs that help us in this area.

So talk about bank?

It's the Bank of Northern Tier Contracting, in some cases, because, otherwise, I wouldn't make it, because nobody can float on that.

If you guys were able to provide them the funding that they would need, so they could buy

their materials, because no supplier is going to be beyond net 30, they probably would be better off.

Okay?

And then create a mentorship program.

Volunteer prime contractors -- sign me up -- could be assigned an MWBE for skilled development, again, so that they would eventually be, stand on their own merit.

So, finally, I'd offer this one opinion:

I recommend that you discontinue, totally, the utilization-goal program in construction altogether.

Selecting contractors and vendors based on gender and ethnic background is wrong.

The fact that you yourselves do not select contractors that way, but you require me to do it, is problematic.

We are not sexist and we're not bigots.

We're business people that would like the opportunity to bid projects in a fair manner, providing the highest quality work at the lowest possible price.

We want to provide all our subcontractors and vendors the same fair opportunity to compete for work by selecting the lowest responsible bidder

without consideration of gender or ethnic background.

It's just the right thing to do.

I appreciate your time.

SENATOR AKSHAR: Thank you, Mr. Smith.

BARRY SMITH: You're welcome.

SENATOR AKSHAR: Senator Ritchie.

Senator Sanders.

SENATOR SANDERS: Food for thought; lots of food for thought.

I'll hold my point to the end, although I'm going to speak, based on what I've learned from these people.

SENATOR AKSHAR: Okay.

Thank you all very much.

SENATOR O'MARA: I would just add, Barry, thanks for the shout-out and respect for the 10th Mountain Division.

SENATOR SANDERS: Can I get a copy of that, Mr. Smith?

BARRY SMITH: I believe (indicating) --

SENATOR SANDERS: It's in there?

Okay.

BARRY SMITH: If not, I will provide it.

SENATOR AKSHAR: Okay. Our last two folks to provide testimony, Eric Pond and Pat Scordo.

Thank you both for being with us.

And, sir, please, you can start.

PATRICK SCORDO: Good afternoon.

Thank you, Senators, for allowing me to speak. I will be brief.

My name is Pat Scordo. I am the director of engineering, and the president, of GYMO Architecture, Engineering, and Land Surveying, right here in Watertown.

We are a 40-person architecture, engineering, and land surveying, and environmental, firm. We predominately work in Jefferson, St. Lewis, and Lewis counties.

Quite a bit different spin from what you've been hearing all morning.

We're consultants, designers, much like Eric's firm. And I'm sure maybe we'll have similar comments or questions.

A little bit of background of our firm:

A wide array of work we do, probably 50/50 split between municipal, private-sector work, anything from a 2,000-square-foot credit union, or small convenient store. We'll design to 400-unit

apartment complex, senior living communities, churches.

Really, whatever appeals to us that works within our ranks, we'll try to tackle the project.

One of the most recent projects we completed was in the village of La Valle. It's about to go to construction.

A little bit out of the norm for this size, but it's a 15 million site infrastructure project, with sewer, water, drainage, roads, curbs; basically, everything from sidewalk to sidewalk.

My comments are going to be a little bit of comments, but also some questions where I'm looking for a little bit of feedback.

And like I mentioned, it's going to be a little different spin from what you've been hearing, but I think the commonalities are there as well.

What we generally do is bid against other AE firms, especially for the municipal-type work. Some of these firms may be MWBE firms, but not all of them.

One of the concerns we have is that the firms having to hire MBE firms because of the goals that need to be met, anywhere from 23 to 30 percent.

In most cases, we're capable of providing

this work through the professionals that we have.

But once we're awarded a job, we understand we need to meet these goals, which are, we view them as requirements.

So that's what we do, and that's what we usually -- actually, that's what we always do.

My first comment/question is maybe a clarification, but, one of the things that comes up often with myself and our colleagues, is an understanding that there's an "umbrella" designation.

Specifically what I mean by that is, a multi-disciplined professional firm, such as ourselves, but, that's not the case, but a four-facet firm, such as us, benefiting from an MWBE status, when only maybe one discipline within that firm is an MWBE.

For example, a firm that practices engineering, surveying, and architecture, is woman-owned, she's an engineer; however, the architects and the surveyors get to benefit, or be capable of performing the MWBE work.

Another one, kind of related to that comment, is I was always never sure if the MWBE-designated was meant -- designation was meant for established

professional firms.

