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COUNCIL OF THE CITY OF PHILADELPHIA

3

COMMITTEE ON COMMERCE and ECONOMIC DEVELOPMENT

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Room 400, City Hall
Philadelphia, Pennsylvania
Monday, March 12, 2007, 1:24 p.m.

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9 Bill 060226 - Providing for the development
10 of and setting forth provisions relating to
11 Economic Opportunity Plans in connection with
12 certain City contracts and projects.

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2 COUNCILMAN GOODE: Good
3 afternoon. We're about ready to get
4 started.

5 This hearing is called to
6 order. This is a public hearing of the
7 Commerce and Economic Development
8 Committee on Bill No. 060226 and
9 Resolution 070106.

10 My name is W. Wilson Goode,
11 Jr., chair of this committee. I note
12 that a quorum is present. To my left
13 is Councilman Frank Rizzo, Councilwoman
14 Carol Ann Campbell, Councilwoman
15 Blondell Reynolds-Brown, Councilman
16 Darrell Clarke, and Councilman Frank
17 DiCicco is here in attendance as well.

18 The title of the bill:
19 No. 060226, an ordinance amending Title
20 17 of the Philadelphia Code, entitled
21 "Contracts and Procurement," by adding
22 a chapter providing for the development
23 of and setting forth provisions
24 relating to economic opportunity plans
25 in connection with certain City

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2 contracts and projects, all under
3 certain terms and conditions.

4 The title of the resolution:

5 No. 070106, a resolution authorizing
6 City Council's Committee on Commerce
7 and Economic Development to hold
8 hearings to examine current invoicing
9 and disbursement procedures and
10 policies in City procurement and
11 contracting so as to determine measures
12 that may be required to implement and
13 ensure best practices and standards for
14 prompt payment.

15 Our first witness on the bill
16 is Carolyn Nichols.

17 (Witness comes forward.)

18 COUNCILMAN GOODE: Before you
19 start your testimony, Councilman Clarke
20 would like to make some opening
21 comments.

22 MS. NICHOLS: Thank you.

23 COUNCILMAN CLARKE: Thank you,
24 Councilman. Thank you, Mr. Chair.

25 Mr. Chair, just briefly, I

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2 just wanted to say that this is
3 something that a number of individuals
4 have been working on for some time.
5 The intent is to clearly provide
6 opportunities to all of the citizens of
7 the City of Philadelphia and the
8 surrounding areas.

9 And I want to thank all of you
10 during the past several years have been
11 very supportive of this initiative, and
12 we look forward to proceeding.

13 Essentially, what we want to
14 do is to codify some of the existing
15 regulations associated with providing
16 opportunities across the board.
17 Currently, under some of the
18 legislation that we do for various
19 projects out at PIDC and some of the
20 quasi-agencies, we're requiring those
21 agencies to attach a equal opportunity
22 plan, and we found it would be
23 relatively successful and at a minimum
24 identifying a reasonable goal for
25 participation on MBE/WBE and DBE. And

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2 we think that it's appropriate to have
3 similar language associated with all
4 contracts related to City -- municipal
5 contracts.

6 So this particular law will
7 hopefully put in place guidelines in an
8 actual form that will allow the
9 attachment of this particular process
10 to all contracts. And if those
11 particular contracts are -- those
12 particular requirements are not adhered
13 to, then any respondents will be deemed
14 as nonresponsive.

15 So it's our hope today -- and
16 you will hear a number of individuals
17 testifying -- that we will be in a
18 position to pass what we believe is
19 sweeping legislation that will truly
20 give all citizens an opportunity to
21 participate in lucrative municipal
22 contracts.

23 And thank you, Mr. Chairman.

24 COUNCILMAN GOODE: Thank you,
25 Councilman.

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2 Good afternoon, Miss Nichols.

3 MS. NICHOLS: Good afternoon.

4 COUNCILMAN GOODE: Please

5 state your name for the record and

6 proceed with your testimony.

7 MS. NICHOLS: Thank you.

8 My name is Carolyn Nichols,

9 N-I-C-H-O-L-S, and I'm Deputy Finance

10 Director and Director of the Minority

11 Business Enterprise Council. Good

12 afternoon, members of City Council's

13 Committee on Commerce and Economic

14 Development.

15 As you well know, MBEC is

16 responsible for implementing and

17 administrating the City of

18 Philadelphia's policies to ensure

19 non-discrimination in City contracting

20 and for promoting economic development

21 of minority-, women-, and

22 disabled-owned businesses through

23 certification of the strategies to

24 maximize their opportunities to compete

25 for City contracts.

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2 Bill No. 060226 proposes to
3 amend Title 17 of the Philadelphia Code
4 by adding a new chapter providing for
5 the development of and setting forth
6 provisions for economic opportunity
7 plans relative to certain City
8 contracts and projects under certain
9 terms and conditions.

10 Generally speaking, the bill
11 seeks to establish standard, uniform
12 content, procedure, and policy for
13 applicable City contracts, grants of
14 financial assistance, and City-funded
15 development projects that exceed
16 certain amounts in costs and/or
17 consideration to the City.

18 Recently, the Procurement
19 Commissioner and I, along with a
20 representative from the Law Department,
21 met with representatives from the
22 offices of President Verna, Councilman
23 Clarke, and Councilwoman Reynolds-Brown
24 offices to frankly and openly discuss
25 the impact of the bill on the bidding

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2 process and MBEC operations. We worked
3 together collaboratively and discussed
4 viable strategies to enhance the
5 successful implementation of the bill's
6 provisions in an effort to eliminate
7 any unintended adverse consequences to
8 the contracting process.

9 As an outcome of the meeting,
10 an amendment was developed by the
11 Administration that will be submitted
12 today for your consideration. And I
13 might add: I understand that there are
14 more amendments forthcoming from
15 Councilman Clarke's office as well.

16 I would like to highlight at
17 least two of the changes that we
18 propose.

19 The first amendment includes a
20 proposed change of the dollar-amount of
21 a covered contract in Section 17-1502
22 from 150 to \$250,000. As a practical
23 matter, the increased dollar-amount for
24 a covered contract would capture
25 contracting opportunities that would

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2 derive more benefit from the enhanced
3 oversight of economic opportunity plans
4 as set forth in this bill.

5 MBEC could effectively -- more
6 effectively perform its role in
7 implementing the bill's provisions and
8 avoid the potential for delays and
9 backlogs due to the volume of plans
10 that might require review in a smaller
11 contract amount.

12 Please be assured that bids
13 falling under the \$250,000 threshold
14 will be continued to be assessed by
15 MBEC for contracting opportunities for
16 minority-, women-, and disabled-owned
17 business enterprises. MBEC
18 historically has established M/W/DS BE
19 participation ranges for 95 percent of
20 all public work bids, including those
21 bids under \$250,000.

22 The second amendment I want to
23 discuss is the proposed change to the
24 effective date of this bill as set
25 forth in Section 2. We are requesting

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2 that this bill become effective within
3 90 days of all approvals by City
4 Council in place of 60 days.

5 An increased time period would
6 enable MBEC to develop the prototypes
7 of the Economic Opportunity Plan from
8 MBEC's existing forms that bidders and
9 proposers can utilize in compliance
10 with this bill. In implementation of
11 this bill, the bidder and/or proposer
12 will be required to include the
13 prototype economic opportunity plan
14 with their submissions subject to the
15 review and approval by the contracting
16 City department, MBEC; and when
17 applicable, designated representatives
18 of City Council.

19 Specifically, the role of MBEC
20 is to develop the Economic Opportunity
21 Plan prototype, review the bidder's
22 Economic Opportunity Plan submission
23 that would include the bidder's
24 identified solicitation and commitment
25 efforts as part of MBEC's review

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2 process to ensure the bidder's
3 compliance with contract provisions
4 relative to participation for
5 minority-, women-, and disabled-owned
6 business enterprises.

7 The requested 90-day time
8 period prior to the effective date of
9 the legislation would also provide MBEC
10 with additional time to collaborate
11 with the Procurement Department and
12 other City departments to work out the
13 logistics of revising all pertinent
14 forms, providing notices, including
15 notices on the City's Procurement
16 Department's website, and informing
17 stakeholders, which includes the vendor
18 community, of the proposed changes to
19 forms and/or procedures in order to
20 comply with the provisions of this
21 bill.

22 The utilization of economic
23 opportunity plans as proposed in the
24 bill has the potential to become an
25 effective mechanism to ensure that

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2 contractors and developers take all
3 necessary and reasonable steps to
4 ensure M/W/DS BEs have meaningful
5 opportunities to compete for and
6 participate in the performance of City
7 contracts.

8 In conclusion, I look forward
9 to working with City Council in the
10 implementation of this bill. Thank you
11 for allowing me to provide this
12 testimony. I'm available for any
13 questions of the committee.

14 Thank you very much.

15 COUNCILMAN GOODE: Thank you
16 for your testimony.

17 Miss Hagan, please state your
18 name for the record and proceed with
19 your testimony.

20 MS. HAGAN: yes. My name is
21 Janet Hagan -- that's H-A-G-A-N --
22 Acting Procurement Commissioner.

23 Good afternoon, Councilman
24 Clarke and members of the Committee on
25 Commerce and Economic Development. I

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2 am Janet Hagan, Acting Procurement
3 Commissioner, and I'm here to testify
4 in support of Bill No. 060226, which
5 seeks to amend Title 17 of the
6 Philadelphia Code, entitled "Contracts
7 and Procurement," by adding a chapter
8 providing for the development of and
9 setting forth provisions relating to
10 economic development opportunity plans
11 in connection with certain City
12 contracts and projects, all under
13 certain terms and conditions.

14 The Procurement Department
15 will include a prototype Economic
16 Opportunity Plan developed by MBEC in
17 all bid documents covered by this bill
18 unless a waiver is granted.

19 To better appreciate the
20 impact of this legislation, I would
21 like to bring to your attention the
22 following data:

23 In City Fiscal Year 2006, the
24 Procurement Department awarded 332
25 service, supply, equipment SS&E bids

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2 and 171 public-works bids. Seventy of
3 the SS&E contracts awards were over
4 \$250,000. Fifty-one percent of these
5 larger awards were for service category
6 contracts. One-hundred-and-eleven of
7 the public-works contracts were over
8 \$250,000, which represents the majority
9 of all awards in this contracting
10 category.

11 I believe that the requested
12 90-day period prior to the effective
13 date of the legislation is critical to
14 the successful implementation of this
15 bill. The Procurement Department will
16 work closely with MBEC in providing for
17 appropriate forms and bid notices.

18 This concludes my testimony.
19 I would be happy to answer any
20 questions for the committee, but I have
21 one comment that I didn't include in
22 the testimony.

23 As Councilman Clarke did say
24 that they are going to have some
25 additional amendments, we're prepared

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2 to support the bill with the modest
3 amendments that the City proposed on
4 March 9, 2007. However, we have not
5 had an opportunity to review these
6 further amendments with our staff and
7 legal counsel and would respectfully
8 request an opportunity for further
9 study of the bill as amended.

10 Thank you.

11 COUNCILMAN GOODE: Questions
12 for this panel?

13 Councilman Clarke?

14 COUNCILMAN CLARKE: Thank you,
15 Mr. Chairman.

16 So are you suggesting that --
17 and maybe you're not suggesting.
18 You're assuming that we're going to do
19 the amendment, the more aggressive
20 amendment, and prior to passage of the
21 bill, you would like to have an
22 opportunity to review from a legal
23 perspective the amended bill before the
24 City can sign on --

25 MS. HAGAN: Yes.

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2 COUNCILMAN CLARKE: -- in its
3 entirety.

4 MS. HAGAN: We're in support
5 of the bill as was amended. And since
6 we haven't had an opportunity to take a
7 look at the additional amendments, I
8 would respectfully request that we be
9 given that opportunity to that we can
10 go over it for the successful
11 implementation of the bill.

12 COUNCILMAN CLARKE: After the
13 additional amendment?

14 MS. HAGAN: Yes.

15 COUNCILMAN CLARKE: All right,
16 okay. Thank you.

17 Thank you, Mr. Chairman.

18 COUNCILMAN GOODE: Are there
19 any questions for this panel? Any
20 further questions for this panel?

21 (No further questions.)

22 COUNCILMAN GOODE: Thank you
23 for your testimony.

24 MS. HAGAN: Thank you.

25 MS. NICHOLS: Thank you.

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2 COUNCILMAN GOODE: John

3 Macklin.

4 (Witness comes forward.)

5 COUNCILMAN GOODE: Mr. Macklin

6 please state your name for the record

7 and proceed with your testimony.

8 MR. MACKLIN: John Macklin is

9 my name, and I want to... thank the

10 Council for allowing me this

11 opportunity to share my views relating

12 to this ordinance.

13 My name is John Macklin, Jr.

14 I am the Vice President of the Eastern

15 Region of the National Association of

16 Minority Contractors, which covers the

17 states of Maine, New Hampshire,

18 Massachusetts, Rhode Island,

19 Connecticut, New York, New Jersey,

20 Pennsylvania, and Delaware.

21 I'm also the President of the

22 Philadelphia Chapter of the National

23 Association of Minority Contractors.

24 The National Association of

25 Minority Contractors, established in

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2 1969, is the oldest and largest
3 nonprofit MBE construction trade
4 association in America.

5 We were organized to address
6 the needs and concerns of minority
7 contractors and suppliers. Membership
8 is open all to all people of all races.

9 The organization's mandate --
10 building bridges and crossing
11 barriers -- focuses on specific
12 construction-industry concerns common
13 to MBEs and WBEs. Our goal is to
14 assist our member firms build capacity
15 through training and education to
16 monitor, track, and have an impact on
17 construction-related legislation and to
18 assist our corporate and government
19 partners in securing capable MBE firms
20 for the many construction, facility
21 maintenance, and capital-improvement
22 projects across this country.

23 Covering 50 states, the
24 District of Columbia, and the Virgin
25 Islands, NAMC's membership includes

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2 general contractors, suppliers,
3 subcontractors, construction managers,
4 manufacturers, local MBE contractors
5 associations, state and local
6 governmental organizations, attorneys,
7 accountants, and other professionals in
8 the construction field.

9 Funding is from membership
10 dues, government and private-sector
11 grants, and through contributions from
12 our corporate partners.

13 Our success is America's
14 success story. For 37 years, we have
15 been the leaders in representing
16 minorities in construction. We stand
17 ready to serve our partners.

18 Our reason here today is in
19 support of ordinance Bill 060226,
20 amending Title 17 of the Philadelphia
21 Code, "Contracts and Procurement," by
22 adding a chapter providing for the
23 development of and setting forth
24 provisions relating to economic
25 opportunity plans in connection with

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2 certain City contracts and projects,
3 all under certain terms and conditions.

