JOINT HEARING BEFORE THE NEW YORK STATE SENATE
STANDING COMMITTEE ON LABOR
AND
STANDING COMMITTEE ON COMMERCE, ECONOMIC DEVELOPMENT,
AND SMALL BUSINESS

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

Village of Mineola Community Room
155 Washington Avenue
Mineola, New York

September 6, 2018, at 10:00 a.m.

PRESIDING:

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

Senator Phil Boyle (Sponsor)
Chairman
NYS Senate Standing Committee on Commerce,
Economic Development, and Small Business

CO-SPONSORS PRESENT:

Senator Elaine Phillips

ALSO PRESENT:

Senator John Brooks

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SENATOR PHILLIPS: We'll begin.

So, my name is Senator Elaine Phillips.

You are sitting in my Senate District, which is the 7th Senate District here in the northwest quadrant of Nassau County.

So, welcome everyone.

Thank you for taking the time out today for this important issue.

We are having a hearing today on the MWBE program.

This is a working group that Senator Fred Akshar, which I'll introduce in a second, but Senator Fred Akshar and Senator Patty Ritchie are chairing, and I am one of the members of the working group.

And let me start out by saying, the intention of this working group is to take this valuable program, "valuable program," and make it a better program.

There is no intention by this working group to eliminate it.

There is no intention by this working group to only point out what's not working.

The idea is to have a balanced discussion, and make this a better program for everyone in

New York State.

Senator Akshar informed me that this is the fourth statewide hearing that they have had already.

I'll let him tell you where else they've had them.

And the intention is to have more.

So, I encourage everyone to speak out, tell us.

The only way, as legislators, we can make something better is by understanding what is working and what is not working.

So, thank you.

Please.

To my right, about to sit down, is Senator Phil Boyle. He represents --

I'm sorry, Phil, I don't know.

SENATOR BOYLE: The 4th Senate District.

SENATOR PHILLIPS: -- the 4th Senate District.

And then to his right is Senator Fred Akshar.

So, Senator Boyle, do you want to say a few words?

SENATOR BOYLE: Sure. Thank you very much.

I'd just would like to associate myself with Senator Phillips' remarks, and also thank my friend

and colleague Senator Akshar for traveling all the way here -- he's been traveling around the state -- and for his leadership on this issue.

It's a vitally important program, but we need to make it better, without a doubt.

I can tell you that I'm the chairperson of the Senate Committee on Commerce, Economic Development, and Small Business.

So when people call the Senate, sometimes they end up in my office when their small-business person -- business or their medium-sized business is having trouble, many with the MWBE program.

It's a headache, in large part, but we've had efforts to make it better, and that's what this is all about.

When the Governor and other administrations are trying to increase the requirements on MWBEs at the same time they're making it more difficult to enter the program and to remain in the program -- and we'll hear from the testimony today on this -- that's a no-win situation.

We want to make this program better, as Senator Phillips said, and we look forward to the testimony.

SENATOR PHILLIPS: Thank you.

And Senator Fred Akshar from the Binghamton area.

And what Senate District is that?

SENATOR AKSHAR: 52.

SENATOR PHILLIPS: 52.

There are 63 Senate Districts in New York State, if you didn't know that.

Senator Akshar.

SENATOR AKSHAR: Thank you.

It's just a short 3 1/2-hour drive from Binghamton, here, but it's this beautiful country.

Senator, thank you for hosting this hearing.

And as you said, this is, in fact, our fourth hearing.

I want to first thank Majority Leader Flanagan for allowing this issue to remain at the forefront of the Senate Majority's priorities.

The Majority Leader speaks often about allowing affordability and opportunity to drive our legislative agenda, and we are looking inward at existing programs on how we can make them better.

And I think, as Senator Phillips said, but it certainly bears repeating, that -- and I should be on the record, that we're not looking to end this program, because this program is, in fact, a

beneficial program, and it has positive attributes.

We're looking to amend the program, because it is not being run efficiently and effectively, and, quite frankly, it is taking away opportunity and affordability from people.

So this, again, is our fourth.

We've had a hearing in Binghamton, in Watertown, and in the capital region in Albany. And we intend to continue to travel and have a couple of more hearings throughout the state.

We're doing these hearings because Senator Ritchie and I, and those at the table, believe in a bottom-up approach.

I think all too often in Albany decisions are made at the 30,000-foot level by bureaucrats, without having any idea how those decisions actually impact people when they are implementing them.

So, this is happening in this program, so we are hitting pause button.

Last year during legislative session we extended the existing program by one year, which that one year has given us some time to correct and make the program better.

So, look forward to the testimony today.

And, Senator Phillips, I can't thank you

enough for your leadership on this issue.

When we first spoke about having these statewide hearings, Senator Phillips was the first to say: Come to my Senate District. We have people who are struggling with this program. And I want you and Senator Ritchie to hear their struggle, and let them be part of the solution.

So, Senator Phillips, thank you very much.

SENATOR PHILLIPS: Thank you.

And to Senator Akshar's right, we have Senator John Brooks --

And I'm sorry, Senator Brooks, what Senate District?

SENATOR BROOKS: 8th District.

SENATOR PHILLIPS: 8th.

-- from the 8th District here on Long Island.

Senator Brooks, would you like to say --

SENATOR BROOKS: Okay. So Senator Akshar said he had a, what, 3 1/2-hour ride down here?

I have a 15-minute ride here.

But as we all know, in Long Island, people don't know how to drive.

So we got a major car accident out here on Old Country Road that backed us up.

So I apologize for being late.

I think the -- this is such a critical program to this state, and to this community.

I think we have to take a good, serious, hard look at some of the problems we had in this program in terms of getting people qualified for the program.

I think as Fred has said, sometimes in the session, some areas of our state have great difficulty meeting some of the requirements for these programs, and we need to address that.

But I think it is a critical opportunity to people that fall in the "minority-owned business" category to let them grow in this economy.

So, I'm very pleased to be here today.

I thank my associates for coming down, and to discuss this important issue.

And, after that, we'll figure out how to change transportation on Long Island so it doesn't take a light year and a day to go from Seaford to here.

Thank you.

SENATOR PHILLIPS: Thank you, Senator brooks.

So, I'm just going to say up front, I don't mean to be rude, but I really am going to try to

keep us on time. And I have already gone over one minute of our time.

So, please, if I cut you off, it's because I really would like to give everybody the opportunity.

So we're going to start today with Denise Richardson, the executive director of the General Contractors Association of New York, and, Marc Herbst, a local gentleman, executive director of the Long Island Contractors' Association.

Please.

MARC HERBST: We flipped a coin, and I won, so I go first.

Senators Phillips, Boyle, Akshar, and Brooks, thank you for holding this important 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.

My name is Marc Herbst, and I serve as the executive director of the Long Island Contractors' Association.

I appreciate the opportunity to offer this esteemed panel my testimony.

The Long Island Contractors' Association represents the interests of Long Island's premier heavy-construction general contractors, subcontractors, suppliers, and industry professionals.

Our industry is focused primarily on the building and maintaining of our region's vital infrastructure, which is its highways, bridges, transit, electric, cable, gas, clean and wastewater systems, and all other public works.

We carry a sense of pride that many pf LICA's 170-member firms are multigenerational family-owned businesses that are located on Long Island, who continue to work and employ neighbors in our community.

Many of our successful firms were started by immigrants who decided to make our region their home.

Allow me to highlight one such firm.

The name Scalamandre is synonomous with quality public-works construction in our region.

For many years the family business was led by Joe Scalamandre.

I ask you to keep Joe in your prayers.

At the end of last year he faced a

life-threatening situation that required very complicated surgery of which he's still recovering.

He continues to fight for his health, but his greatest frustration is not being able to be at the construction sites that he loves so much.

The Scalamandre family business was started in 1923 by Joe's dad, Peter Scalamandre, who immigrated to America from Scolati (sic)(ph.), Italy, with nothing but his hands and a strong work ethic.

When he arrived, he began building brick homes on Long Island, but soon fell ill.

Joe, with only minor experience in construction, estimating, had no choice but to take over the family business at the age of 16.

Over the years Joe and -- Joe worked alongside his brother and partner Fred, and built up the company.

In 1967 the Scalamandre family business began pouring concrete curbs and sidewalks for many of Long Island's local municipalities, and soon became one of the largest concrete providers in the area.

During the sewer-construction program in the 1970s the firm installed more than one million linear feet of slip-form paving in the

Nassau-Suffolk region.

Other notable Scalamandre signature projects include the $187 million Caithness Power Plant that currently supplies Long Island with 10 percent of its power.

The firm also is a responsible participant in the current rebuilding of both of our major airports, LaGuardia and JFK.

While Joe's son Peter, aptly named after his immigrant grandfather and the family-business founder, he now leads the business, it was Joe, in his place of glory, at a construction job site, marshaling his devoted workforce recently.

He was proud to build the first Long Island Welcome Center, which was recently opened off the Long Island Expressway near Exit 51.

The firm continues to employ -- to consider its employees its greatest assets, and they consider Joe the ultimate boss.

The Scalamandre legacy is like those of many family-owned businesses in the heavy-construction industry.

Many companies were started by immigrants with limited resources, and, quite frankly, many instances, with little respect or support from their

new neighbors.

That experience and understanding remains an underpinning in our industry's fabric.

The heavy-construction industry was, and continues to be, a leader in supporting those facing obstacles in reaching their individual potential.

That is why we continue to support programs that assist minorities, women, and the disadvantaged.

The founders of many of our companies were immigrants of Irish, Italian, and Portuguese descent.

Today's immigrants come primarily from Central and South American countries, and they are a large portion of our minority community here on Long Island.

We as an industry strive to be welcoming to these newcomers as were to those of our forefathers.

A national study of apprenticeship opportunities for women and minority in road construction was conducted by the Transportation Equity Network.

It concluded that some states haven't done enough in hiring those groups.

With New York ranking in the middle of the

pack, the Long Island region, however, when singled out, ranked much more favorably.

Long Island's heavy-equipment operators, headed by the Operating Engineers, Local 138, boasts 90 percent of it's apprenticeship program consists of minorities and women.

The industry's largest local union on Long Island, the Laborer's Local 1298, reports that 60 to 65 percent of its members, as well as its apprentices, are minorities.

The other locals share similar percentages.

This is the reason, in our region, why very few public-works projects have any difficulty in meeting our region's EBO (which the Equitable Business Opportunities) goal of 5.8 percent of minority males and 6.9 percent women on job sites.

Since our industry employs over 60 percent of the workforce from the minority communities, we are pleased to be a welcoming place to provide opportunities for new residents and those who are disadvantaged.

Our region's demographics are changing and we are proud to be ahead of the curve.

The United States Census data reflects that the Hispanic community, our largest minority group,

has grown by more than 18 percent since 2010.

Today, 17.15 percent of Nassau's population is Hispanic. 19.54 percent of Suffolk is Hispanic.

While we are proud to employ many workers from this and other minority communities, it's important to point out that the most significant impact we provide, our industry does not offer minorities and other workers menial low-paying jobs.

According to the New York State Department of Labor, the 2017 annual average salary in the Nassau-Suffolk statistical region for the 5,682 workers in the heavy- and civil-engineering construction field was one hundred and nine thousand dollars and ninety-eight dollars (sic); six figures for the workers of this industry.

But the greatest difficulty today is to move from a worker to an owner of a construction company.

Peter Scalamandre, the father of Joe and Fred, could start his business with physical strength and a strong work ethic, but today's entrepreneuralship (sic) needs are much more.

Today's entrepreneurs, especially the minorities' community and women, face a whole host of legal and regulatory requirements that did not exist in the past.

This is precisely why the State needs to review the MWBE program as you are now responsibly doing.

I implore you not to look for a quick fix.

Time and time again an arbitrary increase in goal percentage is suggested as an expedient political process, as a political success.

But this will not achieve the program's real intent, which is to provide more opportunities for minority- and women-owned businesses to work successfully on contracts that enable their firms to grow and graduate from the program.

To achieve its true mission, the program must be managed with meaningful State support for MWBE firms to acquire the necessary financial capacity for bonding, insurance, and other requirements to compete in the construction business.

Program administrators must also be responsible in analyzing the actual inventory of firms who are available and can perform the typical work required.

Our partnering association, the General Contractors Association of New York City (sic), has championed several actions that will help the program achieve its intended goals.

LICA wholeheartedly supports these recommendations.

LICA, however, would like to echo two specific suggestions this morning. These are issues that consistently hinder the contractor delivery program in the Long Island market, plus we believe they are successful models that can be easily implemented, practices now employed by other agencies.

There is no reason to reinvent the wheel.

First: The unavailable inventory of outdated listing of certified MWBE firms creates a tremendous hardship for contractors seeking to satisfy contract awards.

We strongly suggest all state agencies prequalify subcontractors, not just MWBE firms, so that their credibility and availability of these firms are known to all bidders in advance.