In other words, I understood it to be a start-up, if you will, opportunities for MWBEs; not where there's a firm already established, practicing maybe the same disciplines we are, but, suddenly, a woman engineer or surveyor comes on board. The firm makes her, or them, if it's minority, a 51 percent owner. Now they're capable of providing MWBE work, which kind of puts a temper on our work and our ability to be successful up here in the North Country.

I thought there was always a time frame, again, for start-up of these firms, because that's what I understood it to be: It was a mechanism that the State developed so a minority or a woman could start an engineering or a surveyor or an architecture firm.

But after years, once you're established, once you're making money, once you're profitable, once you're billable, that designation goes away.

And I have not seen that.

What we are seeing -- sorry.

What we are seeing is the percentages or requirements will use 23 percent, but I understand it's going to 30 for professional firms. But

there's not 23 to 30 percent capable MWBE firms that can do that work, especially in our region.

Maybe I'm biased, but I'm not necessarily interested in feeding my local competition MWBE work that my firm's capable of doing.

So what we do is, we go out of the region, and because we're out of the region, you've heard it earlier, the costs go up.

And we've seen 15 to 20 percent cost increases when we're required to meet our quota and bring firms outside of the North Country area into this area to do work that we're capable of doing.

And, frankly, we often don't scrutinize the fee.

If they come back with a proposal, we're so set on meeting the requirement, that, often, we hire them to meet that goal so we can submit and meet the 23 percent requirement.

That's maybe not the typical way to do it, but it's a streamline, and it works, and fulfills the requirement.

That's it.

Thank you.

SENATOR AKSHAR: Thank you.

Mr. Pond.

ERIC POND: Yeah, thank you very much.

Eric Pond. I'm a senior vice president with Barton and Logudice.

We're a Syracuse-based firm, with 11 offices throughout New York State. Five years ago we opened up an office in Watertown.

We've been doing North Country work for years and years and years. Finally got to the point where it made sense to open an office.

I'm happy to say that we've grown out of our space, and we're expanding. I'm doing a very large expansion, taking over the entire first floor of the -- well, hopefully, soon, the Barton and Logudice Building, downtown Watertown.

So business is good, and I thank you for supporting infrastructure in New York State.

We understand you got to take the bitter with the sweet sometimes.

There's a lot of funding out there. There's a lot of good projects.

And, this M- and WBE (sic) program is not a new program.

I started at Barton and Logudice over 20 years ago, and, the very first projects I worked on had M- and WBE (sic) requirements, and I've been

dealing with M- and WBE (sic) for a long time.

The requirements have steadily increased over time, and that has allowed us to acclimate to those increasing requirements, which is good.

You know, engineers don't like change. It takes us a while to acclimate, and -- and we do. But I do see some problems and some challenges.

And, Senator Little, you touched on it: It's that "value" piece.

And there's a lot of portions of the program that I just -- you know, I question if it's providing value to the taxpayers at times, just because of the practical reality of how we're executing things, and just like Patrick said, going out of the area to meet the requirements.

So, again, you know, it was kind of interesting, back in the early 1970s, Barton and Logudice designed the waste-water treatment plant in Potsdam, New York.

And we worked -- we teamed with a local engineering firm in Canton, that is still in business today.

So fast-forward to 2016, we're doing the redesign. The plant's wore out, it needs to be upgraded.

We're doing the redesign of that plant.

That firm is still in existence in Canton.

You know, do you think I thought of partnering with that firm to do the upgrade?

Absolutely not.

They're not an M- or WBE. You know, didn't even -- I thought, that would be really nice, but I can't do it.

Just like I can't partner with Patrick on projects because I'm shooting myself in the foot. I can't -- I can't work with his firm because he's not an W -- M- or WBE.

Okay?

So it's tough.

I'm doing a very large water project in the town of Pamelia.

The survey firm in the town of Pamelia is in the adjacent town, that's done all the survey for all the water districts in the town of Pamelia for years and years and years.

Do you think I can use that (indiscernible) firm?

No. They're not an M- or WBE.

So, I'd be shooting myself in the foot.

I can't do that.

I got to hire that out from somewhere else.

Back when the firm -- back when the percentages were about 10 percent, no problem. Survey, archeological, soil borings, not a problem meeting some 10 percent.

A little bit of a stretch meeting 20 percent.

But, we're engineers, we like challenge; we can do that.

30 percent?

We have to be very, very creative.

And it's, unfortunately, maybe not very efficient, and not very efficient use of taxpayer dollars.

So that -- you know, because, at 30 percent, we're eroding core services that we provide.

It used to be, we used to inspect all the projects that we designed.

So, now, we have to lay off inspectors.

I have one inspector from Cape Vincent, been with us for over 20 years.