4 Since 1982, when the first
5 piece of legislation (Bill 1477) for
6 inclusion of minorities and women on
7 City contracts was passed by City
8 Council, with amendments in '84, '85,
9 '87, and '89, we have had some success
10 in creating small businesses.

11 The key to any legislation is
12 the commitment from the top to enforce
13 these ordinances and the City Council's
14 oversight committee to ensure their
15 compliance.

16 The commitment to enforce and
17 to ensure from oversight committees has
18 just been lip service. It has failed
19 its obligations to the small and
20 minority business community.

21 We owe the competitive
22 advantage that Blacks held in the work
23 experience they gained during slavery
24 and, in no small part, to the efforts
25 of two ex-slaves after emancipation.

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2 As William Hooper Council organized the
3 Colored Normal School (now Alabama A&M
4 University) in Huntsville, Alabama, in
5 1875 to teach trades, and Booker T.
6 Washington founded his self-help
7 program at Tuskegee Institute in
8 Tuskegee, Alabama, in 1881, which has
9 had the same mission.

10 Fortunately for Blacks, both
11 men succeeded. In fact, as early as
12 1863, a slave named Philip Reed erected
13 and put in place the Statue of Freedom
14 on the Capitol in Washington, D.C.

15 Blacks in the South
16 subsequently outnumber Whites 5-to-1,
17 and until the passage of the Davis-
18 Bacon Act in 1931, the federal
19 government's policy of accepting the
20 lowest bid on construction projects
21 allowed Black laborers to compete
22 freely for federal work. The
23 Davis-Bacon Act put a sudden end to
24 this democratic capitalism.

25 In addition to guaranteeing

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2 the failure of most Black and Hispanic
3 construction firms, the Davis-Bacon Act
4 keeps young unskilled Blacks and
5 Hispanics from getting labor jobs and
6 from acquiring building-trade skills
7 and earning a higher wage as a result
8 of their work experience. These are
9 the socially unacceptable and alienated
10 young people who have no other option
11 for work that offers a route to
12 independence.

13 The infamous Davis-Bacon Act
14 is an unconstitutional throwback to Jim
15 Crow. It was passed by Congress in
16 1931 and signed into law by a
17 Republican president, Herbert Hoover,
18 in direct violation of the equal-
19 protection provision of the Fifth
20 Amendment with the racist intent of
21 favoring White workers in unions over
22 Black workers on federal construction
23 projects.

24 The Davis-Bacon is anti-
25 taxpayer, anti-Black, anti-capitalist,

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2 and a guarantee that the most
3 inefficient worker will be paid the
4 highest wage, which, in turn,
5 guarantees the lowest profit. Just
6 like legal slavery or segregation laws,
7 it will not allow employers to choose
8 their own workers.

9 In effect, this law creates
10 set-asides, jobs for Whites. In truth,
11 it was created to keep Blacks
12 unemployed and to tax them for their
13 unemployment. It has turned out to be
14 a potential example of entitlement
15 socialism, and it has backfired in the
16 pocketbooks of White taxpayers. The
17 Davis-Bacon Act costs American
18 taxpayers \$2 billion in inflated labor
19 costs and more than \$100 million in
20 administrative costs annually to small
21 contractors.

22 It was designed to protect
23 White union workers who could not
24 compete with cheaper, more skilled
25 Black labor by imposing prevailing-wage

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2 requirements. It was passed explicitly
3 to prevent efficient, cheap colored
4 labor from competing with less skilled,
5 more costly White workers. This is
6 government-sanctioned institutional
7 racism and what the Davis-Bacon critics
8 call "classic protectionism
9 legislation" for building and
10 construction trade unions. It has
11 continued to contribute to Black and
12 Hispanic marginalization and the
13 perpetuation of marginal poverty, has
14 increased unemployment, and has
15 fostered anti-capitalist and explicit
16 racism.

17 This brings me today to
18 today's problem that Blacks and women
19 contractors are having with the School
20 District's program, the Electrical
21 Sheet Metal and Carpenters Unions,
22 Licenses and Inspections, the Minority
23 Business Enterprise Council, the
24 Philadelphia housing agencies, and
25 other agencies who are supposed to

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2 ensure that Black, minority, and women
3 businesses receive a fair chance at
4 procurement opportunities.

5 All of these entities have
6 contributed to retrogressing instead of
7 progressing the development of small,
8 Black, and women businesses in the City
9 of Philadelphia over the past 23 years.

10 It is a crime and a shame what
11 is happening to our Black, small, women
12 businesses, and as such, so-called
13 ordinances that this government and
14 City Council is considering in having
15 approved and passed that hinders the
16 growth of businesses I just mentioned.

17 While we fight to get just,
18 impartial, and fair legislation passed
19 on one side, the other side is
20 introducing ordinances, and some are
21 getting passed that have a negative
22 impact on Black-, minority-, and
23 women-owned businesses, and no one in
24 leadership is saying a word. Why?

25 Bill 060289, the Sheet Metal

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2 Licensing; Bill 060959, the Electrical
3 and Telecommunications Licensing,
4 Collective Bargain Requirements
5 Signatory Agreement between the School
6 District and the Building Trade Council
7 these are the symbol of what is wrong.

8 The Black unemployment rate in
9 the construction industry in the fourth
10 quarter of 2002 was well over 26.8
11 percent, more than twice the rate of
12 Whites. Black- and Hispanic-owned
13 construction businesses are
14 disadvantaged by the legislation
15 because they cannot compete with
16 taxpayer-subsidized wages for White
17 unionized workers.

18 Small firms owned by ethnic
19 minorities cannot underbid the larger
20 firms. This effectively protects
21 established interests and eliminates
22 competition for government contracts.

23 I would like to thank the
24 committee for this opportunity to offer
25 NAMC's views on this important subject.

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2 I would be pleased to answer any
3 questions the members of the committee
4 may have.

5 COUNCILMAN GOODE: Thank you
6 for your testimony, Mr. Macklin.

7 Are there questions for this
8 witness?

9 (No questions.)

10 COUNCILMAN GOODE: Thank you
11 very much.

12 The next witness is John
13 Childress.

14 (Witness comes forward.)

15 COUNCILMAN GOODE: Good
16 afternoon, Mr. Childress. Please state
17 your name for the record and proceed
18 with your testimony.

19 MR. CHILDRESS: My name is
20 John Childress, Executive Director of
21 the African-American Chamber of
22 Commerce.

23 First off, I would like to
24 thank City Council and this committee
25 for hearing our testimony. A special

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2 thanks to Councilman Clarke for
3 introducing this legislation and also a
4 special thanks to you, Councilman
5 Goode, for the -- for championing this
6 effort for so long and for really
7 making it such that it's come up to
8 this level.

9 We feel that we are all in
10 agreement with regards to the fact that
11 this is a good thing. This legislation
12 is good, it's long overdue, but that
13 also additional measures are needed to
14 ensure that businesses owned by
15 minorities, who represent the majority
16 of Philadelphia's native population,
17 are guaranteed their right to earn an
18 equal share of the economic pie. I
19 think that is very important.

20 There are a lot of
21 conversations going on around now that
22 it's election time, is this a great
23 city? what makes a great city? And we
24 question what makes a great city. Is
25 it the Avenue of the Arts? is it the

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2 stadiums? is it the museums? is it the
3 business?

4 And our response to that is:

5 No, it's not. It's none of those
6 things.

7 What makes the city great is
8 the people. And right now, over half
9 of the people of this city are
10 suffering; they're suffering because
11 they do not have access to economic
12 opportunity to improve themselves.
13 They're without jobs, they're being
14 left out of economic stimulus and
15 community improvements, and largely
16 becoming victims of crime. Over 35
17 percent of the City's black adult
18 population is without a job.

19 Now, once again, understand
20 how that differs from the unemployment
21 rate, which only counts people who have
22 been unemployed for the last six
23 months.

24 It is widely known that
25 minority-owned and women-owned

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2 businesses have suffered for a long
3 time in this city. According to the
4 preliminary MBEC figures, minority
5 firms earned only 13.6 percent of City
6 contracts in fiscal year 2006, which
7 was down from 14.3 percent of the
8 previous year.

9 Now, we all know those numbers
10 were compiled in years where MBEC had
11 less-than-ideal compliance and
12 follow-up, so we all know that the
13 actual numbers are much, much lower.
14 No one even counts the contracts that
15 are going to nonprofits, the hundreds
16 of millions of dollars that are being
17 disbursed through DHS and Community
18 Behavioral Health.

19 But there are examples of how
20 we can do better. The African-American
21 Chamber of Commerce along with the
22 Greater Philadelphia Hispanic Chamber
23 of Commerce have participated in a
24 program with the School District of
25 Philadelphia, which in just three years

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2 has taken their participation
3 percentage from under 10 percent to
4 over 25 percent, so we know that it can
5 happen.

6 So I ask you again, is
7 Philadelphia a great city? Well, to
8 answer that, I'll give you an analogy.

9 I have a son and I have a
10 daughter. If I feed my son but I let
11 my daughter go hungry, would I be
12 considered a great father? If I
13 protect my daughter from harm but I let
14 my son become the victim of a violent
15 crime, am I a great father?

16 Now let's apply these same
17 principles to Philadelphia. If this
18 city lets more than half of its
19 residents go hungry or become frequent
20 victims of crime, how can we claim to
21 become a great city?

22 How can we ensure that all of
23 Philadelphia shares in this economic
24 pie? Well, the bill before us today is
25 a huge step in the right direction.

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2 Uniform guidelines for economic
3 opportunity plans establishes a
4 foundation from regiment. From this
5 foundation, we can build a real
6 participation plan that will allow all
7 Philadelphians to share in this wealth.
8 This bill also continues to elevate
9 this issue to the level it belongs.

10 The lack of participation in
11 City contracts for Blacks, Hispanics,
12 and Asians in this city shuts off
13 opportunities and leads directly to
14 increased crime and poverty. So when
15 you see the murder rate rising and
16 increased violence in our communities,
17 understand that this lack of
18 opportunity to the economic system is a
19 major cause of this crisis.

20 So we say to all elected
21 officials, and not just the
22 Councilpeople who are on top of this
23 issue here, but if you are serious
24 about stopping the violence in this
25 city, then give us some real

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2 opportunity to make that happen.

3 But even with the passage of
4 this bill, we are not close to being
5 done. This gives us a tool for
6 measurement, but what are we measuring?
7 What are the goals for participation
8 and how are we going to hold these
9 people accountable for not meeting
10 these goals? The greatest laws in the
11 world are powerless without
12 enforcement.

13 In order to ensure that this
14 effort bears real fruit and is not just
15 another symbolic gesture in inclusion,
16 we call for a minimum of 25 percent
17 participation in contracts over
18 \$150,000 confirmed by actual dollars
19 spent and not dollars awarded.

20 Now, we understand that some
21 areas, you're going to say, Well,
22 there's not a lot of good minority
23 companies, so you may be lower here and
24 you may be higher in another area, but
25 citywide is an average that is

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2 certainly an obtainable goal.

3 Additional resources for MBEC
4 to provide certifications in under 90
5 days. We make it far too difficult for
6 a company to say, Hey, I'm
7 minority-owned or I'm women-owned.
8 Sometimes it can take months.

9 Strong compliance checks and
10 real penalties for companies that are
11 in violation of goals. We want to see
12 the nonprofit organizations certified
13 and goals set up for that billion-
14 dollar sector as well.

15 We want to see strong
16 oversight from a combination of the
17 African-American Chamber of Commerce,
18 the Greater Philadelphia Hispanic
19 Chamber of Commerce, Minority Supplier
20 Development Council, and the Enterprise
21 Center to oversee this process and
22 correct deficiencies.

23 We also applaud the decision
24 to conduct a comprehensive disparity
25 study so that we can identify the areas

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2 needed for improvement for significant
3 inclusion and also to build capacity in
4 those areas.

5 While we stand united in
6 applauding this bill as a critical
7 first step in bringing real inclusion
8 to our city, it is only the beginning.
9 Without enforcement and accountability,
10 we are no better than we are in the
11 past.

12 We strongly urge City Council
13 to not only pass this bill but to
14 continue the spirit of the bill and add
15 in goals and oversight. This city
16 cannot afford to shut out 55 percent of
17 its citizens from economic prosperity.

18 The government of the city
19 also sets the tone for the private
20 industry. You must send a message to
21 the private sector as well that
22 "business as usual" is no longer
23 accepted, for if you truly want to make
24 this a great city, then please take
25 care of all of your people.

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2 Thank you.

3 (Applause.)

4 COUNCILMAN GOODE: Thank you
5 for your testimony, Mr. Childress.

6 Are there questions for this
7 witness?

8 (No questions.)

9 COUNCILMAN GOODE: Thank you.

10 MR. CHILDRESS: Thank you.

11 COUNCILMAN GOODE: Our next
12 witness is Varsovia Fernandez.

13 (Witness comes forward.)

14 MS. FERNANDEZ: Good
15 afternoon, members of Council. I am
16 Varsovia Fernandez, President and CEO
17 of the Hispanic Chamber of Commerce.

18 And I thank you, my peers and
19 stakeholders who are here today, for
20 granting us the opportunity to be
21 hearing and allowing Hispanic business
22 to have a voice in this process.

23 As members of the economic
24 community in Philadelphia, we
25 understand that we all want to do what

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2 is best for our minority businesses and
3 that there are many things wrong with
4 the various models and activities being
5 done.

6 We wish to suggest that we
7 take a look at the bigger picture and
8 realities of minority businesses and
9 how businesses get done in Philadelphia
10 and strongly recommend that we all
11 based on such observations.

12 The situation with minority
13 businesses in Philadelphia is a
14 large-scope job that will take time and
15 effort, and as minority businesses and
16 minority leadership advocates, we agree
17 that the EOP document is a good start
18 to define and demonstrate the positive
19 intentions we must follow towards
20 achieving maximum diversity and
21 inclusion in City procurements.

22 The Hispanic Chamber
23 understands that this ordinance will
24 establish standards, uniform content,
25 procedure, and policy regarding EOPs,

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2 and that you will also codify and apply
3 universal requirements for EOP
4 submission, compliance, and
5 enforcement.

6 The ordinance will support and
7 enhance curent City policy and
8 procedure regarding diversity and
9 inclusion in efforts to increase the
10 potential for diversity in both private
11 and public business.