This is the practice of the School Construction Authority, one that should be emulated by all state agencies.

Second, rather than arbitrarily increase percentage goals, it would be more beneficial to follow the practice of the Army Corps of Engineers.

This practice makes sense.

The Army Corps sets goals based on the work to be subcontracted rather than the entire project value.

The Army Corps' goal must be 50 percent, but it's 50 percent of the subcontract work, not 50 percent of the total project.

If you follow these recommendations, you can be assured that future generations will be boasting about the success and sustainability of firms that began through the MWBE program.

Today we lift up multigenerational family-owned businesses, just like the Scalamandres, that began with the sweat and hard work of its founder.

Tomorrow, we will do the same, as the current MWBEs will be honored alongside the venerable business success stories of Long Island today.

Again, thank you for your attention, and I appreciate the opportunity to testify this morning.

SENATOR PHILLIPS: Thank you.

DENISE RICHARDSON: Good morning.

Thank you, Senators, for having this hearing.

In the interest of time, I will summarize my written testimony.

I'm Denise Richardson, the executive director of the General Contractors Association of New York.

When I spoke at the hearing in Albany in May, we talked about issues with certification.

Today my focus is the ESD MWBE directory.

Only firms that are listed in the ESD directory can be counted toward meeting MWBE goals.

The directory is also the basis for determining the availability and capacity of firms that can perform work on any given project, and it must be the foundation on which the agencies establish a project's MWBE goals; therefore, the directory must be accurate.

Unfortunately, the directory is woefully inaccurate and must be fixed.

I will give you two examples to illustrate its multitude of problems.

Of the 86 firms listed in the category for "structural steel erection," only 8 actually do this work.

The other firms provide services that have nothing to do with erecting structural steel.

A copy of our research is attached to my testimony for your reference.

Similarly, a review of the NAICS Code for

bridge painters results in a list of seven firms, two of which are actual bridge painters.

An additional three firms that are known to have the requisite certifications to paint bridges are not included under the NAICS Code for bridge painters, but are included under other codes, and one is listed in a code that is designated as inactive.

ESD uses a hodgepodge of industrial classifications, including NAICS, NIGP, CSI, ESD, and NYSDOT work codes, but there is no consistency as to how firms are classified within each coding system.

A search of all painting codes results in a list of 312 firms, but there is a total of 6 firms across all lists that are actual bridge painters.

So when looking to find a bridge painter, the expectation from agency personnel is that the prime contractor will solicit all 312 firms in all painting codes.

This is a waste of time and money, and it does not help the MWBEs, as they then become overwhelmed with irrelevant solicitations.

Again, I have attached a copy of our research to my testimony.

Rather than devoting resources to fix these easily fixable problems, ESD has hired a consultant who is tasked with calling MWBE firms to verify if the prime contractor has, in fact, called them to advise them of work opportunities.

If the MWBE firm tells the consultant that it has not been called, the prime contractor must provide an explanation, even though the prime's MWBE outreach documentation already includes a date, time, name of person spoken to, and the outcome of the call.

This consultant is being paid by our tax dollars to perform this, obviously, make-work function.

The GCA recommends that ESD retain an information-technology and data-analytics consultant to clean up the directory, and create a program that will ensure consistent cross-tabulation across the various industrial classification codes.

This will streamline the search for firms and will cut down on the number of irrelevant solicitations that MWBEs receive.

We also recommend that the directory include a more detailed narrative about firms' actual business experience.

This will make it easier to target solicitations to the firms that do the specific work that is needed; meaning, that MWBEs will then receive the right solicitations for the work they actually perform.

To meet project goals, agencies are telling prime contractors that they must subcontract work that they would otherwise perform with their own forces.

We now have situations where paving contractors are told to subcontract paving work, and water and sewer main contractors are told to subcontract the installation of the water and sewer mains.

This forces the prime contractor to artificially subdivide the project in ways that add costs and schedule risk.

This translates to higher costs to the taxpayers and a longer time for them to receive the benefit of the new project.

It is time to set the goals based on the project scope of work and not on arbitrary numbers.

There is an existing body of law governing MWBE programs that is being ignored.

Project goals are to be narrowly tailored and

must reflect the availability and capacity of firms.

Instead, project requirements are being set with little to no regard for the project's scope, schedule, or the availability and capacity of firms to perform the work.

This is illegal.

Public owners, as part of the bid-solicitation process, should publish their goal-setting analysis with the bids facts.

They should also identify the certified MWBE firms that actually perform the project's scope of work, and include that information with the bid documents as well.

It is also time to set the goals based on the work that is available to be subcontracted on a project, as Marc Herbst talked about earlier.

If a project has a value of $10 million, that does not mean that $10 million is available to be subcontracted.

The goals should be applied -- to not be applied to the contractor's cost for bonding, insurance, corporate management, office space, utilities, and other overhead or specialty equipment that is not available to MWBEs.

The goals, as Marc earlier stated, should be

applied to the work that can actually be subcontracted for which there is availability of MWBEs to perform.

The impact of 30 percent and higher goals on projects has meant that nearly all of the available subcontract work is being assigned to MWBE firms, often at a higher cost than the bids received from non-MWBE firms.

When every tax dollar has multiple claims against it to meet a number of needs, we should be looking at ways to minimize the cost of projects, not increase them.

It is time to make the MWBE program fit the reality of construction, and not the other way around.

The priority must be the most efficient way to build the project within the established schedule and budget at the most advantageous cost, and not an arbitrary subdivision of work that bears little resemblance to how the project would be built in the absence of MWBE requirements.

However, this does not mean that the GCA supports, in any way, shape or form, scuttling the MWBE program.

What we are advocating for is the

establishment of project-specific goals based on the availability of MWBEs to perform the work, with greater help from ESD and the contracting agencies in making sure that the information about the work that is performed by certified MWBEs is accurate.

Thank you.

SENATOR PHILLIPS: Thank you very much.

Questions?

SENATOR AKSHAR: I'll just ask one quick question, if I may.

You often hear about this program being different, regardless -- or, depending on where you are in the state of New York. Right?

So today we're on Long Island.

There's definitely a capacity issue where I come from in the Southern Tier, you know, meeting that 30 percent.

I just want to understand that, here on Long Island, you're faced with the same struggles, right, meeting that 30 percent goal, because you just can't?

MARC HERBST: It certainly is, because, as we mentioned earlier, a lot of the lists are outdated; they're not realistic.

Denise just spoke about trying to find a

steel contractor.

You've got a list of all kinds of names of firms that are out there. You're spending all your effort and preparation trying to reach out to the firms, and they're not even in that business.

So, when you finally get down to the people who are doing it, usually they may not even be available.

So now you're at the last minute of the contract, trying to prepare work.

And, now, if you get a waiver, now you've got to go try to find another source, which you wouldn't have gone through that entire process, wasted the time, and now escalated the cost, because now the materials probably are going to be higher than what you estimated on to begin with.

SENATOR AKSHAR: Denise, you talked a little bit about increase in cost.

Any idea, generally speaking, what the -- fulfilling these obligations is increasing the cost of construction?

DENISE RICHARDSON: We're working on a study of that right now, to see what it's doing both to our contractors' overhead costs, because, obviously, everyone has had to add a number of staff members

whose job solely is to call through the MWBE list, and do their own vetting and own research so they have their own databases of what services firms actually provide.

This is an enormously costly and duplicative effort.

We're also looking at what it has meant in terms of needing to add additional supervision onto projects.

Because one of the issues, you know, that we're finding is, that as the goals increase, and particularly on some projects, it means that we have many more subcontractors than we otherwise would have had, which, on some projects, makes perfect sense if the business model would have been that there are many elements of work to subcontract.

On other projects, when you look at what the scope of work is, particularly if it's a road-repaving project, there is not a lot of subcontracting opportunity.

So the goals have to be tailored to match the needs of the project.

And what we're finding is, that we are subdividing projects in ways that we would not have otherwise subdivided them, leading us to have to add

additional supervision and additional time in the schedule to coordinate multiple subcontractors.

SENATOR AKSHAR: So it's incredibly alarming to me, right, because the only people that should be hiring folks to administer a program is the people in the state of New York. Right?

People in the MWBE program should be hiring more people to administer this program.

I would like to see you folks hiring more people to set steel and pour concrete, but you're not doing that. You're having to hire more people just to get through all the bureaucracy associated with this program.

Thank you.

DENISE RICHARDSON: Thank you.

SENATOR BOYLE: And I would like to thank both of you for testifying.

My long-time friend Marc Herbst, for those of you who don't know, Marc and I were elected to the State Assembly on the same night in 1994.

He was smart and went into the private sector.

But, Denise, you did talk about misclassification. I'm interested in that.

300-some-odd bridge painting

subcontractors --

DENISE RICHARDSON: Painters.

SENATOR BOYLE: -- but only 6 or so that actually do it.

How do those other companies get on the list, and what are they doing to have gotten there?

DENISE RICHARDSON: The process for companies, the companies select their own codes.

We have spoken to ESD at length, and this is also an issue in New York City as well, about devoting staff to work with the firms to help them select the proper codes.

Part of the problem is, when you look at the NAICS classifications, they're very broad. And there's a number of subclassifications that need to become part of the list so that you can refine it.

The similar problem exists with NIGP.

And one of the things that ESD did, in a way to try and help firms, was to incorporate these multiple lists that I referenced.

However, what has happened is that, because there is no cross-check, someone who lists themselves as, say, an interior painter, will show up on all lists unless they are specifically excluding other types of painting.

And in the reverse situation, someone who may be a bridge painter, and doesn't go through to find the relevant subclassification, will be listed in the "general painting" code.

So there really needs to be a concerted effort to work with the firms to resolve the issues.

And I mentioned in my testimony in Albany, we did a survey about a year ago of firms -- of the MWBE firms, and asked them to identify to us what information in the directory was correct for them and what was not.

And half of the information was incorrect.

SENATOR BOYLE: Wow.

Thank you.

SENATOR PHILLIPS: Senator Brooks.

SENATOR BROOKS: I think both of you made some excellent points, and I think, particularly when we're dealing with the list, and have an outdated list, and the confusion that brings and the expense.

And, Marc, you know, I think your association, what it's been doing from a training standpoint and bringing everybody in, is excellent.

I think -- I think what's important that you're giving to us, is the practical side of what's

really going on, and that's what we have to look at:

How we honestly implement these programs in a realistic, as to what resources are and are not available in certain regions.

And most importantly, any list that we have people should be correct and honest. Not, at the last minute, you're searching for somebody to fill a slot.

So, you know, I appreciate both presentations.

For Marc and I, we're in a role reversal.

When he was the Assemblyman, I used to scream at him as a school board member.

Now we reverse ourselves.

But --

MARC HERBST: I didn't scream at you, Senator.

I was nicer than you were to me.

[Laughter.]

SENATOR BROOKS: We can go back to one night, Marc, but we'll leave that.

But I do thank you both for some excellent comments and solid suggestions of what has to be done.

Thank you.

DENISE RICHARDSON: Thank you.

SENATOR PHILLIPS: I have one quick question.

So you have given your feedback to ESD, both of you?

DENISE RICHARDSON: Yes.

SENATOR PHILLIPS: How many times?

DENISE RICHARDSON: Several.

SENATOR PHILLIPS: Thank you.

MARC HERBST: It's an ongoing conversation.

SENATOR PHILLIPS: Thank you.

DENISE RICHARDSON: We're also in the process of -- I just cited those two specific codes.

But we're also in the process of doing a similar analysis with all the relevant heavy civil construction codes to see what exactly is in there.

And we will provide them with all the information, because we -- you know, we would like to work with them and help them resolve this, to the extent that they're interested in helping us.

SENATOR PHILLIPS: Okay. Thank you.

Thank you, both of you.

I'm going to ask Mr. Larry Sitbon to come up, from Citnalta Construction Company.

Mr. Sitbon has taught courses to MWBEs on how to become an MWBE, so I felt that he has a unique

ability to give us, and I apologize, in three minutes or less, what works from his standpoint, and what doesn't work.

LARRY SITBON: Okay.

So unlike Marc and Denise, I did not come prepared to speak.

I came prepared to listen. And I introduced myself at the podium when I first came in.

I spoke with Senator Phillips briefly about some of the frustration that I'm experiencing right now, and she asked me to speak.

I'm part of Senator Boyle's district. I'm in Bohemia, Long Island.

Just briefly, only because of the Scalamandre story, you know, my parents emigrated here in 1940, during World War II, from North Africa. And I felt different, myself, than others growing up.

And I -- my best friend was a little Afro-American boy -- one of my best friends. He was the grandson of the superintendent in my building. And when he hurt, I hurt. When people made fun of him, it hurt me.

And I said to Senator Phillips that I do believe in the program.

I believe there were injustices that

occurred. I believe opportunities were not provided for minorities and women throughout my generation particularly.

We've come a long way.

I'm here today to listen because I was extremely frustrated by something that happened with my company last month.