I had to lay him off, and say, Joe, you need to go work for this Rochester-based MBE firm, which he did.

And we have him back on another project. He's still working for us, but, not really.

So it's going through a lot of overhead and layers to get the same thing. That just balloons costs.

You know, it's overhead cost. It's markup. It's engineers to manage all that.

So I'm not hiring inspectors anymore.

I'm not hiring as many entry-level technicians and designers.

I'm hiring project managers/paper-pushers to meet these program requirements, and does that really add value to the project?

You know, not really.

At the end of the day, it doesn't buy a stick of pipe to go in the ground.

You know what I mean?

It doesn't buy design time; people actually working on the project, doing the design, meeting with the clients, coming up with a creative solution.

You know, it's pushing around paperwork, meeting program requirements, which I understand, that's part of the business, but a lot of time and money is going toward that.

We have a project right in Sandy Creek. It's a large capital project, and you have to understand

that time is money.

Patrick talked about the La Valle project. That's a $15 million project.

Sandy Creek is a $14 million project.

Potsdam is a $12 million project.

On a project like that, every month that goes by, you're looking at about $45,000 worth of budget erosion due to inflation alone.

Okay, that's a lot of money, $45,000, down the toilet every month if there's a delay.

And, for example, with Sandy Creek, that project, we needed to get soil borings done. And our go-to soil-borings contractor that's been -- I've been working with for 20 years, he's not an M- or WBE contractor.

He's a good -- he's a good soil-boring contractor.

He came in $50,000 less.

We couldn't use him because he wasn't M- or WBE.

We knew, in order to get his utilization plan approved -- or, our utilization plan approved, that would have been months. That would have cost the project even more money.

We had to go to the M- or WBE, even though

it's $50,000 more.

That's really tough.

That same project, the surveying went to New Jersey, $250,000 that could have been done here, locally. Central New York-based, northern New York-based surveyor, that went to a New Jersey-based firm.

So that doesn't help -- that doesn't help the North Country.

So, you know, there's just a lot of things.

I understand the program, we're adapting to the program. We're fine; B&L is fine.

Sometimes, you know, I've heard a lot of comments about cash flow, and floating -- floating the small contractors, floating the M- and WBE contractors, or any other small subconsultants that we hire.

We always joke that "B&L" stands for banking and loan, because of the practical reality of it; that these vendors need to get paid, or else they're out of business.

I do agree that they're stated as "goals," but they're really requirements, because if you don't comply, then it's delay, delay, delay.

That costs the project money. That costs the

taxpayers money. We can't execute the project.

So, they may be goals, but we act as if they're requirements.

The waiver process is punitive, because it just takes a long time.

You'll get a waiver, eventually. It just takes a very, very long time. They make it difficult.

And there is a lot of times that, you know, we do have to reach into our core services.

We'll do ecology work. We do wetlands work, inspection, and all that. We'll sub that out, and, quite often, we have to redo that; we have to redo the work just because the quality isn't there.

We'll get regulators that say, Did you do this? Did you do that? Well, this is a B&L job, you always do this, you always do that.

I was, like, Well, we subbed that portion of the work this time.

So -- you know, so we have to -- we have to redo it.

But it is tough, and I think it does provide for some inefficiencies, and this market just doesn't have the subcontracting capacity to do it all in-house.

We can get it done, but work is going out of the area, and more and more time, money, and effort is spent on stuff other than construction and engineering.

It's programmatic requirements and compliance.

So that's all I have.

SENATOR AKSHAR: Senator Ritchie.

SENATOR RITCHIE: I have nothing.

SENATOR AKSHAR: My colleagues to the left, not politically?

To the right?

SENATOR SANDERS: Don't put me on the right.

[Laughter.]

SENATOR AKSHAR: We'll bring you over --

SENATOR SANDERS: Although my colleagues accuse me of shifting.

I have some points.

Exactly.

The question, I was going to raise it, Mr. Scordo: What is Croson? What is the Croson decision; what is this thing that time we speak of?

And implicit in the program, in the Croson decision, is the idea that you grow out of it; that it is not maintained for life; that when you reach

to a certain level, you don't need it anymore.

And I was -- we've come to the same point, sir, because I was going to raise it, that if you don't have any cutoff point, then you're going to start bumping into other firms.

You're going to start bumping into the GYMOs of the world, who, while they may be supportive of fairness, may make an argument that this is unfair; that we've gone from there to becoming point of unfair.

And it's tied to a question of assets, but not beholden in the sense that, it's more a question of disparity.

Is there -- do you -- are there companies here, and they're not being used?

That's the disparity.