12 And if I just may point out
13 that a great deal of the non-minority
14 is not here today. Therefore, I want
15 to point out that while I am testifying
16 individually on behalf of the Hispanic
17 Chamber of Commerce, to preserve our
18 identity such as the African-American
19 Chamber and others, this is probably a
20 historical movement where all three
21 chambers -- Asian, African-American,
22 and Hispanic -- have come together to
23 actually voice the need that there is
24 to enhance minority business practices
25 in Philadelphia.

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2 City Council and our
3 constituents may rest assured that we
4 will continue our work every single day
5 in everything that we do to make sure
6 that we get this done right, to make
7 sure that we create and build on the
8 opportunities that are available to all
9 businesses in Philadelphia.

10 Again, thank you for the
11 opportunity to allow me to be here and
12 allowing me to voice our stakeholders'
13 concern.

14 COUNCILMAN GOODE: Thank you
15 for your testimony.

16 Are there any questions for
17 this witness?

18 (No questions.)

19 COUNCILMAN GOODE: Thank you
20 again.

21 Our next witness is Nick
22 Chenoy.

23 (Witness comes forward.)

24 MR. CHENOY: I am Nick Chenoy
25 representing Asian-American Chamber of

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2 Commerce of Greater Philadelphia.

3 Honorable City Council

4 members, Asian-American Chamber of

5 Commerce of Greater Philadelphia is in

6 support of proposed economic

7 opportunity plan ordinance Bill No.

8 060226.

9 Minority businesses has in the

10 past and continue to have limited

11 access to the City procurement process.

12 Mayor's Executive Order 1-05 calls for

13 goal-setting, good-faith effort, and

14 inclusion of minority businesses in the

15 contracts. Such a non-enforceable

16 requirement has not been successful in

17 the past.

18 This executive order does not

19 include enforcement criteria, and this

20 executive order delegates the

21 monitoring responsibility to the

22 Minority Business Enterprise Council.

23 There appears to be little

24 interaction between the City

25 Procurement Department, which awards

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2 the contracts, and the MBEC, which sets
3 minority participation requirements.

4 The Procurement Department must be
5 involved in enforcing the goals set by
6 MBEC.

7 The Economic Opportunity Plan
8 should detail specific consequences for
9 not fulfilling the commitments.

10 There should be a financial
11 penalty for noncompliance without
12 justification.

13 An independent committee
14 appointed by the Mayor who will
15 interact with the City Procurement and
16 MBEC to identify noncompliance issues
17 and make recommendations accordingly.

18 The Economic Opportunity Plan
19 should also include additional
20 incentives to the prime contractors for
21 increased minority participation beyond
22 the stated requirements.

23 As this Economic Opportunity
24 Plan addresses the subcontracting
25 opportunities for the minority

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2 businesses, it does not address
3 business opportunities for minority
4 prime contractors.

5 MBEs presently rely on
6 subcontracting opportunities and have
7 limited access to prime contracts. The
8 U.S. Small Business Administration area
9 program sets aside a percentage of
10 dollars for competitive procurement
11 within the certified minority
12 contractors. A similar procurement
13 process should be seriously considered
14 to include in the EOP.

15 We would like to take this
16 opportunity to express our sincere
17 appreciation for the members of City
18 Council for addressing equal
19 opportunity for minority businesses in
20 the City procurement process.

21 Thank you.

22 COUNCILMAN GOODE: Thank you
23 for your testimony, Mr. Chenoy.

24 Councilwoman Brown?

25 COUNCILWOMAN REYNOLDS-BROWN:

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2 Good afternoon.

3 MR. CHENOY: Yes, ma'am.

4 COUNCILWOMAN REYNOLDS-BROWN:

5 We've now heard from the leadership of
6 the three chambers here in the City of
7 Philadelphia. Has there been any
8 opportunity where the leadership of the
9 three chambers have sat down to discuss
10 or dialogue shared agendas, shared
11 opportunities, or anything along those
12 lines?

13 MR. CHENOY: Yes, ma'am. We
14 have taken some initiative. We have
15 met several times and we will continue
16 to do so.

17 COUNCILWOMAN REYNOLDS-BROWN:

18 Has there been any discussion with
19 regards to how the three of those
20 organizations as a group can challenge
21 the Greater Philadelphia Chamber of
22 Commerce to do better in this area?

23 MR. CHENOY: That topic itself
24 has not been discussed, but it is
25 something we'd like to do.

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2 COUNCILWOMAN REYNOLDS-BROWN: I

3 raise that because the former
4 leadership of the chamber in A. Bruce
5 Crawley stated in testimony in the
6 past -- his testimony spoke to how the
7 Greater Philadelphia Chamber has not
8 done its part, its share with MBE/WBE
9 opportunities, so it seems to me there
10 is an opportunity there for the
11 leadership of these chambers to deal
12 with that in a collective way.

13 MR. CHENOY: Yes. I think if
14 the three chambers come together and
15 forcefully insist upon such a thing, I
16 think it will happen, and we are
17 working on it.

18 COUNCILWOMAN REYNOLDS-BROWN:

19 And so then finally, the times that you
20 all get together, is it a regular
21 routine effort, or is it based on
22 crisis, or is it based on opportunity,
23 or -- or what?

24 MR. CHENOY: We've been
25 meeting once in a couple months

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2 routinely now. And this has been a
3 good occasion for us to discuss also
4 this ordinance, and we have discussed
5 it with the African-American Chamber of
6 Commerce as well as the Hispanic
7 Chamber of Commerce.

8 And our testimony is a result
9 of mutual discussion and also the
10 Enterprise Center.

11 COUNCILWOMAN REYNOLDS-BROWN:

12 Oh, okay then.

13 MR. CHENOY: And so we are
14 working on it.

15 COUNCILWOMAN REYNOLDS-BROWN:

16 Well, thank you for your testimony.

17 MR. CHENOY: Yes, ma'am.

18 Thank you.

19 COUNCILMAN GOODE: Councilman
20 Clarke?

21 COUNCILMAN CLARKE: Thank you.
22 Mr. Chairman.

23 Mr. Chenoy, just one question.
24 Thank you. You stated in your
25 testimony that there should be some

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2 consideration about providing
3 incentives for those respondents that
4 provide more than the goals that we
5 have stated in any particular EOP
6 language.

7 What exactly would that be in
8 your estimation? Would it be financial
9 incentives? Would it be -- tell me
10 what you're talking about.

11 MR. CHENOY: Well, it looks
12 like you're providing a financial
13 incentive to include minority
14 contractors.

15 The Department of General
16 Services in the State has a procurement
17 process where the point system, and if
18 you have a contract -- if you -- in a
19 contract, there are certain points set
20 aside for minority participation. The
21 larger number, dollar amount you give
22 to minorities, the more points you get.

23 So that helps to make the
24 selection process and also helps to
25 help the minority contractors.

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2 So the incentive is, if you're
3 going to give a financial incentive for
4 a minority contract -- for the prime
5 contractors, then it should be based
6 on, are you doing it for 25 percent,
7 are you doing it for 30 percent, or 40
8 percent? You know, the 40 percent
9 contractor should be preferred than the
10 25 percent contractor.

11 COUNCILMAN CLARKE: Don't you
12 think by virtue of requiring that this
13 be included in what's designated as a
14 responsible bidder, our language
15 essentially says if you do not have an
16 EOP plan, you will be deemed
17 nonresponsive.

18 The assumption is that -- and
19 I don't know if you think it should
20 have in very specific terms, but I'm a
21 little concerned about that from a
22 legal-challenge perspective.

23 MR. CHENOY: If I understand
24 correctly, it says noncompliance, the
25 ordinance basically refers to as

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2 withholding the payment and suspending
3 the contract, and I don't think they're
4 realistically -- they're realistic
5 because suspending the contract only
6 hurts the City work.

7 So there should be a financial
8 penalty on the contractor who do not --
9 just like -- who do not meet the
10 requirements. And it should be up
11 front, saying that if you do not meet
12 it, this is the penalty you will have
13 to pay.

14 COUNCILMAN CLARKE: Do you
15 think we should fine them if they don't
16 comply with the contract?

17 MR. CHENOY: Absolutely.

18 COUNCILMAN CLARKE: And I
19 don't know if you're a lawyer or not;
20 I'm clearly not a lawyer.

21 MR. CHENOY: No, I'm not a
22 lawyer. This is just my
23 recommendations.

24 COUNCILMAN CLARKE: From a
25 legal perspective, do you think that

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2 that could potentially cause some legal
3 problem with respects to a
4 challengeable ordinance?

5 MR. CHENOY: Well, I'm not a
6 lawyer, sir, but I am sure if you're
7 going to have some incentive to include
8 the minorities, then there should be
9 some penalty not including it.

10 COUNCILMAN CLARKE: All right.
11 So let me understand. If we're saying
12 in front of the process is the bid
13 solicitation, RFP, RFQ, you submit your
14 response with an EOP plan, and when
15 those EOP plans are reviewed by the
16 City, the assumption is that the higher
17 percentages of MBE/WBE/DBE that you
18 have in your EOP plan would essentially
19 give you a leg up with respects to the
20 selection process on the front end.

21 MR. CHENOY: Right.

22 COUNCILMAN CLARKE: If that
23 individual somehow doesn't maintain
24 that level of participation or doesn't
25 comply with the EOP plan that they

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2 submitted, then that contract would be
3 in non compliance and, therefore,
4 terminated.

5 And I just want to be clear.
6 Is it your suggestion that in addition
7 to the termination of the contract that
8 there should be a financial penalty?

9 MR. CHENOY: Not in addition.
10 In lieu of termination of the contract,
11 because sometimes it may not be
12 practical to terminate the contract.

13 COUNCILMAN CLARKE: To
14 terminate the contract?

15 I'm not sure I'm feeling that.
16 Persons in noncompliance, I don't think
17 I want that person to stay on that job
18 anymore. And I think a termination of
19 a contract is, in fact, a financial
20 penalty.

21 MR. CHENOY: Absolutely, but
22 as I said, if you're not able to
23 terminate the contract because of the
24 contract less than 80 percent of the
25 work is done and we let it go that far,

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2 you know, so you probably don't have a
3 choice to terminate the contract like
4 the bonding companies, you know? You
5 finish it.

6 And then either you can put
7 the contractor who is noncompliant on
8 the next no-bid list, saying that you
9 can't bid anymore.

10 COUNCILMAN CLARKE: Yeah.

11 See, the concern that I have with
12 respects to having a financial penalty
13 in lieu of compliance is sometimes a
14 lot of contractors view things as the
15 cost of doing business, so they say,
16 Well, you know what? I know I'm going
17 to get penalized a little bit, but it's
18 worth it. I'll pay the find and I'll
19 continue to do whatever and not comply
20 or not adhere to the existing regs.

21 I mean, you have this in --
22 you know, in the City, we're limited in
23 terms of the amount that we're able to
24 penalize an individual, and certain
25 contractors, they go out and they do

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2 shoddy work, and they know that based
3 on what they're doing, they're going to
4 end up getting penalized. But as a,
5 quote/unquote, cost of doing business,
6 they're willing to make that small
7 payment and continue to do what they
8 want to do.

9 And I'm a little concerned
10 about that 'cause I don't -- I think
11 when a person may weigh whether or not
12 they get the appropriate minority
13 participation or continue to have it on
14 the job versus paying what we now have
15 as the capped financial penalty, they
16 may just opt for the prior and just
17 say, Well, you know, it's just the cost
18 of doing business and I'll just pay the
19 \$350 fine or whatever, and I'm still
20 not going to keep any minorities on the
21 job.

22 MR. CHENOY: Very good point,
23 sir. Keep the dollar large enough.

24 COUNCILMAN CLARKE: It's an
25 interesting point, though, and we'll

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2 look at it.

3 MR. CHENOY: All right.

4 COUNCILMAN CLARKE: Thank you,
5 Mr. Chenoy.

6 MR. CHENOY: Thank you very
7 much.

8 COUNCILMAN GOODE: Any other
9 questions for this witness?

10 (No further questions.)

11 COUNCILMAN GOODE: Thank you.

12 MR. CHENOY: Thank you,
13 gentlemen.

14 COUNCILMAN GOODE: Our next
15 witness is Carlos Jones. I don't see
16 him here.

17 Is there anyone else here
18 representing GPOC?

19 (No response.)

20 COUNCILMAN GOODE: The next
21 witness, then, will be Cheryl
22 McKissack.

23 (Witness comes forward.)

24 MS. MCKISSACK: Good
25 afternoon.

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2 COUNCILMAN GOODE: Good

3 afternoon.

4 MS. MCKISSACK: It's a
5 pleasure to be here today. Thank you
6 for this bill. I think it's completely
7 necessary.

8 Just to tell you a little bit
9 about myself, I'm Cheryl McKissack,
10 President of McKissack & McKissack, the
11 nation's oldest minority-owned and
12 female architecture construction and
13 management in the country. We are in
14 our 102nd year of business.

15 I have served as Co-chair for
16 Small Business under the John Street
17 Transition Committee. I've served as
18 the Chair of the Ace Oversight
19 Committee for their new construction,
20 as well as currently the chair for the
21 M/W BE Advisory for Yonkers, New York.

22 And my experience has been
23 that if goals are not put in place with
24 respect to businesses and workforce,
25 they will not happen. And I think that

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2 that has been seen over the years.

3 After having many diversity
4 studies that tell us exactly what we
5 already know, it is clear that unless
6 goals are put in place, minority- and
7 women-owned businesses will not get
8 work, and neither will minority and
9 female workers join the workforce.

10 So an economic opportunity
11 plan standardizing that here in the
12 City of Philadelphia is a positive
13 thing.

14 Having chaired the Committee
15 with Ace, I learned a lot on that
16 assignment. Number one is, a plan had
17 to be put together from the beginning.
18 If it was a standard plan, then
19 everybody would understand what the
20 requirements are from the very
21 beginning.

22 Number two, because there were
23 no ways to really enforce what the plan
24 said, we had to rely upon the good
25 faith of the client or the developer or

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2 this -- in this particular case, it was
3 Ace, the owner.

4 Fortunately, Ace leadership
5 was behind what the goals were set for
6 this particular project, but had they
7 not been, there was nothing that our
8 group could do.

9 On several occasions at our
10 meetings, we pondered even if we should
11 be there, because if, in fact, we went
12 through all of the outreach, all of the
13 search for qualified firms who were
14 contractors who could work on this
15 particular project, and the owner did
16 not want to contract with these people,
17 then there was nothing that we could
18 do. So implementation enforcement is
19 primary.

20 We felt there should be some
21 clawback terminology in the plan that
22 would inflict some type of financial
23 problems with the owner or developer.