I explained to Senator Phillips that we are, to some degree, regarded as the poster boy at the MTA for doing the right thing with M and Ws.

Mike Garner who runs the program openly demonstrates that whenever he gets the opportunity.

And so because we know our way around the MTA and we know our way around the SCA, we've managed to effectively work with the program, succeed with the program, and, although it provides extra difficult situations for us, we manage it.

So, just briefly, what happens, so you'll understand my motivation, we were low bidder on the biggest job we've ever been low bidder on, a $106 million bid. It was not a program subject to 15-A. It was Local Law 1.

But it was taken away from us because our paperwork that we submitted was remiss, no question.

The documents gave us the opportunity for a

four-day cure, which the owner didn't provide us with.

And they just went to the next bidder and deemed us to be non-responsive primarily because our minority paperwork was not proper, which was extremely frustrating to me, especially after having done the right thing, if you will, for so many years.

So to get back to your particular cause, it is getting more and more difficult every day to do business.

We focus ourselves; I think 33 percent of the effort in my company right now is devoted towards minority.

My partner said to me, Everything we talk about now is minority.

That's a little bit of an exaggeration.

But, when we bid a job in our bid room, we have two big television sets.

One has the cost of the bid, and the other television set on a projection screen has, how are we going to meet the minority goals?

And that goes part and parcel with our bids.

In meeting the goals, we're taking a far greater risk.

I have a belief in my company, whenever my estimator would bring in a contractor to us to perform work, my first two questions would be:

Is he union, and -- he or she; and is he or she bonded?

Nowadays, bonding is out the window with minorities, to a large -- actually, I would say 70 percent of the minorities are not bonded.

I've got a $5 million unbonded contract, a $3 million unbonded contract. And, generally, I don't like to go higher than two hundred and fifty or five hundred thousand dollars, unbonded.

So there's a far greater risk on our part.

And we have to -- I know we have to make sure that the minorities meet commercially useful purposes, but we have to keep an extra management eye on the daily activities of the contractors, the minority contractors, because many minority contractors are financially suffering, and don't have the same experience that another contractor who might be doing a $5 million job has, and this is a first for many of them.

So it just creates a difficult situation for us in working.

And that's, basically, our situation.

SENATOR PHILLIPS: Thank you, Mr. Sitbon.

So this is definitely an issue that is costing your firm. It's making the overhead for a project increase because of the amount of administrative time you're putting towards making sure. And the amount of risk. I mean, you are employing unbonded subs.

LARRY SITBON: My biggest thing in life, as a business owner, and I started the business 44 years ago, as a business owner, the first thing I look at is risk. That's the first thing I like to evaluate.

Whether it's sending someone to the deli for a sandwich or bidding a job, I worry about risk.

And, also, we do take higher prices from minorities in order to meet the goals. It's a fact.

SENATOR PHILLIPS: Right. Great.

Thank you very much.

Thank you for your testimony.

LARRY SITBON: Thank you.

SENATOR PHILLIPS: I'm going to ask John Cavallaro and Denise (sic) Capolino.

Capolino? Capolino (different pronunciation).

DENNIS CAPOLINO: Capolino.

SENATOR PHILLIPS: Capolino.

Thank you.

Oh, Dennis.

You're Denise.

Sorry, Dennis. My apologies there.

DENNIS CAPOLINO: That's okay, but I will say that's probably a first for me.

[Laughter.]

SENATOR PHILLIPS: Okay.

So, John is with Skanska USA Construction, and Dennis is with Halmar International. Both are members of the GCA.

JOHN CAVALLARO: Good morning, Honorable Senators.

As Senator Phillips mentioned, my name is John Cavallaro. I am corporate counsel for Skanska USA civil.

Skanska is actually a global developer and construction company. I believe we're the seventh largest contractor in the world.

My role at Skanska is actually to oversee the national DBE compliance program, which includes M/W compliance here in the New York area.

I oversee about 60 projects, and they range from hundreds of millions, to as high as $4 billion.

So I definitely offer a national perspective.

My range of projects go from Seattle to Boston, to Orlando, to Southern California. But the New York metro area has the -- I would say the highest number of projects that I see M/W challenges on or DBE challenges.

I think, Senator Brooks, you hit the nail on the head.

How do you get a piece of legislation, put it into practice, with day in and day out folks that are running the program, actually can do this in an efficient way, where the ideals of the program are actually met, which is, really, provide the opportunities that the program speaks to, and level the playing field that DBE regulations kind of speak to, that the M/W regulations pull from?

I think you're going to hear in these workshops, if you haven't heard already, that in the New York area, particularly downstate, capacity is a tremendous issue.

We at Skanska, to address that issue on our Laguardia project, a $3.9 billion project, and our Farley project, which is a $1.26 billion project, actually built in an exclusion in our project labor agreement which said that MWBEs can actually work non-union on a union project.

The unions were very resistant at first, but ultimately agreed to it. And it was an effort to address the issue, that you have a lot of MWBE companies out there, that they hear the word "unions" and they're reluctant to get involved in the project.

We've also participated in USDOT bonding workshops.

We do -- we run a building-blocks program for MWBEs.

We spend a lot of effort in trying to train the community, particularly the MWBE community, how to work on a mega project which is unionized.

But the one thing that we're finding time and time again, and I think you've heard this from Denise and Marc, is that the goals are not consistent with what's happening day to days.

I participated personally in some of the disparity-study workshops that ultimately supported New York State's 30 percent goal.

But the one thing that I find that the disparity studies did not take into account is, what do you do with a prime contractor who has unreasonable pricing?

Just last week we bought out a scope of work.

When I say "buy out," it's a process of hiring a subcontractor.

My non-MW was at $8 million. My M/W was at $28 million.

So I have an M/W, he's available to do the work, but he's available to do it at more than 300 percent the cost.

So, if you look at the disparity study, I have availability, I have certification, but where does the unreasonable pricing?

And, ultimately, the taxpayers bear that burden.

So I ask that any improvement in the legislation take into account the issue of unreasonable pricing.

And the primes, in my opinion, should be relieved of that pressure to meet the goal when the pricing rises to the level of unreasonableness.

Also, we talk about that, in New York State, we have umpteen thousands of firms certified in our database, which is true.

I'd like legislation, when revisited, to take a look at those areas of work on a kind of scope-by-scope basis.

One thing that most of us in the room

probably use every day is elevators and escalators.

There's not a single M/W firm certified to do the escalator work and the elevator work that we do.

Perhaps there should be exclusions for certain areas of work based upon the non-availability of M/Ws when they just don't exist in those particular areas of work.

Another issue, and I'm going to give you very, kind of, specific examples of what we deal with day to day, when we're talking about improving the legislation.

We have many, many prime contracts where we, as the prime contractor, contractually must perform a certain percentage of the work; 50 and 60 percent.

So if I have a 50 percent self-perform guarantee to the owner, and I have a 30 percent goal, that only leaves me 20 percent work for the non-MW subcontractors.

The non-MW subcontractors are very critical to the M/W community because they're the very ones hiring them at the second tier.

So we find that they're diminishing, and their numbers are reducing. That will ultimately have a negative effect on us getting M/W because, many times, M/W firms, they're small by definition,

they don't have the capacity.

So I will subcontract a very large scope of work to a first-tier non-MW, who, in turn, will break it down and get that M/W participation at the second tier.

So we need that first level of non-M/Ws to be active, efficient, successful, and financially stable.

Another area where I think we can improve the legislation -- and I think, Marc, you touched on this -- I've had the benefit of being the compliance officer on three large projects where the Department of Defense was the owner.

The federal government operates under something called the "Federal Acquisition Regulation," much different than the DBE or the M/W regulations.

On those projects, they actually take the prime contract amount, break it down into two components: What will the prime self-perform, and what is the amount to be subcontracted?

And then goals are measured against the amount to be subcontracted.

That's a very efficient way of identifying the goal, and I think, practically speaking, a

realistic way of getting to the goals, because when we speak of bonding, insurance, general conditions, supervisory salaries, executive salaries, those are not areas where there will be any participation, but yet the goal in New York State is measured against that.

So by breaking out the subcontractor, (indiscernible), as Marc mentioned, it's a more efficient and, I think, realistic way of achieving the goals.

On the certification side, I think a little bit of a misnomer exists in New York State.

We hear many subcontractors, even some primes, talk about a firm being "certified."

But certified does not equal qualified, and qualified doesn't equal compliant.

So, New York State spends an awful lot of money hiring integrity monitors who work on the owner's behalf, making sure that us, like primes and subs, are being compliant.

I would suggest that the efforts of those integrity monitors be redirected, that, in that certification process, they're vetting out those firms for compliance efforts, commercial-useful function standards.

And that, this way, I believe, as Marc mentioned, through the pre-qual process, when a firm is presented as being "certified," it's more than just a financial review. It's that the firm is viable, qualified, and compliant.

I think it gives us all in this state a sense of reassurance that we have the State's stamp of approval.

We understand we're going to have our compliance efforts to undergo, nonetheless. But at least we have that extra level of reassurance, particularly when non-compliance comes into existence.

The other thing that we would ask you to take a look at is that, MWBE firms are small by definition.

And on the mega projects that we work on, we are giving them subcontracts in the tens of millions of dollars, when they've never handled work of this nature, this scope, and, really speaking, this scale.

Recently had a subcontractor who failed on a project, an M/W. Had a $38 million subcontract.

His next largest subcontract prior to that was 6 million.

And, surprise, surprise, he failed within a few months because the work and the scale of the work was just too much.

But, we're under a lot of pressure to give them this work because there's pressure to meet the numbers.

So we ask that, there's an inherent tension between hiring the firms, but then saying, "Hands off. I can't give you assistance as a prime contractor, in fear that I might violate the standards for commercial-useful function."

If I want to properly take credit for that $38 million subcontract, I, literally, have to stand on the sideline as the prime contractor and let that small business with a $38 million subcontract, work on its own, and manage its own work.

And if I give too much assistance, I can then have a prosecutor knocking on my door saying: You violated CFF as a prime contractor. Now you're under investigation.

There needs to be more balance in the CFF standards, in my opinion.

These are firms that need assistance.

I believe most of us in the room, when we think about our careers, there's someone who gave us

assistance, there's someone who was our mentor, there's someone who helped us along the way.

If the essence of the program is to truly have the M/Ws succeed, the primes should be able to coordinate with them, give them more assistance, for that successful rate.

But, that has to take into consideration that the prime should not be in the position of being in fear of being prosecuted for making sure that coordination, schedule, guarantees, quality control, are all met.

There's so much more to a project than M/W compliance, so we have to be careful that the tail is not wagging the dog.

SENATOR PHILLIPS: Mr. Capolino -- oh, excuse me.

JOHN CAVALLARO: Yeah, just two other comments.

The other thing that I would suggest, too, is that, when you look at the federal DBE regulations, and you put on all of the materials that they add, there's, literally, hundreds of pages of guidance.

The New York statute is a few paragraphs, and there's no guidance behind it.

Take a look at your New York State Committee

on Open Government.

FOIL, we'll deal with it every day, especially as public officers.

If I want to look up an issue for FOIL, I go to your database, the New York State Committee on Open Government, and there's a library of guidance opinions, so that you know, as a public official, how to operate, and how to disclose documents, and how to withhold documents.

I would suggest that there are's so many gray areas in the New York statute, that adopt something similar to what you do with the Committee on Open Government, and start publishing guidance opinions for the contracting community, so that we encounter these gray areas, we have some level of guidance.

By leaving the contracting community with so many questions, even unintentionally, we can find ourselves in the area of noncompliance.

That's not good for the project, that's not good for the public owner, and that's certainly not good for the contracting community.

And then, lastly, to Denise's point, we have six different commodity codes in New York that we use.

Let's standardize the codes to one code, one

basis. And let's standardize the forms.

New York State uses various forms of payment verifications, waiver requests, utilization plans, and participation plans.

Let's standardize one set of forms so that we're all speaking the same language, and the public employees and the contracting community are kind of using the same verbiage when they're operating under a project.

I think that there's such a shotgun approach to the forms, the codes, the certification, that it just raises the risk for a lot of miscommunication when you're operating day to day.

So thank you for your time.

And, again, I applaud you for having us here today.

SENATOR PHILLIPS: Thank you.

Thank you.

Mr. Capolino.

DENNIS CAPOLINO: Hi, I'm Dennis Capolino. I'm a vice president of Halmar International.

For Halmar International, I serve as the chief procurement officer, chief diversity officer, and corporate EEO officer.

I'm current -- Halmar is one of the four

partners on third -- of Third-Track constructors.

And we're currently working on the Long Island railroad project right here at home.

SENATOR PHILLIPS: (Inaudible.)

DENNIS CAPOLINO: And it's going to be -- it's going to inconvenience people for the next four or five years, but it's going to be a great project.

So, for Third-Track constructors, I am currently managing the procurement, and I'm the MWBE, SDVOB, program manager.

So I am managing the MWBE program for a huge project also.