If there -- there's an availability -- imagine if there were some, I don't know, the James Sanders Engineering Firm, and James Sanders just couldn't get on first base in Watertown.

I know that that would never happen here, but, if there were, an argument could be made, under certain circumstances, for disparity.

All right.

However, if there was a James Sanders

Engineering Firm, and I had, you know, 10 times whatever the GYMO has, and we're getting as many contracts, then that should not be part of the disparity program.

So there's -- you have a certain argument there, that we have to be aware of; that in our attempt to be fair, that we don't become unfair to other companies.

It's an interesting balance that we will have to do.

Mr. Smith's idea may be an interesting one.

I don't know how we can do it, but he says that he was able to -- he includes MWBEs on even his private work.

That may be, you know, we shouldn't simply beat people up for not doing. We should reward people for doing.

You know, we've got to figure out the right balance, and that may be a wise thing that we explore in the days to come.

Now, one of the things, the elephant in the room, that we really don't want to grapple with, is the question of the sins of the fathers, if you wish.

Now, I'm willing to say that everybody in

this room, this room, is free and fair, and would, you know, hire anybody based on the ability to do work.

However, outside of this room, there are those who are not as enlightened.

So you got to figure out the proper balance, where we enlighten the unenlightened without penalizing the folk who are in this room, and rooms like this, because the -- one of the problems that you're describing is the abnormality of capitalism.

If you're telling me that there's plenty of business and plenty of money to be made, and yet people are not descending on these areas, I'm going to tell you that that's against the law of capitalism.

That capitalism says, that where there's a profit to be made, people will go and try to make a profit.

And if they're not doing that, either they don't know about it, or, you know, there are some, perhaps, benign reasons. But, we've got to look at this a little bit more, or there are impediments.

There's something stopping that, and that's why the program is needed.

But it, certainly, you made the argument,

and, your Chairs, of -- let's be clear: Your Chairs have been making a strong argument in Albany, and other places, for quite the while, that we need to look at this.

And I am here.

You may not have ever seen one, but I'm a Democrat.

Yes.

No, it's true, they exist.

And I am here to -- to -- to follow the lead of these good people, and to say, Okay. Let's be bolder now. Let's think totally out of the box. Let's not be captive to parties.

Let's imagine that the people in this room, as good Americans as the people in Brooklyn, or other places -- I'm not from Brooklyn, mind you -- as other places, if that's the case, then we should listen to them too, and we should hear what they're saying, and see what we can do to come up with something that will make a better New York.

And I'm glad to hear these things.

And I'm very glad --

That's called a "transition," I'm about to hand it back. You can stop kicking me under the table.

-- I'm glad --

She didn't kick me under the table, my friends.

-- I'm glad that you're doing this.

And I will join you at the different parts of New York State, if the good Lord allows, and the people of my district put up with me; I'll be glad to.

Thank you for this. I've learned a great deal.

And thank you for your testimony.

SENATOR AKSHAR: Senator Sanders, thank you.

Senator Little?

SENATOR LITTLE: Thank you.

I would just like to say that I really commend my colleague on my left, that he came up here, because seeing is believing, and you can really begin to understand what we have been trying to get more of your colleagues to understand, that there are issues, and there are things we would like to do, but we can't do because of circumstances.

So I'd also like to say that I just appreciate everyone who came, and the Chairmen for putting this together.

But, so many issues that we have talked about

for a long time are really coming to the forefront.

And one of the things you said, about having an engineer go work for an MWOB, and then you hire them, I have companies, big companies, and they try to have, maybe their children or their associates, start another company and be an MWOB; that they know the people, they know the training, they know they'll do a good job, and now they can hire them, because they get certified.

But they can't get certified because they find a connection to the parent company, and they say, Oh, no, they're not an independent MWOB.

That's not the case.

There are two young women, daughters of two owners, setting up a different type of business, but using -- to get started, using office space that their fathers own.

They got thrown out.

So, so many things.

We need more people in Albany, you touched on that, helping us get through the process, helping people get certified.

We have more certification, we have more supply, more, everything.

So, a lot went on here today, and I really

appreciate everybody was here.

I've learned a lot.

SENATOR AKSHAR: Great.

Senator Hannon.

SENATOR HANNON: Yes.

First of all, thanks for having the hearing.

And I have a little familiarity with the problems that you face as engineers, because we appropriated $2 1/2 billion last year for water throughout the state, and we've been able -- yeah, I know, yes.

And we know we got a lot more to do, and there's a lot of engineers who are very good at what they do.