24 You know, I don't know too
25 much about how the developers reap

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2 their benefits from the City, but I do
3 know we're depending more and more on
4 developers to invest in our cities, but
5 from my understanding, tax credits,
6 things like that, are future events, so
7 maybe, you know, they don't get the tax
8 credits that they claim that they would
9 have gotten.

10 But once you've given away
11 land, you've given away land, so it's
12 hard to, in fact, take back the land if
13 someone is constructing on it. But
14 maybe if there's a financial penalty,
15 that would prove to be positive.

16 But it's important that there
17 is some clawback language.

18 There may be a consideration
19 that the oversight is done by an
20 independent group maybe out of the
21 Controller's Office. You know, I don't
22 particularly understand how the City
23 government works, but an independent
24 auditor -- but there ought to be some
25 way that the City can get information

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2 from a third party as to what's exactly
3 happening with these particular
4 development projects.

5 And with that, I have nothing
6 else to say.

7 COUNCILMAN GOODE: Thank you
8 for your testimony.

9 Any questions for this
10 witness?

11 (No questions.)

12 COUNCILMAN GOODE: Thank you.

13 (Witness steps away from
14 witness table.)

15 COUNCILMAN GOODE: Councilman
16 Clarke.

17 COUNCILMAN CLARKE: Thank you,
18 Mr. Chair.

19 Ms. McKissack?

20 MS. MCKISSACK: Oh.

21 COUNCILMAN CLARKE: Thank you.

22 (Witness returns to witness
23 table.)

24 COUNCILMAN CLARKE: Thank you.

25 Thank you for your testimony.

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2 I have just been told by our
3 capable staff that the amendment does
4 include clawback provisions.

5 MS. McKISSACK: Wonderful.

6 COUNCILMAN CLARKE: So that
7 will be included in the final bill.

8 MS. McKISSACK: Glad to hear
9 that. That's necessary to make it
10 worthwhile.

11 COUNCILMAN CLARKE: Thank you.
12 Thank you for your testimony.

13 COUNCILMAN GOODE: Our next
14 witness is Bill Peebles.

15 (Witness comes forward.)

16 MR. PEEBLES: Good morning,
17 Mr. Chair and members of the Council.
18 I have testimony here prepared for you
19 in writing, but I'm going to synopsise
20 it because you have so many people
21 waiting to testify.

22 COUNCILMAN GOODE: Thank you.

23 MR. PEEBLES: I just wanted to
24 touch three key points. That
25 represents people in the city who see

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2 this as a starting point, an
3 opportunity for minorities and
4 contractors and other workers in the
5 City.

6 The key here is to have the
7 workers look like the population of the
8 City, to in fact have them become
9 professionals.

10 It's a good beginning. We
11 need to work on critical issues and
12 details to make sure that good
13 oversight and enforcement of economic
14 opportunity plans occur.

15 The City can no longer just
16 have persons working on the job and
17 lose their employment once the job is
18 completed and say that as an
19 organization, they've met their civic
20 obligation by hiring these people from
21 the community.

22 Though DAP currently works
23 with Council -- people like Howard
24 Rye -- DAP stands ready to work and
25 address critical issues relative to the

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2 workforce on the construction
3 opportunities that may fall into the
4 EOP arena. It must be said that
5 resources must be allocated to ensure
6 that the population is ready to meet
7 the standards in the construction area.

8 Now, of course, my testimony
9 is much longer than that, but I just
10 wanted to make sure to get those key
11 points across, and feel free to answer
12 any questions -- I'm free to answer any
13 questions you may have.

14 COUNCILMAN GOODE: Thank you.
15 Your full written testimony will be
16 incorporated into the record.

17 MR. PEEBLES: Thank you,
18 Councilman Goode.

19 COUNCILMAN GOODE: Are there
20 questions from members of the
21 Committee?

22 Councilman Ramos?

23 COUNCILMAN RAMOS: You're in
24 support of this bill?

25 MR. PEEBLES: Yes, sir.

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2 COUNCILMAN RAMOS: Thank you.

3 COUNCILMAN GOODE: Are there
4 any further questions by members of the
5 committee?

6 (No further questions.)

7 COUNCILMAN GOODE: Seeing
8 none, thank you, Mr. Peebles.

9 MR. PEEBLES: Thank you,
10 Mr. Chair.

11 COUNCILMAN GOODE: Our next
12 witness is Angelo Perryman.

13 (Witness comes forward.)

14 MR. PERRYMAN: Good afternoon,
15 Mr. Chair and members of the committee.
16 My name is Angelo Perryman. I have
17 passed out a copy of my testimony for
18 your review.

19 My name is Angelo Perryman.
20 I'm the President and CEO of Perryman
21 Building & Construction Services. We
22 are a nine-year-old self-performing
23 general contractor specializing in
24 interior and building, and we're
25 located in West Philadelphia.

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2 We are a taxpayer and have
3 been here in Philadelphia for the long
4 haul. We are a past "Public Works
5 Contractor of the Year" by the City of
6 Philadelphia and employe on average
7 about 43 people on the average
8 throughout the last three years.

9 I am here in support of Bill
10 No. 060226, including suggested
11 comments on enforcement and/or
12 practices.

13 The construction industry is
14 made up of large and small contractors,
15 subcontractors, and material suppliers
16 whose operations are based primarily on
17 competitive pricing before contract
18 award. Bill No. 060226 plan
19 requirements and waiver process
20 considers minority businesses economic
21 participation as non-competitive.

22 Successful operation of a
23 construction business is based on a
24 simple theme: numbers of opportunities
25 available and contract awards. For us,

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2 that's about as simple as it gets.

3 Without the opportunities, no awards.

4 The results, based on existing
5 procurement rules, are smaller general
6 contractors are being considered as
7 subcontractors, and subcontractors are
8 -- which obviously is not within their
9 core competency -- and subcontractors
10 are being considered for a general
11 contractor's role, which is not their
12 core competency.

13 Smaller vendors are put in the
14 position of trying to sell whatever
15 skills they have available to them to a
16 client that's trying to figure out how
17 to do it. And for the most part, they
18 find few ways to accomplish that
19 objective.

20 Perryman Building &
21 Construction Services' decision to
22 locate in Philadelphia was driven
23 primarily on the number of
24 opportunities as we perceive a city of
25 this size and complexity. Individual

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2 covered projects and contracts within
3 Bill 060226 are seeking to achieve
4 similar dreams in Philadelphia as our
5 firm was nine years ago.

6 In outline form, I've attached
7 a list of challenges that have affected
8 minority businesses, and I'll just go
9 through them in brief.

10 Information outlining
11 opportunities in minority procurement
12 enforcement.

13 Access to qualified trade
14 labor.

15 The top 60 percent of labor is
16 not available to many small businesses,
17 and that affects your price.

18 Vendor procurement waivers
19 requires strengthening. That is a
20 process that virtually takes an
21 opportunity off the table without full
22 recognition of the marketplace or
23 particular vendors who may be able to
24 achieve the objectives sought.

25 No sole-source procurement

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2 options are available. Bundling of
3 construction projects remains an issue,
4 which primarily drives home that there
5 is no one really looking at projects to
6 try to basically achieve the objectives
7 of minority and women inclusion.

8 Lack of original business
9 development centers. That basically
10 speaks to those businesses that just
11 have a dream and are willing to work
12 hard and figure out the best way that
13 they can accomplish their objectives of
14 being a business and entrepreneur.

15 Access to affordable bonding.
16 Performance bonding has become one of
17 the obstacles of the day.

18 Nonpayment or penalties of the
19 lien laws which have now been enacted
20 by the Commonwealth of Pennsylvania.
21 To a large degree, the after-effect of
22 the new law is that many of the larger
23 firms who may seek to utilize
24 subcontractors who may be women- and
25 minority-owned businesses are requiring

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2 bonding as a part of a remedy to the
3 State law.

4 Post MBE award follow-up. A
5 phone call is really not enough. This
6 -- the bill as well as its spirit of
7 function is to try to get minority
8 business involved, for them to learn,
9 develop their business, and ultimately
10 become a competitor in the open
11 marketplace.

12 Government (indiscernible)
13 recommendations. It would be my
14 suggestion that the City of
15 Philadelphia select within the cabinet
16 of the Mayor's Office, which is the
17 highest position, or within some part
18 of City Council a small-business
19 ombudsman, whose primary function is to
20 try to locate within the overall
21 procurement opportunities which should
22 fall within M/W BE sizes that are
23 there.

24 Create sole-source procurement
25 standards and opportunities for

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2 minority-owned businesses.

3 Require procuring agencies to
4 outline work which can be packaged to
5 meet known MBE database sources.

6 Create a Better Business
7 Bureau for all Philadelphia
8 procurement, with sanctions for
9 unresolved complaints.

10 Reconstitute separate MBE and
11 WBE utilization goals.

12 The first rules of engagement
13 are trust but verify. That rule
14 applies to economic development,
15 inclusion, and program beneficiaries.
16 The procurement process depends heavily
17 on trust, best effort, and not specific
18 verifiable objectives.

19 Developing minority businesses
20 are in crisis due to a lack of
21 opportunity, and this is happening
22 within a timeframe where the City is
23 going through one of its largest growth
24 periods since the days of the
25 Convention Center.

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2 As James Brown would say, "I
3 don't want nobody to give me nothing,
4 just open up the door. I get it
5 myself."

6 Bill No. 060226 has to speak
7 to meaningful results. That's why I'm
8 here.

9 Thank you for the opportunity
10 for presenting my testimony. I am
11 available for any questions that you
12 may have.

13 COUNCILMAN GOODE: Thank you
14 for your testimony, Mr. Perryman.

15 In your testimony, you raised
16 questions about the waiver provisions
17 within this bill, and those are my
18 concerns as well.

19 Under what circumstances do
20 you believe there should be waivers,
21 and do you believe that MBEC should be
22 given that sole authority?

23 MR. PERRYMAN: Well, if I had
24 to recommend something, in light of its
25 importance, the waiver process, again,

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2 takes away an opportunity, and it takes
3 away an opportunity because if you're
4 not on the list, somebody doesn't know
5 you exist.

6 I would recommend a
7 business-based approval committee for
8 any waiver that may be presented to
9 MBEC or to City Council or to the
10 Mayor's Office.

11 COUNCILMAN GOODE: So you
12 believe that MBEC should not have that
13 sole authority and that they will most
14 likely just use the names that are
15 already in their database.

16 MR. PERRYMAN: Well, I won't
17 say that they shouldn't have, but they
18 should have as much information as
19 possible before they make a unilateral
20 decision.

21 COUNCILMAN GOODE: But if they
22 are relying upon the database they've
23 always been relying upon, there is no
24 room for growth in terms of
25 opportunity.

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2 MR. PERRYMAN: Yes.

3 COUNCILMAN GOODE: Okay.

4 MR. PERRYMAN: That is true.

5 COUNCILMAN GOODE: Councilman
6 Rizzo?

7 COUNCILMAN RIZZO: That was
8 the question that I wanted to ask, but
9 I have one little follow-up.

10 Your presentation was very
11 enlightening today.

12 The construction that's going
13 on around town today, just you
14 specifically, have you had
15 opportunities at some of this that's
16 going on right now? We look, we see
17 the tallest building in Philadelphia
18 being built; have you had opportunities
19 for that?

20 MR. PERRYMAN: Well, the
21 tallest building right now is the
22 Comcast Tower. Our firm did the
23 initial mockup for the preconstruction.
24 Since the major work has happened, we
25 have not had an opportunity since that

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2 time.

3 COUNCILMAN RIZZO: Thank you,
4 Mr. Chairman.

5 COUNCILMAN GOODE:
6 Councilwoman Reynolds-Brown.

7 COUNCILWOMAN REYNOLDS-BROWN: I
8 thank you also for your informative
9 testimony.

10 I am curious about your
11 recommendation regarding a
12 small-business ombudsman. Do you know
13 that to be a practice in other
14 municipalities or jurisdictions?

15 MR. PERRYMAN: Within
16 municipalities, it is something that is
17 -- well, to give a more clarified
18 response:

19 To a large degree, public
20 money has not been looked upon as a
21 major segment of revenue or a business
22 generator. Today it has become a major
23 component of the building industry as a
24 way to grow your business or other
25 opportunities, other places to get

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2 opportunities, as federal government
3 does have an ombudsman or a guideline
4 for people that basically focus on the
5 overall pie and try to redirect it in a
6 way that reaches the populace.

7 COUNCILWOMAN REYNOLDS-BROWN:

8 Mm-hmm. Okay.

9 MR. PERRYMAN: The State, as
10 it is right now, does not have one.

11 It has been suggested
12 similarly to the State, the City of
13 Philadelphia doesn't -- at this point,
14 as I understand, a billion 5 in public
15 works of all different segments of the
16 economy, and a billion 5 will draw
17 somebody from another state to come.

18 So we should try to focus on
19 our local businesses.

20 COUNCILWOMAN REYNOLDS-BROWN: I
21 see.

22 And, finally, provide some
23 additional discussion of this bundling
24 of construction projects. You stated
25 that that remains an issue.

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2 MR. PERRYMAN: Well, the
3 primary comment that I would give with
4 regard to that is that if projects can
5 be broken apart, that allows for
6 opportunities for smaller businesses to
7 take a prime contractor role in their
8 performance.

9 COUNCILWOMAN REYNOLDS-BROWN:

10 Hmm.

11 MR. PERRYMAN: When the
12 Convention Center, which goes back now
13 to 1989, the initial concept was to put
14 together a hundred-and-some-odd bid
15 packages which would allow a massive
16 amount of opportunity -- of chances to
17 achieve an opportunity. Irregardless
18 to minority- or women-owned businesses,
19 it just gives more chances at work.

20 COUNCILWOMAN REYNOLDS-BROWN:

21 Mm-hmm.

22 MR. PERRYMAN: So the more
23 those things happen, the more chances
24 individuals have to sustain their
25 businesses.

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2 Keep in mind that when we
3 structure our business and we say that
4 we want to go after a certain
5 marketplace, we know that the owner
6 requires certain background staff
7 capabilities, past performance within
8 those capabilities. That builds in
9 itself a cost which has to be converted
10 into a number for an owner to choose
11 you.

12 When you're unable to maintain
13 a prime-contractor role, that means
14 that you have to cut away some of your
15 core competencies in order to survive,
16 so you end up having to redefine your
17 business over and over and over again
18 in order to be effective.

19 If you are a self-performer,
20 as we are, we -- as we said, we hire
21 somewhere close to 40-something people
22 each year. And in doing that, probably
23 20 to 25 of those people are core
24 people that we can't let go.

25 And in letting those people

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2 go, then we'd let go our ability to be
3 effective and be considered as a
4 competent business able to perform work
5 as the owner requires.