The people that went before me today have talked in a lot of generalities.

I want -- I thought maybe I would spend a little time giving you some real statistics of things that we have experienced over the last few years.

We find that invitation to bids to MWBE firms, and on every single project we send out hundreds. Sometimes on a project like Third Track, it will be thousands.

We find we get about a 7 percent response rate --

SENATOR PHILLIPS: Seven?

DENNIS CAPOLINO: Seven.

SENATOR PHILLIPS: Seventy?

DENNIS CAPOLINO: Seven. Seven (indiscernible).

-- of firms that we invite to bid, that actually submit a bid.

We also have job-specific outreach events.

We've had three already out here on the island for this project.

We find that on the job-specific outreach events we average about a 3 percent turnout.

There was one here the MTA sponsored on June 2, I believe. 23 firms showed up.

We find that most MWBE firms do not -- they don't want to spend the time to put a quote together and give us a price before we actually bid the project.

But yet the -- our public owners require us to submit a utilization plan, telling us (sic) what firms we plan to use, how much and what work they're going to do, either with our bid or within seven days of our bid.

We also find that a lot of MWBE firms just plain do not want to work for certain state agencies.

New York City DOT is famous.

MTA. MTA has some pretty rigorous requirements for qualification, as does, New York City agencies, they have their VENDEX.

I found that the agencies are not willing to bend their qualification requirements for MWBEs.

I've been in many battles where I proposed someone who had two years' experience, and not three, and they've just plain said, no, you can't use them.

We also find that the agencies tend not to adhere to Executive Order 15-A themselves.

As was discussed earlier, they don't set project-specific goals.

Right now, it's a straight 30 percent on everything that's State-funded.

I've seen one job in probably the last three years that the goal was less than, then. And before it was 20. Now it's 30.

I've seen one that -- where I think it was 10. Just one.

They don't give waivers.

Waivers are not a thing. No matter what you do, you do not get a waiver.

And, again, as everyone has said here, the

goals are not really realistic relative to the projects that we're doing.

We've also found that just the certification in the New York State database is really meaningless.

Now, we talked about, the certifications aren't -- don't really show what work the firm does.

But the agencies themselves come to us and they say: Well, okay, they're in our database, but that doesn't mean anything. You have to verify that they're certified. You have to verify that they're real. You have to verify that they perform a commercially useful function.

And I'll say that, while we -- when we do that, we find -- I find a lot of firms that I wouldn't consider to be real, and we tend to shy away from them, and, obviously, we don't use them.

I think there truly is a lack of capacity.

I've seen a lot of -- I've seen a lot of statements made that there's over 10,000 firms that are certified now.

I would submit to you that probably less -- a third or less are actually shovel-in-the-ground construction firms.

Most of them are construction managers,

engineers, and they don't actually build things.

A lot of them are non-union, we talked about that.

Government agencies, such as MTA, where projects now, or even the New York State DOT, their projects, they do project labor agreements.

These firms don't want to -- they just don't want to get involved.

And I found, even on jobs, you know, where I've told them, "It's a project-labor agreement. Even though you're non-union, you can still work on the project," they want nothing to do with the unions.

And a lot of them are very small and they have their crew, and that's how they make their living.

Which, there's another point: A lot of the firms that are certified, they don't even do commercial work.

There's residential builders, there's people that do storefronts on shopping centers. They don't even perform our type of work.

A lot of them are from out of state. They're not even New York State businesses.

When we talked about the painting, the bridge

painters, one of the things Denise didn't mention is that, of the six, seven, that are certified, only one or two are actually New York State companies, and only one in Long Island.

I find that I -- on a regular basis, yesterday, three times, I've had to tell non-minority small businesses that, I'm sorry, I can't accept a bid from you on my job because everything that I'm giving out now is only going to minority businesses.

There were three yesterday, and people that I've worked with for over 20 years, and I just told them, Don't waste your time. You cannot get this job.

SENATOR AKSHAR: The cost on this job, (inaudible/no working microphone).

DENNIS CAPOLINO: The cost of?

Well, we're talking about $200,000 contracts, million-dollar contracts. I'm not talking about major companies.

We're talking about, you know, just "people trying to earn a living" kind of companies. Absolutely.

So with that in mind, I want to go over a couple numbers.

On the Long Island Railroad Third Track project, before we bid the job, we sent out 3,282 invitations to minority- and women-owned businesses.

Part of the rules of good-faith effort, you have to make what we call -- you have to do what we call at least three "touches."

"Touch" could be an e-mail -- well, typically, it's two e-mails and a phone call.

So, 3,282 people we contacted 3 times.

We received 962 responses.

163 of the 962 said they will bid the job, and of those 163 "will bids," we actually received 70 bids, on a $2 billion project.

Now -- so, outreach events.

Three or four months before we actually bid the Third-Track project, we had an outreach event.

We invited 3,588 firms. About 75 attended.

In March of '18, Halmar did an outreach for another project a little further up the line in Westchester County, for the enhancement of five train stations.

We invited 3,267 firms. 41 showed up.

I talked about the MTA's outreach, where they only got 23 firms.

So we decided to try something different, and we decided to do what we call "targeted outreaches."

And one of the -- one of the -- and with us, our approach to try to meet the goal on Third-Track is, we're breaking the project up into very small parts.

We have 13 bridges we have to build.

We're breaking the bid packages up into one- or two-bridge bid packages.

So we did that, and we did an invitation just for the steel fabrication and the steel erection.

We invited 62 firms that were certified for steel fabrication or steel erection. Two attended.

On August 16, we did another big outreach event for Third Track.

We invited 3,018 firms. 67 showed up.

Now, I sat down --

I'm sorry?

SENATOR PHILLIPS: (Inaudible/no working microphone.)

DENNIS CAPOLINO: Yeah, okay.

One more quick point.

So I sat down and worked out the numbers for -- because we touched on this also, with exclusions from the contract, when you're setting

goals.

So the base contract for Third Track is 1,457,100 -- $1,457,117,009.

We have a 20 percent self-perform requirement.

So if we deduct that, if we deduct our mobilization and demobilization costs, our overhead and profit, our bonds and insurance, direct-hire project management, and there's also items that cannot be -- that are what we call "sole source." We can only use one firm.

For example, the positive train control system, we can only us Bombardier.

For the signal system we can only use Insolvile (ph.).

So you get to the bottom of this, and there are's 468 million available to subcontract, at all, to every firm.

Our 36 percent goal is 524,562,000.

So, sitting here today, if I subcontract everything out to an M/W or SDVOB firm, I'm still going to be $56 million short of the goal.

And the other thing that we didn't talk about today, that we didn't bring up, because this is the MWBE program, but now we've -- the State has now

instituted an SDVOB program (service-disabled veteran-owned businesses).

Our goal on Third Track for that is 6 percent, which equates to $87 million.

There's only 231 certified SDVOB firms in the entire state that perform construction work.

So, from -- meeting those goals, I think, are going to be even harder.

SENATOR PHILLIPS: It's a project that is, needless to say, very relevant to here in the 7th Senate District, since the entire -- with the exception of a small portion going through Senator Hannon's district, but, it is a project that is right here in the 7th Senate District.

So, thank you.

DENNIS CAPOLINO: Uh-huh.

SENATOR PHILLIPS: Thank you, and good luck.

SENATOR AKSHAR: I think you highlighted a couple of important points that's often discussed when we're having these hearings, that -- I would qualify both of you as, this is my words, heavy-hitters. Right?

You're very, very heavy-hitters. Very, very big multi-billion-dollar-jobs companies.

But you both hit on the importance of, you

know, even though you're very large companies, right, you're taking care of a lot of smaller people. Right?

DENNIS CAPOLINO: Uh-huh. Absolutely.

SENATOR AKSHAR: Somebody -- that $200,000 to somebody could change their company.

A million dollars to somebody could change their company.

So, I appreciate you highlighting that, that -- you know, that line through all the projects, and how you are -- while you may be a very big -- both of you, respectively, very big companies, you, in fact, are taking care of people down the line.

DENNIS CAPOLINO: Well, and I think that you'll find that a lot of our -- a lot of the states are -- and I almost don't want to say this, but they're kind of going away from the MWBE programs, and they're going to either diverse business programs or they're going to small-business programs.

New Jersey, California, there's a -- you know, there are's a lot of them now, Connecticut, they do small-business. And small businesses are minority, veterans, woman-owned, and also, you know,

groups of non-minorities.

SENATOR AKSHAR: Let me ask one last question, I know we're tight on time.

How often are you hiring MWBEs from out of state to fulfill the requirement?

Can you speak -- can either of you speak on that.

JOHN CAVALLARO: I can't assign a percentage to it, but you do have MWBEs from the tristate area outside of New York, even as far as Pennsylvania, that are certified in New York.

And with the tension and the goals, for example, I have two projects in New York City alone where the goals are one -- where the goals, collectively, are $1.1 billion.

SENATOR AKSHAR: "Billion"?

JOHN CAVALLARO: "Billion."

1.1 billion in participation.

But, M/W firms are small by definition.

They have to be small or they graduate out of the program.

So what does that mean?

That means I need volumes and volumes and volumes of them to meet that 1.1 billion.

So oftentimes we do find, when you're looking

at the pricing and going through the (indiscernible) process, you will be hiring firms from out of state.

And if I could just add one other point to what Dennis said, I think there's a lot of good things about -- and we don't talk about it enough, about mentor-protege programs, if we truly want to help small businesses.

We were the first company in the United States to enter into the USDOT mentor-protege program.

It's not an area of taking credit.

It's not an area where we're counting numbers.

It's about truly mentoring small businesses to grow, succeed, and become, hopefully, medium-sized and large businesses, and become large employers, in the United States.

I think that there should be more focus in that area as well.

And I don't know that we speak about that enough in New York State.

SENATOR AKSHAR: All right. Thank you.

JOHN CAVALLARO: Thank you.

SENATOR PHILLIPS: I'm going to keep things rolling, unless we -- thank you.

Thank you, both of you, very, very much.

As we get our next panel up here, I just want to take a minute to thank all the staffs, that this wouldn't have happened without my staff, without Senator Boyle's staff, Senator Brooks', and Senator Akshar's.

So, thank you very much.

We also have Lisa Harris who is from our Senate Legal Department up in Albany. She is here.

Lisa wave, please.

Lisa has been instrumental in coordinating, and -- our efforts as a Committee working group on this MWBE issue.

So thank you, Lisa, for being here.

So if I could have my next panel come on up.

I'm doing a really bad job of keeping us on track, I just want you to know.

I also am going to say, at 12:15, I am going to hand this event over to my colleague, Senator Akshar, because, believe it or not, I have to go.

So I apologize up front.

So I'm going to let you introduce yourselves because I'm doing a bad job, as Dennis, or, "Denise," knows.

So, thank you.

So, please, Mr. Haugland.

WILLIAM HAUGLAND: I am Bill Haugland, with Grace Industries.

We are an infrastructure construction company here, based out of Long Island, New York, primarily working in the Long Island, New York City, and Westchester-southern New York region.

The New York State Department of Transportation is among our largest customers.

And the 30 percent MWBE goal with the program is certainly affecting our daily -- you know, the way we're progressing projects in the past.

It's not a -- you just -- the concept of subcontracting to a minority group of companies is a great one. And I haven't heard anybody today, and I don't think there's anybody here, that is opposed to that.

And, you know, Denise and Marc have been doing a great job in the AGC advocating that around the -- around the state.

But, to -- you know, to mandate -- and "mandate" is the wrong word -- require that this goal was set forth, and 30 percent as a blanket throughout the entire value of the project, which,

as Rich I believe touched on, is not just on our work that we would be subcontracting out.

There could be forced items that are in there from the DOT; there's our overhead; our profit, and God willing; all associated with that.

So, I mean, effectively, if you take a job that's $10 million, sell price to the State, and it has a 30 percent goal, in reality, it's more than 30 percent that we're subcontracting out at that point.

So, I mean, I don't -- you know, advancement of the program doesn't have to just be in increasing the number, from 30 to wherever it would go, but making it more sustainable.

And I think that there's been some great ideas.

We've independently, sounds like we're all coming up to the same conclusion here, and I've heard it a couple of times, where if we were to take a step back and look at what we're trying to achieve in further helping some companies that may have a disadvantage associated with them, to help advance them, and look at the work that we would be subcontracting out, and allocate a percentage, and maybe that percentage of our subcontractor work is

more than 30 percent at that point.

But, by all means, there's examples, as I've learned today, and I've seen with other agencies around the country, and it sounds like even within the state, where they'll do that at the time of bid.

You write in your subcontractor value, you write in the percentages of whether it's an M/W, a small-business company, and -- and -- you know, you set that at the time of bid, so that way it's up front and everybody understands what's going on.