But I'm more intrigued by the problems that Holly House raised, because the mechanics of how one goes through this system and gets to be certified, or, whatever, approved, seems to be more daunting, almost a foundation that needs to be addressed and made more fair, because there's a lot more things that have to happen.

I sponsored the increase -- substantial increase in the bonding authority of DASNY this year, so we're going to go forward.

But what are those mechanics?

How do we get people qualified?

The points that Senator Little raised about, is it automatically suspicious, or is there some other test?

And unless we address that, we're just going shoot ourselves in the foot.

Yes, it costs you money if you go out, but, you know, if it's not somebody right from Lewis County, and it's from somebody from Essex County, is that going out of the area?

I don't know.

But if you can't get anybody at all, what is the problem there?

So, I've heard from Senator Akshar and Senator Ritchie before these problems.

I'm glad to here, hear directly from you, as to where we have to go.

And I thank you for having the hearing.

SENATOR AKSHAR: Great. Thank you.

I'd just offer a couple of thoughts, and then I'll turn it over to our gracious host.

I want to thank Senator Flanagan, of course, for allowing this issue to remain at the forefront of our priorities, moving forward.

I think, collectively, regardless of whether

we are Republicans or Democrats, we want to make New York as affordable as we possibly can; ensure that there are opportunities for all.

And, you know, I think we heard a lot of good testimony today.

We hear recurring themes, regardless of where we are.

I think, my gut tells me, we will continue to hear recurring themes on this particular issue.

We're going to continue to have the hearings.

I would respectfully say to the Governor and the state agencies, that there is nothing nefarious going on here.

We're trying to address this in a bipartisan fashion, so the invite remains open.

Please come to the table; please come and offer your suggestions on how we make this better, because, if we want to extend the program at the end of this year cycle that we have, it would be to everyone's benefit if you actually showed up and had a conversation with us.

You know, I am troubled by -- in a couple of -- in a couple of areas.

I'm trouble -- I'm troubled to continuously learn about the increase in project costs --

taxpayer dollars again -- an increase in project costs, simply to comply with -- with this particular program.

And, the fact that we're sending work, not only out of regions, but out of the state, simply to comply with this program, I think is highly problematic.

So, you know, those are two areas that I'm focused in on.

And, Senator Sanders, again, I began my comments in saying this, I'm going to say it again: I want to thank you for being part and parcel to this discussion.

I thank the Minority Leader as well for allowing this to happen.

Right?

All of this takes conversation.

And I'm pleased that you're at the table with us.

I think you -- again, you bring a wealth of knowledge on this subject to the table.

And I firmly believe that, at the end of the day, we will advance a piece of legislation; advance things to change this program for the better.

So, Senator, thank you.

Senator Ritchie, of course, thank you for having us.

SENATOR RITCHIE: You're welcome.

SENATOR SANDERS: I, too, want to thank the Minority Leader, who understands that this is a critical issue, and sent me up here to see this issue through.

We do understand that we really have to figure a way to aid the good people of the North Country to aid themselves; to do everything that we can to understand that there's one New York.

And whether we speak of MWBE, or any other economic-development vehicle, that we stand willing to be a partner, and I want do that physically.

Thank you.

SENATOR RITCHIE: And would I like to thank all of you for coming out today for this hearing.

It's great to be home in the beautiful North Country.

I know there are many other things that you could do on this beautiful July day; so thank you for your time.

You -- Senator Akshar, he has reiterated the same concerns that I have.

First of all, sending work out of this area.

You know, we have a somewhat economically-challenged district that I represent. And anytime a job goes out of the area, it's a concern for me.

So that, first and foremost, is, you know, at the top of my priority list.

And, that, along with costing taxpayers extra money.

We don't have a lot of extra money up here.

And when jobs are $45,000 extra because they're being delayed, that's unacceptable.

So I think, at the state level, it would be, I think, helpful if the agencies did show up, so we could all work together to make the program better and address some of these issues.

And for my colleagues, I want to thank you for coming up.

And to give Senator Sanders an extra shout-out for being willing to work across party lines, and making the big trip to the North Country from New York City, to hear firsthand the concerns that we've been talking about over the last few months.

And I'm sure it's very much appreciated by everybody who attended today.

So, with that, thank you.

SENATOR SANDERS: Watertown treated me very well, I should say.

SENATOR RITCHIE: Glad to hear it.

Thank you, everyone.

SENATOR AKSHAR: Thank you.

(Whereupon, at approximately 1:36 p.m., the joint-committee public hearing held before the New York State Senate Standing Committee on Labor and the Senate Standing Committee on Economic Development concluded, and adjourned.)

---oOo---