6 COUNCILWOMAN REYNOLDS-BROWN: I
7 see. Thank you for your testimony.

8 MR. PERRYMAN: We're losing
9 strong businesses every day because of
10 lack of opportunity.

11 And it can be easily defined
12 as you made a mistake, but what you're
13 doing is really not able to hold your
14 team together.

15 COUNCILWOMAN REYNOLDS-BROWN:
16 Thank you for again for your testimony.

17 MR. PERRYMAN: Thank you.

18 COUNCILMAN GOODE: Any other
19 questions for this witness?

20 (No further questions.)

21 COUNCILMAN GOODE: Thank you
22 again.

23 Our next witness is Jihad Ali.

24 (Witness comes forward.)

25 COUNCILWOMAN REYNOLDS-BROWN: I

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2 have a follow-up question,

3 Mr. Perryman.

4 COUNCILMAN GOODE: Mr. Perryman

5 n?

6 (Mr. Perryman returns to

7 witness table.)

8 COUNCILWOMAN REYNOLDS-BROWN:

9 Sir, Mr. Perryman, do you know the name

10 of the federal ombudsman to contact?

11 MR. PERRYMAN: I can provide

12 that.

13 COUNCILWOMAN REYNOLDS-BROWN:

14 Would you please provide that

15 information to the Chair?

16 MR. PERRYMAN: Yes, I will.

17 COUNCILWOMAN REYNOLDS-BROWN:

18 Thank you.

19 COUNCILMAN GOODE: Good

20 afternoon, Mr. Ali. Please state your

21 name for the record and proceed with

22 your testimony.

23 MR. ALI: Good afternoon,

24 distinguished members of Council. My

25 name is Jihad Ali. I'm a -- I often

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2 describe myself as an advocate on
3 behalf of small businesses,
4 specifically contractors. I've been
5 involved in the construction industry
6 over 30 years.

7 I really started in the
8 construction in the service. I was a
9 marine assigned to marine combat
10 engineers, and I first got involved in
11 construction as a bulldozer operator.

12 And when I was in the service,
13 I got out -- at the time I got out, I
14 think I got on it in 19 -- I got out in
15 1980. And when I got out, the time
16 when I got out to make that transition
17 from a veteran to a civilian worker,
18 the area that I chose to enter was
19 under federal oversight by the federal
20 authorities, and that was the operating
21 engineers, which was a very important
22 case that still is around today because
23 Judge Higgenbotham, who was the
24 distinguished legal scholar, put a
25 lifetime order against them that still

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2 exists today because the situation, in
3 his words, was so bad that there was
4 nothing that they could do in the
5 immediate future that would change it.

6 And as a result of that legal
7 opinion, today, we have more -- we're
8 constantly increasing opportunities for
9 African-Americans in the operating
10 engineers, which is really unique, that
11 you need to be aware of, because of all
12 the 16 trades, they're the only one
13 under federal injunction.

14 One thing -- I'm here today to
15 testify for this bill because I think
16 that all the Councilpeople here present
17 and some of the ones that are within
18 the sound of my voice, I know that you
19 support everything that this bill is
20 about, which is access to equal
21 opportunity. That's really what this
22 is about. So I'm here to support this
23 bill.

24 I'm sure that your staff did a
25 lot looking at the bill, but one of

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2 the -- in the research of the bill, but
3 one of the things, as I look down the
4 list that I just caught off of like a
5 preliminary investigation, was that I
6 don't -- I'm not a lawyer and I'm not a
7 person that's familiar with City
8 Council bills and ordinances, which you
9 are.

10 But one of the things that I
11 noticed was that it didn't have a
12 finding and a declaration of policy, so
13 I made a copy that I wanted to extend
14 to the staff.

15 I went to the law library and
16 looked up one of the findings and
17 declaration of policy that is attached
18 to minority-business development agency
19 which is authorized by the State. I'd
20 like to give that to your staff to look
21 up.

22 Because one of the things
23 that -- every law that exists in
24 Philadelphia is to help mostly the
25 social and economically disadvantaged

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2 persons. And I heard somebody say
3 something about minorities, and when we
4 look at those words, we have to be
5 careful because we've been here before.

6 We were here in 19 -- we
7 started on this road in 1990, and it
8 ended in 1995. Imagine, if you will,
9 that behind me a is 100,000 men and
10 women. With that 100,000 men and
11 women, they are against everything that
12 you're for. And that 100,000 men and
13 women are highly organized, and they're
14 organized to the point that they were
15 the ones that fought the first
16 instance, and the instance was the
17 Bechtel decision.

18 And if we look at -- who would
19 be against this bill that talks about
20 equal opportunity for everybody, who
21 would be against this bill that talks
22 about giving people the right, the
23 right to make a living, to earn by the
24 sweat of their brow an opportunity for
25 their selves and their children. Who

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2 would be against this bill.

3 Well, we only have to look at
4 who was a party to the lawsuit just to
5 name a few. And even though this
6 lawsuit is different from this policy,
7 the -- it's very similar.

8 Some of the people associated
9 with this contract were the Associated
10 General Contractors, Building
11 Contractors Association of America,
12 Associated Master Painters and
13 Decorators, Bricklayers, Interior
14 Finish. It goes on and on and on.

15 So what I did was -- I saw one
16 of our distinguished elderly gentlemen,
17 John Macklin, who, at the time, he was
18 a mentor to me, and I was a member of
19 the Minority Business Enterprise
20 Council. Some of you all are familiar
21 with that. And that was headed by John
22 Macklin.

23 I'm not -- I haven't -- I
24 don't know where John Macklin is today,
25 but one thing was, all those men and

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2 women pooled their resources, and they
3 petitioned the court to be heard on
4 that Bechtel case, on that Contractors
5 Association versus the City of
6 Philadelphia case.

7 And one of the things that
8 came out during that case, which I
9 attended and said in the courtroom was,
10 when they started bringing in all of
11 the experts, one of the experts that
12 had more degrees behind his name than I
13 could count, he gave testimony as to
14 what the bill didn't have in it when
15 they authorized it.

16 So, you know, when I talked
17 about imagine a 100,000 men, it's not
18 to be in fear of them, but just to be
19 aware of them, because we shouldn't be
20 in fear of anybody, because the small
21 minority that has made this country --
22 the reason why this country is great is
23 because it started with a small group
24 of people. You know, it started with a
25 small group just like the ones sitting

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2 up here.

3 But one thing, you have to be
4 aware of who your adversaries are.

5 And one of the things that
6 came out in this case was that this
7 expert, he gave testimony to why --
8 what was the reasons why this thing
9 wasn't -- shouldn't have been
10 successful, and I think we should learn
11 from that.

12 So I made a copy of the case,
13 and I could give that to you, Council,
14 so they can look at it.

15 And one of the other things
16 that we have to see as we go forward is
17 African-Americans, minorities,
18 disadvantaged people, you know, we
19 always say that term, but there's
20 another group that we often forget
21 about, and that's the disabled and
22 veterans.

23 And now, I think, with this
24 time being the way that it is in
25 America and having been a veteran

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2 myself, you know, a lot of veterans are
3 going to come back and they're going to
4 have a double designation: they're
5 going to be disabled and they're going
6 to be veterans.

7 So as we go forward, we should
8 put that in this bill, some language
9 for the disabled, some language for the
10 veterans.

11 And the other thing I wanted
12 to mention was -- the Councilwoman
13 asked about municipalities and the
14 utilization of advocates, Councilwoman
15 Reynolds-Brown.

16 Well, the State currently
17 has -- or they authorized at one time
18 the Small Business Advocate Act, and
19 under that act, which is in
20 (indiscernible) under 73.3.99.41, which
21 I'll mention to your staff at the end
22 of the meeting, it gives authorization
23 for the employment of a small business
24 advocate.

25 And while we're talking about

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2 the State, I just think it would be a
3 good thought at least to look and align
4 this bill with the State minority
5 business agency, because they're
6 authorized by legislation and they have
7 a lot of power, and I think we should
8 look at that.

9 The other thing was, I think
10 we should be careful about giving
11 anybody absolute control, because as
12 the old saying goes, absolute control
13 means absolute corruption. So we have
14 to be careful of that.

15 And one thing I wanted to
16 mention in closing was, there was an
17 article printed in the paper, which I
18 made copies of for the panel, which
19 somebody can give out. It talks about
20 having friends in high positions and
21 high influence. And sometimes those
22 positions can work against what we're
23 trying to put forth today.

24 And, you know, we have to
25 really -- we have to be real about

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2 that, as they say in some of the street
3 language. We have to keep things real.

4 And one of the things is,
5 what's your intention and what you're
6 trying to do today, you're going to be
7 opposed by people who are in high
8 positions, and they control municipal
9 authorities, and as the controlling
10 point in municipal authorities, they
11 have absolutely all control, with no
12 oversight.

13 So that's a challenge for us,
14 and the challenge is to be able to
15 craft this thing in such a way that
16 there's no getting out of it.

17 And although that -- what's
18 unique about the article that I'm
19 passing out is that the relationship
20 between a contractor/developer and a
21 municipal head of an authority, which
22 it shouldn't go unforgotten or
23 unmentioned, because that authority is
24 still awarding contracts, and that
25 person is still receiving contracts.

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2 So what do we do about that?

3 How do we stop that?

4 And not only that, I think the
5 bill should talk about advertising; I
6 think that should be a point of any
7 economic plan because advertising is
8 the thing that makes the developer be
9 able to get the word out. It shouldn't
10 just be on City Council.

11 Another thing I think we
12 should talk about is conflict of
13 interests. It should cover that
14 because sometimes people are going to
15 come to you because they're going to be
16 talking "we." They're going to say,
17 you know, "we" support you, "we're" for
18 you.

19 But the minute you turn your
20 attention away from them, it's all
21 about "I" -- how can "I" benefit from
22 this? What is "my" compensation for
23 that?

24 And unlike the people that's
25 sitting in this room up here, you've

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2 never had an issue with being just a
3 politician; you are all public
4 servants. Everyone up there that I
5 know from all the times that I've sat
6 here, each one of you has always been
7 for the good of the people -- not
8 black, not white, but the people, all
9 of the people. So I support you in
10 that, and I salute you.

11 But I think that we just need
12 to be mindful. We have history. You
13 know, we have experiences. And we
14 shouldn't be caught -- like the old
15 adage says, "You can't step in the same
16 stream twice." So we should be aware
17 of where we're going, we've got some
18 history.

19 We need to study the facts and
20 we ought to take precautions because
21 the opposition is going to -- they're
22 just laying in wait and -- because that
23 was proven in the 1990 case. They laid
24 in wait almost ten years. But before
25 that, I think we ought to learn from

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2 our past in order to move ahead in our
3 future.

4 I'd like to thank you for the
5 opportunity to come and speak to you
6 today, and I support this bill. I just
7 think we ought to do as I mentioned in
8 my testimony.

9 COUNCILMAN GOODE: Thank you.

10 Any questions for this
11 witness?

12 (No questions.)

13 COUNCILMAN GOODE: Thank you
14 for your testimony, Mr. Ali.

15 MR. ALI: You're welcome.

16 COUNCILMAN GOODE: The next
17 witness is Anthony Fullard, Millennium
18 3 Management.

19 UNIDENTIFIED SPEAKER:

20 (inaudible).

21 COUNCILMAN GOODE: Herb Riley?

22 (Witness comes forward.)

23 MR. RILEY: Good afternoon,
24 Councilmembers.

25 First of all, this is kind of

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2 like preaching to the choir, because
3 knowing the actions of everyone here
4 and Councilmember Campbell, I thought
5 about something during one of the other
6 testimonies about people's concerns.

7 Last week, you addressed the
8 disabled issue, so this Council does
9 focus on individual things that are
10 kind of non-related to each testimony
11 that comes before it sometimes, and
12 they take the leads on it.

13 I kind of think about this
14 when I see John. I also think about
15 the years when we started out with
16 Congressman Mitchell first going with
17 the (indiscernible) bill, which was the
18 first trying to capture opportunities
19 on the federal level for minority
20 contractors, which kind of filtered
21 into some of the local issues.

22 And, yes, I remember the
23 fights we had with all of those
24 contracting associations, even though
25 minorities were only getting 10 percent

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2 of the business, but they were
3 complaining. We were paying 100
4 percent of the taxes but only receiving
5 10 percent of the business, and a lot
6 of people thought that was unfair.

7 I also saw that kind of rotate
8 into a situation where even in the City
9 of Philadelphia, when there was an
10 effort to try to bring this to a level
11 playing field, there were laws that
12 absolutely surfaced that kind of
13 prohibited that because now, all of a
14 sudden, there was a new-defined
15 minority, and that new-defined minority
16 was white females.

17 White females came in with a
18 vast array of construction firms which
19 have a vast amount of business in the
20 City is done, and they got awarded a
21 lot of business.

22 I worked the statistical
23 survey -- I think he's gone out of the
24 room now -- in 2004, trying to see who
25 was doing business in the City. And

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2 the breakdown was almost 82 percent of
3 the contractors was white females, and
4 it broke down -- I think it was 17
5 percent Africans and something like 2
6 to 6 percent and 1. -- or 0.14 percent
7 was dealing with disabled firms, you
8 know. And I know that's not your
9 effort.

10 The statement that I have to
11 say to you in support of this bill,
12 it's not the bill that's going to fail
13 you, and I'll tell you why I say that.
14 It's what happens after the bill .

15 You know, a lot of what I
16 do -- I work a lot with large companies
17 around the country, and I'll tell you
18 why that's significant. I developed
19 something years ago called a win/win
20 philosophy.

21 I can go into a city -- I
22 don't care where it is in America --
23 with a large firm, and when I'm going
24 to go before a board like you, a
25 council, or whomever I'm dealing with

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2 is telling them, I don't care what your
3 minority participation is, we're going
4 to either double it or give you more
5 than you ever had.

6 Why is that significant?

7 Because you can show how easy it's
8 done. And they're able to, when they
9 make that award -- because they're
10 going to be successful because they're
11 going to be very competitive because
12 you can find minorities in any sector
13 of any country. That can be in any of
14 the major procurements that's out here.
15 We just -- those efforts don't come
16 forward.

17 When you make that kind of
18 presentation and you get that award,
19 you have a win/win because now you can
20 talk about how great your program is
21 becoming. And the City wins and the
22 contractor wins because now, instead of
23 them trying to find the bare minimum to
24 get into a city, they're coming and
25 basically saying, "We want to do all we

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2 can."

3 Most of the contractors I
4 work, they love it that way because
5 it's a natural way of doing business.
6 You know, we always talk about the
7 set-aside. You know, there's no one in
8 the world who suffers more in the world
9 than any minority firm.