But, right now, meeting a 30 percent goal on a fast-award job, which we all know in the infrastructure business, schedule; the schedule at the time of the bid, and then the schedule of when the actual -- the job is going to get brought in, is usually accelerated along the way, as we've seen with the landmark Third-Track project, as well as LaGuardia, I'm sure, and some of these other projects, even on a smaller scale that we deal with.

And, okay, as a general contractor, we have the ability to -- you know, that's was we do: We solve a problem; we provide a solution to a challenge.

And when we have a subcontractor that may not be able to do that, and we can't do anything to help

them, we have to take this hands-off approach, you know, we're asking for the system to fail.

And there's been countless examples, so I know, in the spirit of time, we don't need to keep going into that.

But, thank you.

SENATOR PHILLIPS: Very helpful, but to hear it reiterated time and again.

Mr. Lipsky.

JOEL LIPSKY: All right.

Thank you very much, Senators, for having me here.

Senator Akshar, thank you very much for taking leadership and being open to this.

It's a very, very important issue for my company.

And, for Senators Phillips and Boyle and Brooks, I do a lot of public works in your districts, both publicly -- public-funded work from the State, and also I do a lot of private work that is not State-funded.

So I do a little bit of both, okay, public and private.

I am co-owner and chief operations manager for Lipsky Construction.

I graduated with a bachelor's degree in construction management, and have been working specifically in New York State for the last 10 years.

After I graduated, I did go and work for Turner Construction in the city. They are a large, we recognized, as one of the top construction firms in the state.

And after working with them for about five years, I then moved back to Long Island and joined the family business.

Myself and my brother are third-generation owners of the construction company.

My grandfather and my father started this, and we have been providing construction services to Long Islanders for over 50 years now.

We were raised on Long Island, we were brought up on Long Island. Our business is on Long Island. Our homes, and our roots, for the next 30, 40 years, will be on Long Island.

So, we are not going anywhere anytime soon, much to the dismay of some of the competitors I have in this room.

I just want to thank Dennis for providing very, very good statistics on some of the stuff.

Now, I'm sure that you have these numbers available because of all the outreach that you're required to do and to prove to the State, and the extent of which your company needs to put the resources in, not just human resources, but the financial resources as well, just to be in compliance of the outreach program.

So the position of my company, being a family-owned-and-operated company on Long Island, where all my proceeds and profits stay within the community, is the following:

Any program that the State can provide to us, that can bring about new, qualified, responsible contractors, we are 100 percent open to.

I am eager to discover who they are.

I am more eager to even work with them.

My family and my company both understand that the MWBE program was put in place to create a healthy, a vibrant, and reliable work pool in which MWBE contractors have a fair shot at winning some State contracts.

The program, based on its merits, is a very, very good program.

It's a necessary program to provide equal opportunity for women and minority businesses that,

historically, have been underrepresented and underutilized in the past.

So, overall, I think that the merit and the theory behind the program is a very, very good one.

Myself, being a product of New York State, meaning, I went to public school within the state, in Bay Port, by Senator Boyle's district, where the State put extreme emphasis on inequality in the school system, has taught me and educated me that inequality is an issue, and it has been, historically, an issue, and still presents itself to be an issue today, not to the degree that it once was. We are always making improvements on the issue.

But the issue is not going away, and responsible procedures need to be put in place in order to close this gap.

And I think that the disparity study that the State has released shows that there is a gap, to some degree.

Now, to what extent of that gap is?

I know that Mike Elmdorf from the AGC, who has spoken to your panel before, can kind of go over that more in detail.

But, in summary, my company is very much open

to having a responsible program be put in place so that we can meet some new contractors.

The challenges that my small family-owned-and-operated company face is that:

When did this goal become a requirement?

How did it become a requirement?

The good-faith effort is absurd.

It's open-ended, and there's -- it just takes up tremendous resources, as Dennis pointed out earlier, not only in big companies, but, as a small company who mostly has family working for it, I've had to retain at least one or two individuals for the sole purpose of being in compliance with the outreach program, and trying to get the bids, prior to submitting it, in line with the bid solicitations with the MWBE programs.

The other challenges, I'm not going to beat a dead horse here:

The certification process is extremely bad.

The recertification process is bad.

I also have very, very well-qualified contractors that get decertified, in some cases, halfway through the project, that put the risk and responsibility back on me to figure it out.

I also have issues in the way that the bids

are solicited.

In some cases, only very specific contractors can do this very special work, yet they still have to conform to the MWBE requirements regardless if they're an MWBE contractor or not.

I have to use this guy. He's the only guy that's available and qualified, as per the architect, to do this work.

I don't have a choice, but somehow have I to make it work.

The backlash that we're getting, and how it's affecting my company, is I'm, for sure, spending more time on my overhead -- more money on overhead, tremendous time vetting out and doing due diligence to make good-faith efforts.

I've been told that I will receive financial penalties, in the sense that they'll deduct money from my contract if I don't meet these goals.

I'm not sure if you Senators are aware, but every State project that happens to be -- every single contractor here has a report card, of sorts, that we're not allowed to see. And if we don't hit the goals, it will be reflected negatively on the report card, and that will be viewed in a negative fashion for any future work that we try and do,

regardless of any good-faith effort that we tried to do.

If we don't meet the goal, it will be reported, and, in some cases, will prevent us from doing work with the State again.

I've also been closed-door -- behind closed doors, black-balled by some of the consultants that you hired.

And a specific quote by someone -- by one of the consultants of your agencies was that, he will ensure that I will never receive a State contract ever again unless I meet the requirement.

That's a direct quote from a consultant from the State.

And, overall, when you go to the Empire State Development and try and reason with them: (Motioning) I don't want anything to do with it.

"Meet your goals," is the response that we get. "Figure it out. As a contractor, you guys will figure it out."

It's a hard line from the Governor's Administration to meet the 30 percent goals. And the responsibility and the effort that needs to get done is put on small businesses, and big businesses, and costing our overhead to be higher.

And that just gets translated down to the bid.

When I put my bid in, my prices, unfortunately, are going slowly up, not because of higher wages on Long Island, but because of all the additional overhead that's required in order to conform to this program.

We find that the State generally doesn't want to compromise to any degree.

And, again, like what Dennis was saying, they have a waiver program. But, the joke of all these networking functions that we go to is, "They don't waive for anything."

You know, I know that there's a number on there that they do grant waivers, but it's very, very rare.

Now, Senator Phillips, I understand that you sit on the Insurance Committee, or at one point did.

And I understand that, Senator Brooks, you have insurance background.

I just want to let you guys know, from my understanding, the qualification process to get on this list, which I'm going to talk about the list in one minute, in no way vets out people's insurance.

Besides providing a very simple document that

says, you have something, they don't do any type of due diligence to vet out the people with bad insurances.

And I'll give you an example of what that means.

I've had roofers come to me, and have found out that they exclude personal liability for any injury over one story.

So any roofer over -- if that worker is on a two-story, three-story, four-story, roof that falls, that subcontractor's insurance will not take that claim. It goes back onto me, or the owner.

I've had cabinet installers whose insurance doesn't cover them outside of their workshop, and they're trying to install cabinets on my job sites.

And I think your father was a steelworker at one point.

I had steelworkers -- a steel contractor that didn't even know that any worker on a hoist or ladder that fell, his insurance would not cover that claim.

They also have exclusions on Labor Law 220. There's exclusions on "action over" and "primary non-contributory."

And I'm not going to bore you with what those

terms mean, but they're very, very important terms, and it's actually a black-and-white: Either you have -- you're in compliance with these insurance requirements that the State is imposing for their State contracts, or they're not.

And what we're largely finding is that there is a large population of contractors on this list, 8,600, but, largely, unqualified.

And in the sense that, what we're finding is, the biggest disqualification is their insurance alone.

A very, very small portion of them actually possess the right insurance to do the work.

And, again, what Dennis was saying is that, to get a -- any type of subcontractor, and even a smaller pool of subcontractors, to be bonded is like almost impossible.

So the risk then comes back to my firm, and my family.

And when I say "my firm," I'm talking about my family.

So all that risk, if they don't perform, they're not bonded, I have the bond, but I have to use them because I need to meet the State requirements, is then passed down to me as a general

contractor.

I always like to end on a good note, so I will end on a good note.

I think that the theory of the program is very, very important, and it works, and I'll tell you why.

I have met some very, very good competitive, qualified, and responsible contractors through this program.

And I believe that was the intent originally, was to gain more exposure and even the playing field of minority- and women-based contractors.

I can affirmly say that I have met some of these contractors that I may not have -- normally have met without this type of program, and, in some cases, have used them on private work. Because they do such a good job for me publicly, and they stay competitive, that I will take them into the private sector with me as well.

Charlie Hull at Hull Enterprises is a great contractor. He's a landscape contractor. I very much enjoy working with him. I met him on a State project for Office of General Services. He's a very good friend of mine.

Mary Cassone -- is Mary here?

I believe she's going to talk.

Mary Cassone is another woman-owned contractor on Long Island. My family has worked with her family for many, many years, and she's a very, very good contractor.

So, the theory of the program works, but there's definitely a lot of things that could get improved on.

The biggest one that I have is the list.

The list that's on the website, 8,600 contractors, is a misrepresentation in any capacity.

They are not qualified.

They are out-of-state contractors to find.

I'm not going to, again, beat the dead horse, but, the painting of the bridge is a perfect example, when the State will say: How can you not find -- out of the 8,000 people, how is that you cannot find one minority contractor that can do the work for this specialty thing?

And they don't have the right insurance. They can't work on the job site. The State does not allow them.

It puts the risk on my family, and on my bond and everything.

So the list needs a lot of improvements.

And I'm not sure why the Governor's Administration is more concerned with showing that number go up.

For whatever reason, I kind of feel like it's a quota-driven type of statistic as opposed to a quality-type-of-contractor statistic.

And I would actually like to see the number go down from 8,000, because I would like to see that the contractors are more qualified.

It puts the burden on contractors like myself and my colleagues to do the vetting process for the State.

This -- this -- there's no way -- so the State is saying, this person --

SENATOR PHILLIPS: Mr. Lipsky, we're going to give -- I apologize. I think we got your point.

JOEL LIPSKY: Okay. Yeah.

SENATOR PHILLIPS: And I hate to cut you off --

JOEL LIPSKY: Okay.

SENATOR PHILLIPS: -- but I am going to cut you off because we also have one more person.

But, we got it. We got it.

Thank you.

I apologize.

NICHOLAS ALDORISIO: I can be very brief.

I can just say ditto, and move on, if you want.

[Laughter.]

SENATOR PHILLIPS: Yeah, I was going to say, he did a great job.

NICHOLAS ALDORISIO: Yeah. Excellent.

My name is Nick Aldorisio. I'm the chief financial officer of Aurora Contractors.

We're a general construction company, construction-management firm, in Ronkonkoma, New York.

Thank you very much for allowing me to speak today; we really appreciate it.

We are also, as everyone mentioned, definitely an advocate of the goals of the program.

But, I just put a list together, and I'll go through it quickly, it's very repetitive. We seem to be all be struggling with the same issues.

Some of the challenges in the current marketplace:

Again, the MWBE-certified contractors lack bonding capacity.

They lack union affiliation.

Their insurance requirements are -- to say "they lack" is an understatement, as Joel stated very eloquently.

Their overall responsiveness is a challenge as well, I think we touched upon it earlier, not only, though, in the bid phase, but throughout the course of the project.

They're -- they're -- they seem to be spread thin. They're smaller companies, but then there's, also, they're in high demand.

So, sometimes, even if you have a qualified company, you know, their labor force may be a little limited. They don't have a union hall to pull from necessarily in some cases.

So, during the course of construction, they could be not as responsive as some other companies as well.

Very often, project specifications established by the design professionals require specific contractors and/or specific materials, which limit your ability to hire MWBE trades. That was mentioned previously as well.

The final contract value is what the goals are based on.

Quite often, there are costs associated with

that that you can't achieve the goals with, again, as has been spoken to previously.

The search criteria and the website are lacking.

We do a lot of work with New York City.

New York City has a similar-type program for the private sector.

ICAP program:

Private sector is allowed.

Real-estate tax relief if they comply with certain hiring practices of MWBE contractors and employees, and so forth and so on.

Their database is similar in content; however, their search criteria is much more refined. It allows you to search for union contractors.

We do a tremendous amount of union work.

A lot of the New York State contracts now have PLAs.

So, having that simple search criteria of union and non-union is important. It saves a tremendous amount of time during the bid phase, soliciting phase, so forth and so on.

And then, again, we are getting some mixed messages in speaking with individuals from the agencies about good-faith effort versus goals versus

requirements.

It's a very competitive process, the bid process.

I think New York State does a great job, and they get good numbers. They have a lot of qualified GCs bidding on your work.

But when we have to struggle with, do we hire someone that's most qualified with the best price to get the best bid, versus, just simply trying to obtain a goal?

If we take the approach that we're going to take -- try to obtain the goal, how -- we're not guaranteed that the other competitors are taking that same approach. So, our number could be less competitive for that reason.

So, again, very repetitive.