10 But when you start adding the
11 word "set-aside," you kind of back the
12 effort of because now people are
13 realizing that instead of going forth
14 with what's a great opportunity,
15 they're trying to find those little,
16 small opportunities for minorities.

17 So you really -- that's what
18 happens. And where does it happen?
19 Not in your bill.

20 So let me (indiscernible) in
21 closing. Your bill will be great.
22 It's who implements the bill.

23 There are far too many
24 times -- I'll give you some examples,
25 and I've worked with some and I've seen

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2 some fail 'cause I can sit on either
3 side and do the justification.

4 If a firm comes in and is
5 talking about they have an exclusive
6 product or service, and all of a sudden
7 they get exempt, you don't exempt that
8 firm. Here's what you do:

9 You say, Well, if that product
10 can serve as an example, what other
11 products and services do you sell to
12 the public? We want to see your
13 participation of minority participation
14 for those goods and services that will
15 be equal to what you're getting exempt
16 on. And that never happens.

17 That can change significantly
18 what and how we do business in any
19 city, but those kind of thinking-
20 outside-of-the-box laws don't happen
21 because -- and it's not your fault.

22 The people who are managing
23 those, they are trained for eight hours
24 a day to kind of manage the work in
25 front of them, and they got so many

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2 things that they're trying to move
3 along. They're doing just that --
4 moving along. They are not trained to
5 literally sit down and become DBE
6 specialists, if you understand what I'm
7 saying.

8 It's a unique skill, okay?
9 You have the assignment because you're
10 in that position to do the work, and
11 that's not a knock on the MBEC; that's
12 basically any city I've gone into.
13 It's a unique way you have to look at
14 each one of those requirements when it
15 comes before the people who want to
16 make it happen.

17 Okay, everyone don't want
18 to -- they can -- you can easily accept
19 the rationale of, Well, they had
20 exclusive on this, so we can still
21 award it, and there were no minorities
22 we could put on the project.

23 We had something as simple --
24 and I'll be quite honest -- that came
25 before this council that we missed an

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2 opportunity, but we may still get it,
3 and you were a very strong advocate on
4 it.

5 When Motorola came and
6 Earthlink came before us and said they
7 were going to award -- 'cause we fought
8 it forever, if you remember. They were
9 going to award \$10 million to another
10 firm, and our question was: Why aren't
11 you making that firm honor their
12 minority participation when they have
13 qualified minority suppliers?

14 The City of Philadelphia could
15 have benefitted to approximately
16 \$4 million going to minority
17 contractors. Just as simple as asking
18 the question and getting them to
19 respond.

20 Those are the kind of things
21 an MBE office is not trained to do,
22 they're not going to do because that's
23 not what they do. You follow what I'm
24 saying?

25 So it's not a knock on them.

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2 It's a process that happens. And there
3 are people who, when they catch it,
4 they can, you know, address it, but
5 everyone doesn't catch it and doesn't
6 address it.

7 So those are some of the kind
8 of things as we go forward. That's why
9 I say the bill kind of will fail you
10 unless more people, you know, even if
11 it means -- and I'm not lobbying for
12 consultant jobs, but you sometimes need
13 consultants that sit there and, you
14 give them responsibility for so much of
15 that work because these are people who
16 you need to think outside the box.

17 So when it comes before you,
18 you're now looking at a greater
19 opportunity for everyone involved
20 instead of saying, Well, they said, you
21 know, that's an exclusive on that.

22 You know, I could go on.
23 Councilman, I'll give you another
24 example, and it just came up when we
25 were talking.

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2 I had someone call me from out
3 of town about the Comcast building
4 because they were looking for someone
5 to do cleaning. Now, there's no reason
6 why that should have happened.

7 Someone within the Comcast
8 organization should have contacted
9 someone and had them on the job. This
10 is an outside -- you know, who
11 basically said, "It's open."

12 Now, I don't know why these
13 opportunities are being missed, but
14 that was one. When I heard it, you
15 know, it just made me think about it.

16 You know, I don't want to go
17 on a lot, but I want you to understand
18 that your best efforts will be just
19 that, your best efforts, unless who
20 supports you to get these things to
21 come forward.

22 So when that contractor comes
23 before and you they present and say,
24 you know, Here's our costs and here's
25 our best effort, you truly have best

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2 efforts. And I don't care what city it
3 is in the country, like I say.

4 And I will tell all the
5 companies I work with, You create
6 win/win situations, competitive
7 pricing, you guys smile when you come
8 before it because it's an honor to have
9 someone who can do the kind of business
10 that we have been asking.

11 Like the gentleman said, we
12 are not asking for handouts, okay?
13 We're basically saying, Give us the
14 opportunity. We have the technology,
15 we have the experience. Let us be able
16 to be on some of these contracts.

17 And if it's in one area and,
18 you know, I don't have the expertise,
19 find the person over in that area that
20 you can assign those other jobs to.

21 So that's basically my
22 testimony.

23 COUNCILMAN GOODE: Councilman
24 Rizzo.

25 COUNCILMAN RIZZO: Thank you.

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2 Since you brought up the
3 Motorola contract, could you describe
4 for me -- we spent \$100 million of
5 taxpayers' money on a very much needed
6 communication system not just with
7 Motorola but a lot of subcontractors
8 that supported the install and the
9 engineering and you-name-it of that
10 system.

11 How do you feel the City
12 managed that project in giving
13 opportunities, even though -- let me
14 back up. How do you feel that project,
15 that \$100 million expenditure was made
16 by MBEC and what they could have done
17 better, or if they did as good as you
18 think they could have done, what
19 benefit did that \$100 million
20 expenditure on the communications
21 system benefit the people we're trying
22 to help?

23 MR. RILEY: Let me answer the
24 best I can. As you say, you don't try
25 to answer what you don't know, but I'm

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2 going to say this.

3 A \$100 million procurement
4 comes into MBEC. Their responsibility
5 is to identify what's available for
6 minority contracting.

7 Now, if I write the scope of
8 this and I basically say I have to
9 provide my own radios, I don't know if
10 they have provisions to challenge that.
11 You follow what I'm saying? That would
12 have to come from some other body.

13 They would look at what's left
14 and say, Okay, now they need someone to
15 help put up the radios, you know, on
16 all the poles.

17 COUNCILMAN RIZZO: The
18 antennas.

19 MR. RILEY: Maybe we can get
20 some of the cable installation, you
21 know, those services. That's the best
22 they can do on that.

23 What needs to happen is to
24 challenge when a major contractor comes
25 before you and says, We have an

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2 exclusive on A, B, C, and D, because
3 that's not always the case. That's
4 where it needs to be investigated,
5 okay?

6 Because sometimes they have
7 arrangements with minority contractors
8 that provide services to them, and then
9 you can contract with -- they can
10 contract with those companies to help
11 fulfill those obligations on the
12 contract.

13 But the MBEC can't do that. I
14 mean, that's beyond their scope of what
15 they do. That's why I'm saying it's an
16 area where the bill can't get that done
17 for you.

18 COUNCILMAN RIZZO: Where I
19 think we can get better is when we give
20 one of these megadeals to a big company
21 like Motorola, that we have a mechanism
22 to make sure that when the radios are
23 being driven from UPS to Philadelphia,
24 that a person has an opportunity local
25 to do that.

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2 MR. RILEY: Mm-hmm.

3 COUNCILMAN RIZZO: When there
4 is a need to buy a zillion miles of
5 wire, that we buy that from a local
6 vendor.

7 MR. RILEY: Mm-hmm.

8 COUNCILMAN RIZZO: I just
9 asked a person in this room, Why
10 Motorola? Why they didn't get an
11 opportunity beyond their initial piece
12 of business on a particular project?
13 And they said it's all about cost.

14 That's a tough argument. If
15 -- if splitting it up into a million
16 little contracts is very cost-
17 prohibitive, you can't really blame the
18 people involved for trying to be
19 efficient.

20 But there is -- there is -- in
21 my opinion, it's so important to try to
22 give people that live in our own
23 backyard an opportunity to develop
24 themselves. It's not just about making
25 money; it's also experience, dealing

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2 with some things that they may not have
3 ever dealt with before.

4 MR. RILEY: Councilman, let me
5 answer you that.

6 If you have a major contractor
7 come before you and say they can't
8 divide contracts into smaller contracts
9 because it's about cost, that's a
10 contractor that cannot manage their
11 business.

12 Because let me tell you
13 something: Small firms are also
14 competitive because they want a part of
15 that business. They're not going to
16 charge you through the roof. They want
17 to be on your list of contractors so
18 they can get other work from you.

19 And when a contract goes out,
20 they're getting competitive prices from
21 everyone. And any minority contractor
22 understands that. And their pricing is
23 never going to be higher, because if
24 it's not, then that's a guy that don't
25 understand his business.

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2 COUNCILMAN RIZZO: To bring
3 this to closure 'cause I don't want to
4 take too long --

5 MR. RILEY: Mm-hmm.

6 COUNCILMAN RIZZO: --
7 \$100 million, maybe even more, was
8 spent with add-ons, et cetera. How
9 many minority vendors, suppliers,
10 contractors do you think benefitted by
11 that major expenditure, enough?

12 MR. RILEY: No.

13 COUNCILMAN RIZZO: You know.

14 MR. RILEY: Okay.

15 COUNCILMAN RIZZO: You were
16 very close to it.

17 MR. RILEY: Okay. I'm going
18 to answer you. No, not enough.

19 COUNCILMAN RIZZO: Not enough?

20 MR. RILEY: Because the basic
21 premise of what I said is, the major
22 part of the contract, which was the
23 equipment, the equipment-buying, they
24 have diversity contractors, which means
25 their equipment is with these people.

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2 They have negotiated agreements that
3 when they come into certain areas and
4 they have to make their requirements,
5 they use these contractors, which
6 already have their own equipment.

7 So they're buying their own
8 equipment from minorities, and they've
9 negotiated a deal them to do that.

10 COUNCILMAN RIZZIO: Okay. You
11 mentioned Earthlink. Do you feel we're
12 on track? Now, this is a major deal
13 we're doing with the WiFi for the City
14 of Philadelphia. Do you believe that
15 that needs some scrutiny at this point?

16 MR. RILEY: You're taking
17 Earthlink, which does have one thing
18 that's unique. What they're doing
19 minorities aren't doing, but all of the
20 supplies and services that they use to
21 get there, minorities can be involved.

22 So that's where you start to
23 look at all of the other things that
24 say, Well, okay, you have to do this.
25 Okay, but where's all the other stuff.

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2 You going to put an office here. Okay,
3 who you buying your supplies from?

4 If you're going to donate
5 computers to the schools, Alpha
6 Supplies or one of the other big firms,
7 why aren't they the ones that you're
8 getting those computers from?

9 Factor all that in to your
10 "I'm supporting the City," and it
11 doesn't happen. They'll say, Well,
12 we're going to donate to any community
13 center. Well, that's fine if that's
14 going to the center, but use that
15 minority supplier.

16 COUNCILMAN RIZZ0: As long as
17 it's not coming from Chicago.

18 MR. RILEY: Exactly, okay.

19 COUNCILMAN RIZZ0: I got it.

20 MR. RILEY: And even it's
21 coming from Chicago, use a minority
22 supplier there and state it in there
23 and show --

24 COUNCILMAN RIZZ0: Well,
25 let's, let's --

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2 MR. RILEY: Yeah.

3 COUNCILMAN RIZZ0: Our first
4 choice is one from here.

5 MR. RILEY: But I'm saying I'm
6 Philadelphia, I'm here, okay?

7 COUNCILMAN RIZZ0: I hear you.

8 MR. RILEY: So we're on the
9 same team.

10 COUNCILMAN RIZZ0: Thank you,
11 Mr. Chairman.

12 COUNCILMAN GOODE: Thank you.

13 Mr. Riley, could you add some
14 further comment on the waiver
15 provisions within this bill?

16 MR. RILEY: I'm sorry?

17 COUNCILMAN GOODE: Could you
18 add some further comment on the waiver
19 provisions within this bill?

20 MR. RILEY: I'm not big on
21 waivers, as you can tell. Waivers kind
22 of mean I haven't done my due diligence
23 properly. That's where consultants can
24 sit down, where some contractor coming
25 in and says, Well, we need a waiver

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2 because, you know, we need to keep
3 this, you know. If it's a proprietary
4 information, okay, that's proprietary
5 information.

6 Again, I'm going to go back
7 into, okay, for the next two years,
8 some other supplies and services that
9 still support your firm, I want you to
10 commit to putting X, Y, and Z of those
11 dollars that we still need as minority
12 participation into that, okay? And
13 that's how you get all that waiver
14 stuff?

15 No, it's very few stuff that's
16 going to come before you that really
17 needs a true waiver.

18 And I'll be quite -- and I've
19 worked with every firm. I mean, we got
20 all kinds of security and access and
21 stuff. You know, you don't need a
22 whole bunch of waivers.

23 It sounds good, and it sounds
24 like, Oh, my goodness, you know,
25 they're trying to protect their stuff.

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2 Okay, fine, you protect over here, but
3 you release over here. Find some firms
4 that you can, you know, fill the
5 obligations to that city.

6 And it can be done very
7 easily. It's just that the questions
8 don't get asked. We don't
9 aggressively, as I say, think outside
10 the box and develop those models. And
11 they can be developed.

12 COUNCILMAN GOODE: Thank you.

13 Any questions from members of
14 the committee?

15 (No further questions.)

16 COUNCILMAN GOODE: Thank you.

17 Millennium 3 Management.

18 (Witnesses come forward.)

19 COUNCILMAN GOODE: Good

20 afternoon, Mr. Crawley.

21 MR. CRAWLEY: Good afternoon.

22 COUNCILMAN GOODE: Please

23 state your name for the record and

24 proceed with your testimony.

25 MR. CRAWLEY: Thank you very

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2 much. My name is Bruce Crawley, and I
3 serve as President of Millennium 3
4 Management, a communications firm that
5 also provides consulting in the area of
6 institutional supplier diversity
7 programs.

8 At the outset, let me say that
9 I believe that Bill No. 060226 was, by
10 all accounts, drafted with very good
11 intentions, and that the signers of the
12 bill are members of Council who have
13 had a long commitment to ensuring that
14 there is a broad access by citizens
15 from all Philadelphia neighborhoods to
16 the City's procurement processes.

17 At the same time, I'm sure
18 that all of the signers would agree
19 that the very reason why they believe
20 this bill was necessary is that the
21 City's current procurement processes
22 and the agency established 25 years ago
23 in the City Finance Director's office
24 to ensure minority, female, disabled
25 business inclusion has done a

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2 substantially unsatisfactory job in
3 this critical area.