But, we really do appreciate the program, and appreciate allowing us to voice our concerns about it.

SENATOR PHILLIPS: Thank you.

SENATOR BOYLE: Just a quick question.

Joel, you mentioned about the report card.

Can you describe that, and if you get feedback on it? Or --

JOEL LIPSKY: Yeah. As an example, when you

go work for the Office of General Services for New York State, which is an extension of the Governor's program, they know how well you did on your submittal process, how well you did on your work performance, how well you did on your minority- and women-based quotas, on your past projects with them.

They keep track of this information.

It's actually a good program because it helps qualify good contractors within the state.

But when you make the requirements so difficult, and you draw such a hard line in the sand, like the Governor has done, it makes it very, very difficult, for all the reasons that everyone is talking about, to get a good report card, you know, of sorts.

And this is how they -- this is -- that's future work for us (indiscernible).

WILLIAM HAUGLAND: If it's also -- it's also utilized, Senator, on design-build and best value.

JOEL LIPSKY: Yeah.

WILLIAM HAUGLAND: There's a whole category for minority utilization.

And if you had a minority plan you submitted on a past project, that for -- could be very valid

reasons, did not achieve, you could end up getting points deducted on your next project at that point, as a result of it.

And with competitive bidding amongst the GCs, every point, or tenth of a point, really does matter here.

SENATOR BOYLE: Thanks, Bill.

SENATOR PHILLIPS: Thank you.

All three of you, thank you very much for your time.

The next panel are going to be members of the Women's (sic) Builders Council, which is, Nanci-Jean DeNapoli from KND Electric; Christine Donaldson --

Christine, help me out.

CHRISTINE DONALDSON-BOCCIA: -Boccia.

SENATOR PHILLIPS: -- -Boccia.

Thank you very much.

Who is -- they're going to go first?

Nanci-Jean.

NANCI-JEAN DeNAPOLI: This is not fun, coming up here to publicly speak, but --

SENATOR PHILLIPS: That's okay.

You're in friendly territory here, so...

NANCI-JEAN DeNAPOLI: Good morning.

On behalf of KND Electric and the Women's (sic) Builders Council, I want to thank all the Senators who comprise the New York State Senate working group on the Minority WBE -- MWBE program for hosting and having us here today.

My name is Nanci-Jean DeNapoli. I'm vice president of KND Electric, and a board member of the Women Builders Council.

For 20 years I have worked in partnership with my sister-in-law, Christine DeNapoli, and our family, to own and operate and expand KND Electric to a full-service union electrical contracting firm, providing a broad range of services on public and private projects throughout New York.

We're in our 21st year of business and I have over 60 employees.

I am also, on a positive side of the WBE program, a successful WBE electrical contractor.

As you can see, we're in our 21st year.

And I've been given the opportunity to work on historical projects that I probably never would have been able to do if I wasn't a WBE.

One is the Third Track. I am speaking with somebody on working with Third Track.

And I'm also proud to be a sub on the

Moynihan Station.

I believe he left.

But, again, the program, because of Senators and everybody beyond advocating for us, it has given me and my family opportunity to go into the electrical business.

I will turn it over to Christine.

CHRISTINE DONALDSON-BOCCIA: Good morning, and thank you for having this wonderful event and letting us speak.

I'm Christine Donaldson-Boccia.

My father was Jim Donaldson, who was partners with his brother in the big Donaldson organization, which is a Long Island acoustical and drywall company.

I am the executive manager and owner of, now, J.D. Traditional Interiors. We split away from the name. And I'm a 100 percent union interiors contractor.

I perform both public and private.

And I'm also a very successful proponent and, hopefully, not graduate, but, of the MWBE program for New York City and New York State.

I'm fourth generation.

I got into this business when my father

passed away in 2007 and left the company. I originally went in to either run it out or sell it.

And, within a year, I was bit by the bug, and I decided, I'm going to do this.

2008, I became WBE-certified, and I decided to continue my father's legacy.

I now have 11 people in my office, and I run a field of 85 to 100 men and women doing mostly New York City public work, New York City School Construction Authority, and MTA work.

We are here to provide testimony as WBEs, and represent Women Builders Council which was established in 2004.

WBC is the leading association representing women in the construction industry on several important fronts:

Organizing legislation of -- advocacy.

Providing professional development and inspiring the next generation of women builders.

WBC's mission is to increase diversity and the role of women in the construction industry by providing a dynamic forum to remove the barriers that prevent women from succeeding in industry that is traditionally dominated by men.

WBC was founded by several women business owners who organized -- recognized the challenges of doing business as a traditionally male-dominated industry.

Now in our 14th year, we have grown to be one of the leading voices of women businesses and women professionals in construction.

Our board includes many of the leading women in construction, from certified minority- and women-owned businesses, to women in the country's top construction firms.

WBC advocates on behalf of women and minorities, and encourages the construction industry to consider varied issues and initiatives that affect small-business growth throughout the state.

NANCI-JEAN DeNAPOLI: Thanks, Chris.

Today we're here on behalf of KND Electric and the hundreds of members of the WBC, to communicate to you the importance of the New York State Minority- and Women-Owned Enterprise Program.

And the ways in which it has provided our firms and thousands of WBEs across the state with the ability to compete and win State contracts that, historically, would never have been accessible to

us.

Like many small businesses across the state, Christine and I, my sister-in-law, started our business in the back of her house.

As a firm, carrying the legacy of three generations of electrical contractors, we have committed ourselves to doing our best, working hard, and providing our clients with the best work possible.

But in an industry that has always been dominated by men, where deals, historically, were closed over scotch or on the golf course, the best product and lowest bid sometimes weren't enough.

And that's where the New York State WBE program began to open doors and start conversations, and changed the face of the construction industry.

Article 15-A was signed into law on July 19, 1988, and authorized the creation of an Office of Minority and Women Business Development to promote employment and business opportunities on State contracts for minorities and women.

Under this statute, the state agencies were also charged with establishing employment- and business-participation goals for minorities and women.

The program has gone a long way, especially with the leadership shown by Andrew -- Governor Andrew Cuomo, who set a goal of 30 percent on all state contracts in 2015.

Our board members have attended conferences, hearings, and meetings throughout New York State, and heard complaints about the program and its goals.

Diversity isn't easy.

Gender equality takes effort and intention, but that doesn't mean we can just throw in the towel and walk away from a program that continues to accomplish its mission, and that is, to increase diversity and the role of women in the construction industry.

Women represent over half of the population in New York State and on Long Island, and we are asking that you continue to support a program and the initiatives that provide economic opportunities to groups who have, historically, been discriminated against and shut out of the State procurement process.

CHRISTINE DONALDSON-BOCCIA: I would like to add that, traditionally, women and minorities have to work harder in order to get the same

opportunities in this construction industry, which has been, traditionally, a man-dominated industry.

I sit on several boards.

I was the first woman in 97 years to get on a board of all men in the walls-and-ceilings industry.

Nanci sits on lots of board, and so do many of the other women that sit in the Women Builders Council board of directors.

We put in a lot of time, a lot of effort, and it's hard to get that recognition.

You get your foot in the door, but you have to do the right job to get asked back.

It's no different than anybody else, but having the ability to get the invites for our MWBE projects.

And, you know, Joel was up here talking, and I'm going, I've never gotten an invite from Lipsky.

"Here's my card," you know?

But, without a forum like this, I wouldn't have known about his company, and he wouldn't know about me.

You know, the program has provided our firms and other certified firms who comprise WBC with the ability to compete with other national competitors, and through the program, win contracts.

I have a $2 million contract at LaGuardia to put up ceilings.

I have other smaller contracts.

I have several contracts with the MTA.

I had a legacy of getting a company, unfortunately, when my father passed away.

And I had a cold group of contractors, but a lot of business I lost, and I had to go out there and find my own way.

And getting my W certification certainly did help that.

NANCI-JEAN DeNAPOLI: Thanks, Chris.

Our second recommendation on how to improve the New York State MWBE program is to provide clarity for commercial useful function, also known as "CUF."

Construction is a team-oriented process, and there's a disconnect between the definition of "CUFs" as it is applied in the construction industry.

To provide a brief explanation:

To discourage MWBE fraud throughout the construction industry, prime contractors can face serious financial and legal consequences when certain support is provided to an MWBE contractor on

a project.

However, the prime contractor can provide equal or comparable support to a non-WBE contractor, setting an unlevel playing field for the MWBEs on a project.

Providing any usual support services, for example, sharing a piece of equipment or joint checks, may be considered noncompliance with the requirement of commercially useful function.

Since every state agency has their own set of unwritten rules and regulations, prime contractors are terrified of being financially penalized for treating an MWBE firm like any other sub on a project.

WBC recommends the establishment of definite guidelines to inform contractors that MWBEs and government agencies regarding what is permissible and what is prohibited.

The industry practices should align with the definition of "commercially useful function."

WBC also recommends the creation of an ombudsman, or a representative, who could deliver quicks opinions for prime contractors and MWBEs on what type of cooperation is legal.

At this point, CUF is supposed to prevent

shell under -- MWBEs from being created, and we understand it is a very serious issue, but, it's hurting legitimate firms, and it's making it difficult for prime contractors to partner with us on a project.

CHRISTINE DONALDSON-BOCCIA: We'd also like to talk about the certification process.

WBC would like to see Empire State and New York State agencies and authorities provide with the -- resources they need to accurately handle the influx of applications, inquiries, and technical assistance.

It took me almost two years to get my recertification through New York State, and that was with many phone calls, me being proactive, and, finally, getting a one-on-one with somebody through Women Builders Council, who indeed found out my application had been sitting there.

There's -- New York State and New York City both have resources.

It makes sense to cull your resources and get a program that works for everybody.

NANCI-JEAN DeNAPOLI: I have also witnessed, my certification was up, and I believe it's three years for New York State.

By the time I went to recertify, the one that was not certified for three years, they kept saying, You're still certified until we get to your paper which is at the bottom of the pile.

By the second round of me being certified, I was still not certified for the first round.

So it really needs a lot of help in the office.

CHRISTINE DONALDSON-BOCCIA: And in relation -- whoops, I'm off-key here.

But, one other thing that we'd like to bring up is the personal net worth for New York State.

In my case, I inherited some money when my mother passed away. Thankfully, not enough to put me over the threshold.

But, I have a friend who actually lost her WBE certification when her husband passed away and she inherited his estate.

That had nothing to do with her company.

You know, you lose your spouse, and you're given substantial funds, and then you get kicked out.

She eventually closed shop. She could not continue because all her relationships were through her certification.

I know of another circumstance where the owner scrimped and saved and bought her building many, many years ago down in Dumbo.

Well, when the real-estate market went crazy, Dumbo's prices shot up, she got kicked out of the program.

How is that anything to do with her company?

So that really needs to be looked at.

And, also, as an owner, you need to have substantial finances to back your bonding and your banking.

You know, credit lines, and what happened in the banking industry, they look at everything.

It's very, very difficult to get a decent credit line. More and more banks are being pulled out of construction industry.

You need to have your finances to do that.

SENATOR PHILLIPS: I know I (inaudible) so I'm going to go first.

So you -- what do you believe are the barriers to get men and -- women and minorities to own their own businesses?

We heard some testimony earlier that 17 percent of the population, roughly, here on Long Island are of Hispanic descent.

We know that 50 percent, if not more, of the population here on Long Island are women.

I'm working with one of the local unions. They're actually under -- under government mandate to increase their apprenticeship programs for women.

And so I'm introducing them to high schools, but, it's not easy.

So, what do you see as the barriers?

Because we say, look, let's -- we want women, it's -- and minorities, but there's something that's preventing it from happening.

CHRISTINE DONALDSON-BOCCIA: Part of it is the insurance costs, and, you know, the elephant in the room of the scaffold law.

NANCI-JEAN DeNAPOLI: It's a huge problem.

CHRISTINE DONALDSON-BOCCIA: The insurance costs are absolutely insane.

I just had a workers' comp audit. My workers' comp is over $400,000.

It's a crazy number. It's scary.

And if I wasn't thrown into this business, I don't know if I would have done it.

Nanci's got a lot more guts than I do.

But, part of it's insurance.

Part of it -- I've spoken at the MTA, at

their mentor program; I've helped over at the SCA, I spoke on a panel; to get people to consider coming in and starting their companies for MWBEs.

The mentor programs are so important, and to put women, like myself and Nanci and many others for WBC, and show it's a success.

One of the things I do, I work with the Girl Scouts. You know, it's not -- you don't have to stand behind a register and take somebody's money. You can sit in a C-Suite and do that.

You know, you can go for your own company.

You can go into industries that are typically man-dominated.

We need to get more women out there to show -- and minorities, to show that it is possible.

NANCI-JEAN DeNAPOLI: I think at the school level, we're thinking of WBCs trying to go into the school to show women and girls.

I mean, I have two daughters myself, and their friends. And when people hear that I'm a woman-owned business owner in the electric industry, they turn their heads.

They're, like, wow. How many years you doing this?

Over -- I'm in 21 years.

Like, wow. Like, they just can't believe that a woman could actually own, especially a Local Union Number 3 and Local 25 shop.

But I've been doing this 20 years, and I do have to say, the scaffolding law is way out of control.

It's almost criminal, the amount of money that -- I had to pay 70 percent more in insurance this year, so my bottom line could just get wiped away.

SENATOR AKSHAR: I'm sorry, just repeat that number.

NANCI-JEAN DeNAPOLI: 75 percent -- 70 percent more in insurance that I had to pay because of the scaffolding law, because there's no players that want to insure anybody in New York State, especially if you're "Local 3" electrical contractors.

They say it.

We also -- we're not allowed to participate in a lot of OCIPs on major projects if you're Local 3.

"We don't want you to participate."

So it's -- really, there's a lot of bad language going on out there.

And, you should all know that we could build our schools a lot cheaper if the scaffolding law wasn't there because the insurance costs would go way down.

CHRISTINE DONALDSON-BOCCIA: (Inaudible) outrageous --

NANCI-JEAN DeNAPOLI: Anything that we have.

CHRISTINE DONALDSON-BOCCIA: -- our railroads, (indiscernible) everything.

NANCI-JEAN DeNAPOLI: I mean, across the pond, like we all know, they're paying a lot less money than we are.

I mean -- I mean, again, as a WBE, when we have our primes that we have to bid -- they have to give their work to us, and I am a $10 million contractor, and you have someone who does a hundred to two hundred million, my costs, yes, are going to pay the same amount for your journeymen, but my insurance costs and my overhead, of course, they're a lot more money.

So now they have to give me a piece of the contract for more money than what they have bid the project on, for a premium.

So, it's either they're going to have to lose on the portion that they're giving, or the money is

going to have -- there's going to have to be more money to build.

CHRISTINE DONALDSON-BOCCIA: I don't carry insurance to do exterior work.

I will only do interiors, because exterior will cost me a heck of a lot more, because the liability.

Even though I'm on the same lists, the same -- there's a premium cost for exterior work, and I won't do that.

So when the bids come out to me from anybody that would be doing -- unless it's an OCIP or CCIP, I have to decline.

That's hurting the MWBE program directly.

SENATOR AKSHAR: So we'll probably call on you again to describe your troubles with scaffold.

I am partnering with Assemblyman John McDonald to remove a provision in the existing scaffold law that speaks about absolute liability.

Clearly, it's driving costs.

NANCI-JEAN DeNAPOLI: That's what it is.

I mean, we should put the onus on the person who's at fault.

SENATOR AKSHAR: Sure.

NANCI-JEAN DeNAPOLI: We're not telling you to get rid of it, you should protect the worker. But put it on whoever's at fault.

SENATOR AKSHAR: All right. So there is an effort in Albany, not only to amend this program, but also to take on big public-policy issues, like the antiquated scaffold law, right, and amend and change that to make New York more affordable.

So that's an issue we'll be picking up in January when we return.

NANCI-JEAN DeNAPOLI: Good.

Yes, we'd be very interested.

SENATOR AKSHAR: Thank you.

SENATOR BROOKS: I just think it's important to recognize, for both of you, that the MBE programs themselves open up doors. That's the primary objective.

I think what we're hearing today is a number of issues that have to be addressed.

The insurance for one.

The qualifications of companies.

Obviously, you folks are exceptionally well-qualified and are successful.

And I've dealt with minority-owned businesses that have been successful because they are

well-qualified.

So there's a lot of work to be done here.

But I think the fact that both of you are acknowledging it was a door-opener for you is an important factor, and one that tells us we've got to continue this program, but we have to reform it and improve it.

CHRISTINE DONALDSON-BOCCIA: And if the lists were cleaned up, I wouldn't be getting so many concrete-bid requests.

[Laughter.]

CHRISTINE DONALDSON-BOCCIA: All the time.

Concrete and Upstate New York.

SENATOR AKSHAR: Well, let me follow up on that, because that's where I'm from.

So, do you receive a lot of calls from people, you know, in Western New York and Central New York, northern New York, to come and provide services?

CHRISTINE DONALDSON-BOCCIA: I do -- well, not phone calls. I receive requests to bid; e-mails.

SENATOR AKSHAR: So let me ask you to quote:

Would you go to Binghamton --

CHRISTINE DONALDSON-BOCCIA: No.

SENATOR AKSHAR: -- would you go to Watertown or Rochester, to do work?

CHRISTINE DONALDSON-BOCCIA: I'm specifically Long Island and the five boroughs.

SENATOR AKSHAR: And one last thing:

I want to congratulate you and applaud you on both of your successes. It seems to me you're doing very well in the program.

Before you -- though, you heard a lot of testimony from other people.

I just want to be clear that -- that the hurdles that were discussed, in your mind, do they exist?

NANCI-JEAN DeNAPOLI: I'm doing this about 20 years, and I would say the first 5 to 8 years, until people really started taking it serious, it was a dog-and-pony show.

So their best-faith efforts really were not best-faith efforts.

But I do see today that the onus, people are responsible for making sure that they make the effort to try to meet their goal requirement, and there is a little bit more protection on us.

We do have people advocating for us, and people aren't just saying, yeah, yeah. No, your

price is too high.

So it is better for us, but I do understand both sides of the fence from where they're coming from.

CHRISTINE DONALDSON-BOCCIA: And it's not -- I've, you know, heard from some of the GCs.

It's not just them that have to hire more people.

It's us also.

I mean, the amount of paperwork for any of the public-works jobs is ridiculous.

I've got a small Nassau County water-treatment plant. Took four hours to do the first certified payroll. And my assistant has been doing certified payrolls for 32 years.

SENATOR AKSHAR: Huh.

CHRISTINE DONALDSON-BOCCIA: She's not a newbie at this.

She came to me and she said, "For $140,000 contract, are you kidding me?"

SENATOR PHILLIPS: And do you support having to have to bid competitively, versus --

CHRISTINE DONALDSON-BOCCIA: Absolutely.

SENATOR PHILLIPS: -- thank you.

CHRISTINE DONALDSON-BOCCIA: It -- you don't

get hired because you're an MWBE.

You get hired because you can do the work, and you've got a proven track record.

NANCI-JEAN DeNAPOLI: Right. That's what we stand on now. I am a woman-based enterprise, but I am an electrical contractor. Successful electrical contractor.

CHRISTINE DONALDSON-BOCCIA: And I have to tell you, even though I do some projects better than some of my competitors, there's a lot of GCs, you still have to spread the wealth around.

You cannot just hire the same companies time and time again.

That gives opportunity to MWBEs as well as non-MWBEs.

It's a fair playing field out there as long as you're willing to put in the time and effort to play the game.

SENATOR PHILLIPS: Thank you.

Thank you very much.

SENATOR BOYLE: I'd like to thank both of you for sharing your stories.

And, I see it firsthand. My wife is a small-business owner.

She's probably started the certification

process four or five times, and just says -- I mean, it takes a week. And she's got to run the business, so she's trying to do the application.

Finally, I think she's hiring someone to help with the application.

You shouldn't have to hire someone for an application to help your business.

I mean, if it's that complex, then there's something wrong with it.

And then, obviously, she has paperwork, if she does it.

So -- but thing -- nice thing is that, if I should pass away, I leave her the money, it's definitely not going to put her over the threshold, my public-employee's policy.

[Laughter.]

SENATOR PHILLIPS: Yeah, but she loses your one-half deduction, so you're (indiscernible).

[Laughter.]

SENATOR PHILLIPS: Thank you.

Thank you very much.

CHRISTINE DONALDSON-BOCCIA: Thank you.

NANCI-JEAN DeNAPOLI: Thank you.

SENATOR PHILLIPS: Our next panel is Nancy Colella and Ilene Herz.

We need a seventh-inning stretch here.

Who's going to start here?

NANCY COLELLA: Good afternoon.

So thank you, everyone, for actually attending this very, very important communal here with the Senators.

Elaine, thank you for your invitation.

Matthew is very -- speaks very highly of you.

I love Matthew.

So, my name is Nancy Colella. I am the principal at New York State Sustainable Corporation.

And, what my company and firm does is, actually, we advocate for renewable energy conservation measures for the commercial market.

Basically what I do is, I walk into an owner and discuss what their portfolio is doing. And I, basically, monitor and study their behavior of their properties, portfolio (indiscernible), and I actually develop a conservation measure from -- anything from fuel cells, to solar, or collaboration of investments, that make sense for the business.

And so thank you again for having me.

Some of the -- some of what has been discussed here today I feel is imperative.

I see the two women that have been very

successful, and I will have to say it takes a lot to get there.

A lot.

And it's not just sweat equity, and it's -- it's equity.

And this is what I believe to be the hinderance of actually going past your second year:

You can't make money unless you have capital.

How can we get capital if the banks wouldn't even touch me?

They won't touch me.

And I can't even get working capital.

It has to be off of my personal bankroll.

So I'm now at a point where I'm in the business two years, and I'm, finally, because construction takes a long time to procure, hopefully, getting a check soon.

But in the interim, I've been working part-time and doing side work just to get capital to build back into my business.

So my thought process is, if there are credits and incentives for banks to fund small capital, you know, equity lines of credit to women-owned businesses, it would be terrific.

I mean, you know what I can do with $10,000?

It can run me two years, $10,000 working capital.

I mean, a lot of what's being done today is virtual.

A lot of the work that's being done today is virtual.

So, I don't have to have a storefront. I don't have to have a foundation.

All of my work is interactive, it's done on Google.

I have engineers that work virtually. I call them in when I need them. I pay them great money, but they're superior at what they do, because my quality of my work stands for itself.

So, I work with folks that make sense, that, to me, as a woman that is actually building on the business and building on the relationships that I've developed over the previous 20 years of construction, and my relationships in commercial, in commercial real estate.

So some of the items that I wanted to bring to your attention is that's really the hindrance.

The first thing is capital.

How can we get banks, small incremental incentives, to be able to contribute to capital

loans for businesses that want to flourish?

The first points of -- or, the three prongs that I believe are the most important are: The sweat equity, the capital; the relationships of the business; and, of course, you know, the ramp-up, which is the marketing.

Marketing, if you don't have that, how are you getting out there?

How are you making those relationships?

How are you branding the company?

I mean, you know, it goes on and on and on.

I'm sorry, I think this thing keeps shutting out.

Another -- another element that I feel is really important is, I'm very fortunate. I have a very strong backbone with family support, but, now there's child care.

If you have a child that is going -- is underneath four years old, how is a woman taking care of her child, so she can be out there in the field, build her business. Right?

Are we having any kind of support in that realm, where we -- as a woman, I have a four-year-old I have to drop off in the morning at daycare. Make sure she's going -- you know, getting

picked up. But if I didn't have my husband or my family support, how are we doing that?

Right?

Those are challenges.

These are -- you know, if I was a single mom, that would be almost impossible.

Impossible.

So, again, so I'll go through these.

Economic capital considerations.

The initial ramp-up stages of a new business required for components, strategic planning, operations planning, marketing outreach, sweat and capital equity.

From a capital equity standpoint, it is critical to integrate programs to private-sector funding mechanism's banks, to not only offer mutual benefits to the bank, but allow immediate access to capital as a small funding -- small funding work capital for women-owned business enterprises.

Currently, most women-owned enterprises use high-finance credit cards and overtax themselves in the hopes of new future business revenue.

I have more stories than I have time to share in terms of these situations, but I believe with collaborative efforts, there can be a devised better

method of working capital to be funded prior to women-owned businesses folding under the pressure and never reaching their corporate goals of progression, scaling, and growth.

Another circumstance is credit to private sector for utilizing women-owned business enterprises, minority businesses.

I believe, with additional exposure to incentivized programs supporting private-sector businesses, that promote hiring newly-developed women-owned businesses, will be promoted by additional new businesses to utilize women-owned businesses while preventing the dissolving of struggling enterprises.

Currently, I believe there are direct tax and corporate credit initiatives, more so for municipal, state, and city work.

The private sector is completely underserved, and would support the progression of staying in business.

So, are there any credits that can be given to the private sector in addition to anything that we have now, to expose their -- you know, their usage of our services, basically?

So that's something that I would consider to

be, you know, a beacon, to allow a one-year business or a start-up business to continue going forward in the private sector.

As you know, private sector tends to pay quicker than does a State or a contract job.

So, those are my statements.

So, thank you.

SENATOR PHILLIPS: Ilene.

ILENE HERZ: Good morning.

I wish to thank the Senators for having the interest and taking the time to hear about my and other women's situation with the New York State Division of Minority Affairs.

Your concern and leadership are greatly appreciated.

My husband started this business, a flooring business, with a partner in 1979.

He funded the business with our money that we had saved over 11 years of marriage.

In 1998 his partner was diagnosed with a terminal illness. The illness rapidly rendered him incapable of working.