4 In fact, the City's own
5 disparity study completed by D.J.
6 Miller & Associates in 2004 pointed out
7 that during the period from 1998
8 through 2003, the City of Philadelphia
9 awarded \$920.2 million in public-works
10 contracts. MBEs -- and that's
11 African-Americans, Hispanics, and
12 Asians -- in this classification
13 received 0.6 percent; and WBEs received
14 2.4 percent respectively.

15 With regard to payments over
16 that period, MBEs received 2.3 percent
17 and WBEs were awarded 1.4 percent of
18 the total of \$1.3 billion in
19 public-works procurement.

20 In the category of services,
21 suppliers, and equipment, there were
22 more than 1.3 billion in check
23 disbursements, with MBEs receiving 0.5
24 percent -- not 5 percent, 0.5
25 percent -- and WBEs receiving 1.1

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2 percent.

3 Personal and professional
4 services over the '98 to 2003 period,
5 more than 2.1 billion was disbursed in
6 checks by the Procurement Department.
7 Of that amount, MBEs received 1.4
8 percent and WBEs received 0.3 percent.

9 As to utilization, the same
10 report indicated that there is clear
11 and statistically significant
12 underutilization of minorities -- read
13 that African-American, Hispanic, Asian,
14 disabled, and white females -- across
15 all procurement categories, regardless
16 of the measure of utilization or the
17 measure of availability used in the
18 estimation process.

19 Similarly, the disparity study
20 concluded that there is significant
21 overutilization of white male-owned
22 firms.

23 As a response to this report,
24 D.J. Miller recommended that the City
25 continue to utilize goals or targets in

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2 all purchasing categories.

3 Our great disappointment with
4 the structure of this bill is that it
5 seems to put the fox in charge of the
6 chicken coop. The fact is that MBEC
7 was created in 1982 with the same good
8 intentions as are evident in Bill.

9 060226. Since that time, there's been
10 abundant evidence that the agency has
11 not been able to carry out its mission
12 to achieve anywhere close to a vision
13 of equal opportunity or fair levels of
14 minority inclusion on City contracts.

15 Now that we know that in a
16 city comprised 61 percent of
17 African-Americans, Hispanics, and
18 Asians, those groups collectively
19 received about 2 percent of City
20 contract revenues.

21 Now that we also know that in
22 a city wherein the Census Bureau says
23 that more than 24 percent of those over
24 five years of age is living with a
25 disability, businesses owned by the

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2 disabled receive amounts of business
3 too small to even calculate over that
4 five-year period. In most categories,
5 they were calculated as having zero
6 percent participation.

7 Now that we also know that in
8 a city wherein female-owned businesses
9 constitute more than 20 percent of all
10 businesses, that women-owned businesses
11 over the five-year period received
12 about 2 percent of City contracts.

13 It seems to us that if we're
14 equipped with that data and go right
15 back to the same infrastructure to
16 manage the problem, then we, as a city,
17 are not serious at all about including
18 all of our people in our economy.

19 Beyond that critical issue, we
20 are also concerned that the bill would
21 give MBEC the power to, quote/unquote,
22 grant a waiver on equal-opportunity
23 plans at its own discretion. On what
24 grounds would MBEC make such decisions?
25 Where is the integrity in such a

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2 proposal?

3 And we alluded earlier to the
4 fact that there was a significant
5 underutilization of the available
6 capacity in all of these minority
7 categories, and yet they want a bill
8 that will say to us that they can grant
9 a waiver because the people are not
10 able to find qualified minorities and
11 females and disabled to do this work.

12 We're also concerned that
13 Section 17-1503 would require contract
14 participants to provide meaningful and
15 representative, quote/unquote,
16 opportunities for minorities, women,
17 disabled businesses in an appropriately
18 diverse workforce, quote/unquote. Who
19 will decide what is "meaningful and
20 representative"? And what constitutes
21 "appropriately diverse"?

22 We also see absolutely no
23 language in the bill that specifies
24 that the inclusion we should seek in
25 the workforce and at the contract table

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2 should be made available to
3 Philadelphians first, and that should
4 absolutely be the case.

5 If we make no provisions to
6 include Philadelphia's people in
7 Philadelphia's contracts, then we are
8 contributing directly to the 24 percent
9 poverty rate the Census Bureau has
10 assigned to us and are at least
11 indirectly responsible for the sense of
12 hopelessness and desperation we see
13 every day on our streets and in our
14 schools.

15 We are especially concerned
16 about the need for specific language
17 with regards to the monitoring process,
18 the lack of a standard for timely
19 payments for minority businesses, and
20 the lack of any substantial emphasis on
21 identifying ways to crease the number
22 of Black, Hispanic, Asian, disabled
23 White female prime contractors.

24 In conclusion, while we agree
25 that the City's current minority-

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2 inclusion mechanism is in disrepair,
3 we're not convinced at all that Bill
4 060226 in its present form is the best
5 way to repair it.

6 COUNCILMAN GOODE: Thank you
7 for your testimony.

8 Mr. Crawley, is it safe to say
9 that while you generally support the
10 bill, you believe that there are things
11 that need to be added and that the
12 waiver provisions definitely need to be
13 excluded; is that correct?

14 MR. CRAWLEY: It needs teeth.

15 COUNCILMAN GOODE: Thank you.

16 Are there any other questions
17 from members of the committee?

18 Councilwoman Reynolds-Brown.

19 COUNCILWOMAN REYNOLDS-BROWN:

20 Good afternoon, Mr. Crawley.

21 MR. CRAWLEY: Good afternoon.

22 COUNCILWOMAN REYNOLDS-BROWN:

23 Prior to your arrival, I posed a
24 question to the leadership of the
25 Hispanic, African-American Chamber, and

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2 the Asian Chamber of Commerce to hear
3 about opportunities where collectively,
4 they've come together to challenge a
5 crisis or an effort.

6 And I recall the testimony you
7 provided many months ago around the
8 Greater Philadelphia Chamber of
9 Commerce and how they have, at best,
10 some might say, been inept in embracing
11 MBE and WBE in a way that they could
12 and should.

13 So could you just, if you
14 would, comment on the role under your
15 leadership the Chamber took with
16 regards to the Greater Philadelphia
17 Chamber of Commerce and where that
18 ended up?

19 MR. CRAWLEY: Okay. I see
20 John Childress is here. He can comment
21 on behalf of the Chamber.

22 But I will say that we, during
23 the time that I was Chairman of the
24 Board of the Chamber, had a lot of very
25 cordial meetings with the people at the

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2 Greater Philadelphia Chamber of
3 Commerce but never sensed any real
4 commitment by them to change the status
5 quo.

6 COUNCILWOMAN REYNOLDS-BROWN:

7 Mm-hmm.

8 MR. CRAWLEY: We gave them
9 handwritten proposals, we went to
10 numerous meetings, and never did they
11 really embrace a number of proposals
12 that we gave them to move the needles.

13 As we said, the issue that is
14 brought to the table today is not just
15 one that impacts the public sector.
16 The public sector, as well documented,
17 lack of capability in the area of
18 inclusion of minority businesses, but
19 the private-sector is about as bad.

20 COUNCILWOMAN REYNOLDS-BROWN:

21 Mm-hmm.

22 MR. CRAWLEY: I mean, the
23 private-sector does, according to the
24 last census data, about 0.9 percent of
25 its contracts with African-American

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2 business owners, 0.9 percent. And,
3 again, this is a city that is 45
4 percent comprised of African-Americans.

5 So equipped with that
6 information, they -- I talked recently
7 to Joe Frick, who is a personal friend.
8 I know him, he's the Chairman of the
9 Board of Blue Cross, and he and Mark
10 Schweiker are committed to this recent
11 program that they've announced to work
12 with the area of workforce inclusion by
13 bringing in interns over the summer.

14 COUNCILWOMAN REYNOLDS-BROWN:
15 Yes.

16 MR. CRAWLEY: You know, that's
17 nice. They're aiming for a thousand
18 interns over the summer.

19 The problem that we have is
20 that the private-sector has a great
21 deal more money to spend than the City.
22 I mean, we think, based on census data,
23 that the City of Philadelphia's
24 collective private-sector businesses
25 spend somewhere in the area of \$90

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2 billion a year. And if you go by the
3 Mayor's recent budget, that's 3.9
4 billion, and about a third of that is
5 in benefits and in salaries.

6 So if you really want to move
7 this needle, this government needs to
8 be able to show the private sector how
9 they ought to be engaged, and I don't
10 think they're adequately engaged.

11 Getting people even a thousand
12 jobs for six weeks during the summer is
13 not the solution to this problem.

14 COUNCILWOMAN REYNOLDS-BROWN:
15 Mm-mm.

16 MR. CRAWLEY: They have
17 businesses that ought to be inclusive.
18 They ought to get a real strong
19 argument from the people who run this
20 government that by including these
21 people, they're growing the economy,
22 they're including people, they're
23 creating greater productivity in our
24 city.

25 And they still seem to be

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2 stuck in the '70s and talking about
3 this as equal opportunity and
4 affirmative action and set-asides. And
5 the reality is, this is not a set-aside
6 when you're talking about 61 percent of
7 the population.

8 (Applause.)

9 MR. CRAWLEY: You cannot hope
10 to drive an economy if 40 percent of
11 the population is carrying 100 percent
12 of the load, and it just doesn't make
13 sense, but they still don't seem to be
14 there yet.

15 COUNCILWOMAN REYNOLDS-BROWN:
16 And so the status of that proposal
17 today is...?

18 MR. CRAWLEY: I don't know. I
19 haven't -- I think that the proposal --
20 we've reached out to them again, not in
21 my role as Chamber Chairman, but since
22 that time, to talk about a way to have
23 a fuller inclusion of long-term and
24 permanent jobs --

25 COUNCILWOMAN REYNOLDS-BROWN:

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2 Mm-hmm.

3 MR. CRAWLEY: -- in this
4 private-sector economy, not just
5 six-week internships.

6 I don't deny anybody the
7 opportunity to have an internship, but
8 having an internship when we've got a
9 functional 50 percent unemployment rate
10 among black males in this city, an
11 internship, when these kids are going
12 to come home from their six weeks of
13 internship, pay to a household where
14 the mother and father are not working
15 doesn't get us there.

16 We really do have to have a
17 greater commitment to growing this
18 entire economy from the Greater
19 Philadelphia Chamber, and the City can
20 show them first that it is doing the
21 right thing and then encourage them
22 with incentives, with tax credits, and
23 all other kinds of things that people
24 bring to the table to step up.

25 I mean, because if this

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2 economy is improved, it's better for
3 the banks, it's better for the
4 insurance companies, it's better for
5 the people who supply hospital
6 services, it's better for the
7 universities who are the biggest
8 employers in the region.

9 COUNCILWOMAN REYNOLDS-BROWN:

10 Mm-hmm.

11 MR. CRAWLEY: They have a big
12 problem because the people who live in
13 this city are desperate, and you can't
14 ask desperate people to be nice;
15 they're not going to do it.

16 I don't care if you're in
17 Latin America or Southeast Asia.
18 People who don't work, people who are
19 not a part of those respectable
20 companies are desperate, and they
21 function as desperate people do.

22 And that's what we have here,
23 and nobody seems to be concerned about
24 it.

25 COUNCILWOMAN REYNOLDS-BROWN:

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2 And so you believe that incentives
3 might be a considered option for the
4 Greater Philadelphia Chamber to entice
5 them to do better?

6 MR. CRAWLEY: Well, I think
7 they should -- I think they should have
8 a better sense of what we're talking
9 about today.

10 And, again, what we're talking
11 about today is not their -- their
12 perspective on this issue. Their
13 perspective on this issue is that we're
14 talking about equal opportunity and
15 set-asides and affirmative action.
16 That's not what we're talking about.

17 COUNCILWOMAN REYNOLDS-BROWN:
18 Right.

19 MR. CRAWLEY: We're talking
20 about creating an environment where
21 people are fully engaged in the economy
22 so that when they want to recruit a
23 senior executive to come and live in
24 Philadelphia, that person is not turned
25 off by the news reports that they see

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2 in the paper. We're not going to get
3 rid of those news reports as long as we
4 have economic desperation.

5 Ask the people in New Orleans
6 whose economy is substantially
7 dependent on hospitality and tourism.

8 COUNCILWOMAN REYNOLDS-BROWN:

9 Mm-hmm.

10 MR. CRAWLEY: And we've got a
11 24 percent poverty rate, they've got a
12 28 poverty rate -- not that much
13 different, but it is killing their
14 tourism industry.

15 And that kind of economy left
16 to its own devices will kill the major
17 industry focuses that we think we have
18 here including universities, including
19 health care, including the people who
20 are concerned about biotech. You're
21 not going to do it as long as there's
22 desperation in the streets of
23 Philadelphia.

24 COUNCILWOMAN REYNOLDS-BROWN:

25 Mm-hmm.

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2 UNIDENTIFIED SPEAKER: Let me
3 also add to that.

4 COUNCILMAN GOODE: Please
5 identify yourself for the record.

6 MR. FULLARD: Anthony Fullard
7 from Millennium 3 Management, Vice
8 President.

9 We also went through the -- to
10 the Greater Philadelphia Chamber of
11 Commerce and also the GBCA, which is
12 the General Building Association of
13 Contractors, and they had a forum, and
14 they was pretty much laying out the
15 forecast of what is getting ready to
16 hit this sector --

17 MR. CRAWLEY: It was three
18 weeks ago.

19 MR. FULLARD: -- as discussed
20 three weeks ago, and they was in this
21 forum, and they was laying out what is
22 going to hit this sector right here in
23 Philadelphia as the development that's
24 going to go on as it relates to the
25 Convention Center, as it relates to the

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2 all of the casinos that are going to be
3 built here, as it relates to the
4 universities development that's going
5 on. It's around, we think, about \$20
6 billion, if not more.

7 COUNCILWOMAN REYNOLDS-BROWN:

8 Mm-hmm.

9 MR. FULLARD: But the concerns
10 of ours is, number one, is that we laid
11 out that we hear about all of this
12 construction, how is the industry going
13 to handle this kind of volume of work
14 as it relates to contracting firms.

15 Also, how is the industry
16 going to handle the workforce? because
17 as it stands right now, if this hits
18 this sector, then there's not going to
19 be enough contractors, there's not
20 going to be enough workforce here as it
21 stands.

22 COUNCILWOMAN REYNOLDS-BROWN:

23 Mm-hmm.

24 MR. FULLARD: If you're going
25 to utilize that workforce that is

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2 actually working now, they will not be
3 able to handle it.