I began to work with my husband every evening after my workday and every weekend.

When my husband's partner requested he be

bought out, Jerry asked me if I would give up practicing law and become his partner.

I agreed.

We bought out his partner's interest in 1999.

The buyout was funded my inheritance, our savings, and insurance.

I have always been active and involved in this business; therefore, working in and owning this business was a logical, natural transition for me.

My (indiscernible) experience through my practice of law, and my service on local and regional boards of education and charities, qualified me in areas critical to the further growth of the business.

We decided I would be the person with the primary responsibility for running the company.

The results of my contributions are evidenced by the fact that not only has the company remained viable, it has grown significantly since 1999 when I left my job as county attorney.

My company is independently-owned and operated by me.

We are a family-owned business, and I own 60 percent of the company.

As the president and majority stockholder,

I have the final decision on all issues.

In 2001 I joined the Suffolk County Women's Minority Business Enterprise Coalition. They sponsor meetings to help women-owned businesses.

Through them I became aware of the benefits of, and was encouraged to obtain, a certified woman-owned business status through New York State.

In preparation for my application, I attended a special workshop that was sponsored and conducted by New York State Development Corporation.

I subsequently met with Mr. Farqua, who is their person, to review my completed application.

Additionally, he conducted a site inspection of my facilities and operations.

My company was certified as a WMBE (sic) in 2001.

My certification was regularly renewed until 2014.

With each subsequent renewal, I updated all information -- new information, contracts, and financial, and submitted that information along with my basic information.

My reapplication was never questioned and was always promptly approved.

In 2014, recertification was submitted on

October 30th.

I had not heard back by December, which was unusual.

Therefore, I called to check my status, and was informed, due to high volume, my certification was awaiting analyst assignment.

As of May 27, 2016, I still had not heard, and again called to determine my status. I was informed it was still pending.

On January 12th of 2017 I received a request for additional information, and I responded the next day.

On January 16th, I was shocked to receive a letter denying my renewal.

I reached out to my analyst, Miss Yee (ph.).

She explained my renewal was denied because on, some documents, Jerry is listed as president; therefore, according to the corporate bylaws, he as president controls the company.

I questioned that, since I was listed as president on most documents, why shouldn't I have been considered in control?

Miss Yee reiterated, Jerry was listed; therefore, he is considered in control.

I stressed this smallest mislabeling was

clearly an oversight.

I explained, I'm a majority stockholder, I am in full control, and I explained the bylaws, or the original boilerplate bylaws from the 1980 corporate kit at the time when I was not even a partner.

I explained to Miss Yee my original, basic WMBE (sic) application was prepared by the Division of Minority Affairs, under their guidance, and has been unchanged since approved 16 years earlier.

Significantly, my original application was proved based on my proof of actual real ownership and control of my company.

Miss Yee responded, her agency had recently been cited for being lax in previous years; therefore, she had strict direction to scrutinize each renewal.

Miss Yee also shared her division was very severely backlogged.

She informed me I had two possible solutions to attempt to correct this denial, noting neither solution was guaranteed to be successful or at all timely.

The first was to file an appeal.

She stated this was a very lengthy process, especially considering there was a very substantial

backlog.

Or, I could cure my defect -- effect and control by hiring an attorney to rewrite the corporate bylaws, take control from the president.

I questioned how this cure would be effective, because, since Jerry was only listed by accident in one or two places, I am the president, and I am primarily listed as president.

Additionally to that, though, if I went with Cure Number 2, I would have to find a vendor on the New York State contract whose product I use, ask them to write a letter to the State, who's using -- a state agency using the product, requesting they write a letter to New York State, asking my cure be expedited.

She noted, although this process may be shorter than an appeal, clearly, it is not short, and there's no assurance my company status as a WMBE (sic) would be restored.

Miss Yee acknowledged she was swamped, and kindly gave me her e-mail to expedite our communications.

I called, and sent her the following e-mail:

I reviewed all my recent documents.

The error is not in the bylaws.

The error is that, only in some places, Jerry is erroneously listed as the president.

He is not, I am, president, and own the controlling shares of the stock.

How can this error be cured?

Significantly, I own 60 percent of the company and in control.

On February 17th, Miss Yee specifically requested additional information.

She said she did not require all my minutes, but, instead, requested the first minutes of 1979 -- a time I was not involved in the business -- and the minutes memorializing the ownership of my 60 percent acquisition, and of the shares I had given to my now-current partners, my sons.

I supplied the information the next day.

On February 13th, via voicemail, Ms. Yee said she spoke with legal and wanted to talk with me.

She said legal said, Because the records you have for the minutes of the meeting do not specifically appoint you as president, I can now either appeal, or, hold a board meeting, appointing me as president, and she will ask for a waiver of the two-year waiting period, and she will try to

process my new application quickly.

I questioned the legal decision, as the documents requested were only about ownership change, not presidency.

The actual minutes appointing me to president were not requested; and, thereby, were not reviewed.

I immediately sent Ms. Yee all the corporate minutes for the past 17 years which annually appoints me as president.

I honestly expected at that point I had established my position with my company.

Additionally, per her request, I held a meeting that very day to again reaffirm my presidency, and sent that along with my corporate minutes.

The next day I received, via voicemail, a waiver of the two-year application waiting time.

I was beyond surprised and disappointed to receive this.

I wondered if my 17 years of annual meeting minutes had even been looked at.

On February 17th of 2017, Ms. Yee informed me she would do the initial review of my new application.

I submitted it three days later.

On February 21st, Ms. Yee reviewed and approved my new application as "complete."

She signed it and marked it "expedited."

On March 9th, Ms. Yee informed me she had been reassigned to a different division.

I would now be taken care of by a Raymond Emmanuel (ph.), and (indiscernible) Butler was to be my new analyst.

I then received extensive lists of questions from Mr. Butler, which I responded to on March 17th.

On May 26th I received another set of questions, which I promptly responded to.

On June 1st my new application was denied.

No one called. No site visit was conducted.

The reasons for denial were not related to the basic issue: the control and running of my company.

My leadership, control, and final decision-making was ignored.

The issues raised in denial are specifically addressed in the appeal which was filed July of 2017.

In November of '17 my attorney requested guidance on a proposed hearing date.

He had heard nothing then.

We actually, finally, did hear from them August of 2018, and I believe we may have a date in October.

From 2001 until 2017, the New York State Division of Minority Affairs represented (indiscernible) support.

My application and recertification went smoothly and promptly for 13 years.

Suddenly, the process and attitude of the agency changed. It appears the division is no longer an advocacy and support agency for women.

For example, my male minority partner (indiscernible) is listed "president" on just a few documents.

I was listed as president on most documents, and all supporting documents established my control.

Nevertheless, it was my male partner who New York State determined was president, even though I sent definitive evidence to the contrary.

In their WMBE (sic) information, a basic qualification, New York State asks for the business to be able to successfully demonstrate that ownership be real, substantial, and continuing, and the majority -- minority members and/or woman must

exercise the authority to independently control the day-to-day business decisions.

I have repeatedly and conclusively demonstrated that.

I have worked tirelessly 45 to 80 hours a week for 20 years.

It is frustrating and insulting to me as a woman to know, when there's a choice in deciding who is in control, New York State automatically assumes it is the male who controls, and proceeds to only seek evidence to support their prejudiced assumption.

Throughout every step, from application, to denial, to reapplication, and then re-denial, New York State only requested information to support their biased assumptions.

They never requested, even when supplied, they never reviewed, any information to determine how the company actually is run and who is in control.

Their analysis was repeatedly flawed by their faulty logic.

For example, a reason -- the most recent denial was because my vice president of sales signs most sales contracts. He is considered to be in

control.

Furthermore, because my vice president of operations manages inventory and supervises installations, I am considered not to be in control.

Had they investigated the complete, actual process in each division, it would have been evident I am in control.

The agency did not even bother to come for the promised site visit.

Leadership of the company requires delegation.

Because I am a female, I am successfully delegating responsibilities within my company.

Where I, as a female, I am considered to not be in control because I can delegate.

Would they think the same if I were a male?

The questions they asked, and the conclusions they drew, leads me to believe they were just looking for a reason to deny my application.

New York State should come to terms with what the purpose of this agency is.

I don't want, nor did I expect, them to be a rubber stamp because I am a female.

I do expect them to support and embrace the truth of how a business is run.

Rather than being punished for being a qualified, successful business, businesses such as mine should be able to grow and mentor other minority businesses throughout state.

Once again, thank you for your time.

SENATOR PHILLIPS: Thank you.

SENATOR BOYLE: Quickly, Ilene, thank you so much for your testimony; and thank you, Nancy.

I mean, since you have been decertified, can you estimate, approximately, how much business you may have lost as a result of not --

ILENE HERZ: No.

I know I can point to specific contracts; but, no, I couldn't.

It's been significant, and we've really had to scrounge to look in other areas.

And, it's hard.

SENATOR BOYLE: Thank you.

SENATOR PHILLIPS: Anyone else?

So, again, I'd like to -- thank you, ladies; thank you very much for sharing your testimony.

I want to thank everyone.

Before I thank my fellow Senators, I want to point out that our Town of North Hempsted councilwoman, Dina DiGiorgio, who is a

small-business owner, had some meetings before, but was kindly -- kind enough to join us.

So, thank you.

As a business owner, both from a family standpoint in your own business, we have some amazing testimony today.

So, thank you, everyone, for taking the time.

I think we have a lot to think about here.

Obviously, there were some reoccurring themes, which is -- actually, makes it a little easier on us when there are reoccurring themes, because it just highlights areas that can be corrected to make this program be a better program for all of New York State.

I'd like to thank Senator John Brooks for taking the time to come out here, Senator Phil Boyle for taking the time, and one of the Co-Chairs of this working group, Senator Fred Akshar, for coming down from Binghamton.

So on behalf of the 7th Senate District, Senator Akshar, thank you very much.

And, please, does anyone else --

SENATOR BOYLE: Yes.

I want to thank Senator Phillips for her leadership in hosting today; and my colleagues

Senator Brooks and Senator Akshar; for all the people who testified and that came to learn.

We have a lot to think about. And, obviously, we're not in legislative session at this point in time.

We'll go through the silly season of elections, and get over that, and then get back to the important work being done.

I do believe we can make this program better, make it more efficient, and really reach the goals that it was intended to do, promoting minority and women-owned businesses, and do it the right way.

So, thank you again, for everyone.

SENATOR PHILLIPS: Senator Brooks.

SENATOR BROOKS: Again, I would also like to thank Senator Phillips for hosting this program.

I think it's important.

I think this is a critical tool to allow people that have generally not had an opportunity to get into business, to get into business.

I think we've identified a number of concerns that have to be addressed.

I'm also glad to learn of some of the success stories we heard about today too.

It's a program that can work, does work; can

be made stronger.

And I think all of us, as we return to session, need to work on improving what we have in building on something that has worked.

And I think some of the concerns that were expressed today, we certainly have to look up insurance, certainly, as a big issue, for number one.

The list, and the imperfection, to be polite, in that list has to be addressed.

But I think this was a good door-opening day for us.

Thank you.

SENATOR AKSHAR: Well, Senator Phillips, thank you very much for having me.

It's been a pleasure to be in your Senate District.

I don't come to Long Island very often, but I'm glad to be here.

And we did hear -- we are hearing recurring themes and recurring issues, and I think that's important for us on this working group, because if you hear them in northern New York or Western New York or Long Island and New York City, something's wrong. Everybody's talking about the

same thing.

So it allows us to focus our energy and our efforts in those specific spaces to improve the program.

And I agree with Senator Brooks, it was good to hear some success stories of the program, and how it is functioning, and how people have been successful in the program.

So, I look forward to, you know, having a couple more hearings throughout the state, listening to people's issues, and then returning to Albany and collectively working on this issue.

I think it's important to note that this effort is a bipartisan effort, and not often does that happen in Albany.

It certainly doesn't happen in Washington.

And the fact that you see a bipartisan panel listening to your testimony, I do want to praise Senator Sanders from Queens, who has been very instrumental with this Task Force and working group.

He brings an interesting perspective because, as a member of city council, he was the architect of the City's MWBE program.

So, Senator Ritchie and I are very pleased to be partnering with Senator Sanders and everything

that he brings to the table.

So, we're looking forward to going New York City.

The next hearing is going to be October 16th.

And if anybody is looking for details on that particular hearing, please visit the Senate's website, NYsenate.gov, for additional details.

And just thank you, everybody, again for taking time out of your busy day.

Thanks.

SENATOR PHILLIPS: Once again, I'd like to thank the staff that worked so hard, both from Albany and here on Long Island, for all your efforts.

So thank you, everyone.

Have a wonderful day.

(Whereupon, at approximately 12:28 p.m., the joint-committee public hearing held before the New York State Senate Standing Committee on Labor and the Senate Standing Committee on Commerce, Economic Development, and Small Business concluded, and adjourned.)

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