4 COUNCILWOMAN REYNOLDS-BROWN:

5 Meet the demand --

6 MR. FULLARD: And the answer
7 to the question was, is that they would
8 have to wait in line, and we know that
9 no developer, no financial institution
10 is going to wait in line when they want
11 that project built at that time. They
12 are not going to wait.

13 MR. CHILDRESS: I'd like to
14 just add a couple of things on since
15 you asked about that.

16 COUNCILMAN GOODE: Please
17 state your name for the record again.

18 MR. CHILDRESS: John
19 Childress, African-American Chamber of
20 Commerce.

21 And I wasn't able to answer
22 you earlier, Councilwoman Brown.

23 COUNCILWOMAN REYNOLDS-BROWN:

24 Sure.

25 MR. CHILDRESS: But we have

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2 met several times with the Greater
3 Philadelphia Chamber of Commerce on
4 this issue, but there's a big
5 difference between intentions and
6 results.

7 COUNCILWOMAN REYNOLDS-BROWN:

8 Mm-hmm.

9 MR. CHILDRESS: A big
10 difference between efforts and results.

11 So when we meet with them,
12 just as Bruce said, when I follow along
13 after Bruce with meetings is that they
14 will say the right things and they
15 intend to do the right things, but the
16 results are not there.

17 We have participated in a
18 supplier diversity movement that they
19 had done that Anthony had participated
20 in and then myself, and they had some
21 of the larger corporations in the
22 region as a part of this movement.

23 So when I started, when Bruce
24 hired me, I went and I met, and I asked
25 them, Well, how many companies over a

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2 year-and-a-half time, how many
3 contracts have you given to minority
4 companies? And the answer was 13. You
5 know, you're talking about billions and
6 billions of dollars worth of companies,
7 and all you get is 13 contracts out of
8 that.

9 So if they say they want to do
10 the right thing, you take them for
11 their word at it, but the results are
12 just not there.

13 COUNCILWOMAN REYNOLDS-BROWN:

14 Mm-hmm.

15 MR. CHILDRESS: So it was our
16 feeling that we need to put together
17 that is effective, and then once we
18 have something together that's
19 effective and that's getting the job
20 done, then at that time, we can talk
21 about, Okay, what can the Greater
22 Philadelphia Chamber do?

23 It's almost like if two
24 companies merge, you know, and one
25 company is in a weak position, that's

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2 not a merger; that's a takeover.

3 So our feeling is to be strong
4 and make sure that we can put together
5 plans and programs which assist
6 minority Black companies, Hispanic, and
7 Asian companies get the contracts that
8 they need, and at that point, we can
9 forward.

10 Because we cannot go by
11 efforts. The only thing we can do is
12 measure the actual dollars paid, and
13 the dollars paid from the efforts that
14 they were doing was just not there.

15 COUNCILWOMAN REYNOLDS-BROWN:

16 Mm-hmm.

17 MR. CHILDRESS: So that was
18 the result of that effort.

19 COUNCILWOMAN REYNOLDS-BROWN:

20 Mr. Crawley, you cited New Orleans as
21 an example of the havoc that
22 unemployment can play in an economy.
23 Can you cite another municipality where
24 that chamber gets it right with regards
25 to MBE/WBE participation to see what

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2 lessons we could learn from another
3 municipality, another chamber in
4 another part of the country?

5 MR. CRAWLEY: Well, you're
6 saying their best-case, best practices?

7 COUNCILWOMAN REYNOLDS-BROWN:
8 Practices, yes, yes, yes.

9 MR. CRAWLEY: Well, you know,
10 I don't know if there is a best
11 practice.

12 I know Atlanta has been
13 enjoying a long-standing reputation for
14 favorable relationships with the
15 African-American community, and one of
16 the things that they do is something
17 that we recommended back in 2003, 2004
18 to the Greater Philadelphia Chamber and
19 to the Administration, and that was to
20 steal their concept of having a
21 public/private economic management
22 board that would be -- that would
23 accept responsibility for how the
24 economy was grown in this region, not
25 just Philadelphia, but within the

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2 region.

3 Atlanta has done that with
4 some great satisfaction, and what they
5 do is, they bring corporate leaders
6 together with the mayors, with the City
7 Council people, and they sit there
8 together, and they say, This is the
9 economy that we have, this is the
10 economy that we want, and these are the
11 things that we have to do to get
12 between here and there.

13 COUNCILWOMAN REYNOLDS-BROWN:

14 Mm-hmm.

15 MR. CRAWLEY: What we have in
16 Philadelphia so often is organizations
17 like the Pennsylvania Economy League
18 who do reports, and they just did a
19 poll the other day and talked about
20 great dissatisfaction with the City,
21 and people -- 44 percent of the people
22 wanted to move out of the City and all
23 this stuff.

24 But at the same, time there's
25 no follow-up, there's nobody

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2 responsible for managing the local
3 economy. And if we identify holes in
4 the economy, we identify lack of
5 opportunity and loss of opportunity,
6 there should be a collective
7 public/private collective where people
8 say, Well, we're in a position to
9 create some jobs, I'm in the private
10 sector, we're at the University of
11 Pennsylvania, we're at Temple, we're in
12 the high-tech industry, wherever you
13 think you can do it and plan to do it.

14 And those kinds of things have
15 worked well in Atlanta, and that's a
16 part of the reason why they have the
17 reputation they enjoy, but they're not
18 perfect, but at least they're doing
19 those kinds of things.

20 COUNCILWOMAN REYNOLDS-BROWN:

21 Mm-hmm.

22 MR. CRAWLEY: Dallas is -- is
23 recognized as a city doing the right
24 thing. Chicago has done the right
25 thing. Chicago's not perfect but the

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2 Mayor's Office in Chicago has been
3 absolutely adamant and up front and
4 unforgiving in their commitment to
5 ensure that there's inclusion in the
6 business practices of that city.

7 And, you know, you need that.

8 I mean, it has to come down from the
9 top. People have to understand it's
10 the policy.

11 And when the private sector
12 understands it, then --

13 COUNCILWOMAN REYNOLDS-BROWN:

14 They figure it out.

15 MR. CRAWLEY: -- you know,
16 they're more amenable to making the
17 changes that they have to make if they
18 see you do it first in the city's
19 administration.

20 COUNCILWOMAN REYNOLDS-BROWN:

21 My final question is: Where is Select
22 Philadelphia in this mix that you just
23 described?

24 MR. CRAWLEY: I don't know if
25 Select Philadelphia includes this as

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2 part of its mission.

3 COUNCILWOMAN REYNOLDS-BROWN:

4 Okay.

5 MR. CRAWLEY: Select Greater

6 Philadelphia is an arm of the Chamber

7 funded by the private-sector that is

8 engaged in wanting to bring what they

9 think are the hot industries to the

10 city and to entice them to come to

11 Philadelphia.

12 But the things that we're

13 talking about have the decided impact

14 on whether those companies are going to

15 be enticed to come, and I don't know

16 that it's a part of their agenda.

17 (Addressing Mr. Childress)

18 Have you seen that as a part of their

19 agenda?

20 MR. CHILDRESS: Not at all.

21 MR. CRAWLEY: I don't think

22 that it is, and so it's a big problem.

23 COUNCILWOMAN REYNOLDS-BROWN:

24 M-hmm.

25 MR. CRAWLEY: Again, they see

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2 this as sidebar, they see this as
3 something that's really not a part of
4 their main business agenda.

5 When it is the entirety of
6 their agenda and until we get them
7 there, until the media stop covering
8 minority business discussion as if it's
9 an intrusion on mainstream business
10 goals -- and we got some CEOs in this
11 city who talk like that, and we've got
12 media outlets who cover what they say
13 like that.

14 I remember stories where a
15 mainstream insurance company was
16 complaining to the Inquirer, and they
17 got a lot of public-sector contracts
18 from the City and from the State
19 government, and they were complaining
20 to the very sympathetic Inquirer that
21 they had to do some business with some
22 minorities. You know, it was the
23 (indiscernible) thing that they had to
24 do, when, if you dug just a little
25 deeply, you would see that the reason

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2 that they got their contract in the
3 first place was politically-inspired.

4 And, you know, it wasn't that
5 they were the very best in the City to
6 do the work, and then they felt
7 comfortable telling the Inquirer that
8 it should not be the case that they
9 have to share some of that contract.

10 And that's why we get back to
11 putting RFPs together so that all of
12 the contracts as primes don't go to
13 white males.

14 I mean, you can, with your
15 unbundling and your packaging of RFPs,
16 create packages on every contract that
17 is compatible with the capacity of
18 those people.

19 We've been talking to
20 Councilwoman Carol Campbell about the
21 disabled, and one of the issues that we
22 see across the country is that people
23 understand, for example, that disabled
24 have a greater -- disabled business
25 owners have a greater tendency to start

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2 businesses than other people because
3 they can't get employment opportunities
4 at the same level that able-bodied
5 people are able to be employed.
6 They're discriminated against in that
7 workplace.

8 They also have a greater
9 tendency to work at home and do
10 home-based businesses. They also have
11 a greater tendency to work off
12 computers.

13 So if we're going to do a --
14 if we're going to say we got a
15 commitment to disabled business owners,
16 then we've got to do RFPs that include
17 the possibility of people tearing out a
18 piece of that contract that's for
19 home-based businesses for people who
20 can't or won't be able to come in and
21 work in a traditional setting.

22 And until we get there, until
23 we have websites that accommodate that
24 and all those things, until we get
25 there, we're just flapping our lips

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2 about including the disabled.

3 And the same thing applies to
4 African-Americans, Hispanics, and
5 Asians.

6 COUNCILWOMAN REYNOLDS-BROWN:
7 Agreed. Thank you very much for your
8 testimony.

9 COUNCILMAN GOODE: Councilman
10 Rizzo?

11 COUNCILMAN RIZZO: It's
12 interesting that you brought that up,
13 Mr. Crawley.

14 I just had an experience that
15 I thought was a good one. I went to
16 get my driver's license renewed, and I
17 noticed in the PennDOT driver's license
18 center that the majority of the people
19 employed there were from the
20 handicapped community; I don't know if
21 anybody else has observed that.

22 But that was very impressive
23 to see how well they performed how,
24 nice the folks were, but more so, that
25 they created an environment, that niche

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2 there that really seems to be working
3 well. And it was good for me to see
4 government doing such a good job at
5 that.

6 Thank you, Mr. Chairman.

7 COUNCILMAN GOODE:

8 Mr. Childress, while you're sitting at
9 the table, can I ask you to comment on
10 the waiver provision within this bill?

11 MR. CHILDRESS: As I had
12 mentioned earlier, one of the things
13 we'd like to see is that type of
14 oversight from a committee such as the
15 African-American Chamber of Commerce
16 and other interested parties like the
17 Hispanic Chamber. We feel that
18 committee should be overseeing in terms
19 waivers as well.

20 We do not think that any time
21 you're giving a waiver, you're saying
22 you're going outside of the law,
23 outside of the regulations. And it
24 should be interested parties that are
25 qualified that can oversee that

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2 process.

3 COUNCILMAN GOODE: And so you
4 do not believe that MBEC or any
5 government agency should be the sole
6 authority in regard to granting
7 waivers?

8 MR. CHILDRESS: No. No sole
9 government.

10 COUNCILMAN GOODE: And
11 furthermore, can you imagine any
12 projects that we might encounter where
13 there should be zero percent
14 participation?

15 MR. CHILDRESS: Well, I cannot
16 because as the testimony you heard
17 earlier was that even if the minority
18 businesses are not in the main business
19 of what the RFP is for, there are
20 support businesses as well such as
21 office space and different things so
22 that there's always some way you can
23 have inclusion.

24 And, you know, I would
25 certainly challenge anyone to present

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2 an RFP which would only be good with a
3 zero percent minority participation.

4 COUNCILMAN GOODE: So there
5 could always be an economic opportunity
6 plan as long as it's above zero
7 percent, which it always should be.

8 MR. CHILDRESS: I believe so,
9 yes.

10 COUNCILMAN GOODE: Thank you.
11 Any more questions for this
12 panel?

13 Councilman Clarke?

14 COUNCILMAN CLARKE: Thank you.
15 Good afternoon, gentlemen.

16 PANEL: Good afternoon.

17 COUNCILMAN CLARKE: One
18 question. Some of the issues you spoke
19 of earlier, in particular some of the
20 more significant projects, the
21 Convention Center Authority or the
22 Convention Center, which was
23 State-sponsored, pretty much totally
24 State-funded, and the two gaming
25 facilities that the placement and the

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2 authorization are State-regulated
3 although privately financed, has the
4 Chamber or any of the other advocacy
5 groups had an extensive level of
6 discussions with State-elected
7 officials about crafting the
8 appropriate participation language when
9 those two -- those three projects were
10 authorized?

11 MR. CRAWLEY: We have had
12 conversations with them going back two,
13 two-and-a-half years, and I have had
14 some conversations with people at the
15 State as recently as a week and a half
16 ago.

17 It is critically important.
18 It can't be done -- it shouldn't be
19 done with public dollars in any way
20 that does not totally reflect the
21 population in the City.

22 COUNCILMAN CLARKE: Have they
23 committed to --

24 MR. CRAWLEY: We're early,
25 we're early, but they are hearing what

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2 we had to say.

3 COUNCILMAN CLARKE: Is there a
4 local -- I guess a local-elected
5 official who's kind of taken the lead
6 on the participation issue?

7 MR. CRAWLEY: Not with that.
8 I think -- I think what will have to
9 happen, because the money is coming
10 from the Commonwealth of Pennsylvania,
11 so the Commonwealth of Pennsylvania is
12 going to have to say that this is
13 conditioned upon which these dollars
14 are being implemented. And then local
15 people will weigh in.

16 But, I mean, if the
17 Commonwealth doesn't want it and if the
18 Commonwealth has its Convention Center
19 Authority, that Convention Center
20 Authority, as you know, is not
21 controlled by the local political
22 infrastructure.

23 If the Commonwealth doesn't
24 want it, then it will probably be a big
25 struggle. It's not -- I'm not saying

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2 that if the Commonwealth doesn't want
3 it, it's not going to happen because
4 there would be a struggle. I think
5 that people are not going to sit back
6 and allow \$700 million or more to be
7 spent in Center City without having a
8 full approach to engaging the people
9 who live here.

10 So I think, though, that the
11 logical way for that to happen is to
12 have it flow down from the State
13 administration.

14 COUNCILMAN CLARKE: All right.

15 MR. CRAWLEY: And those are
16 the conversations that we're having.

17 COUNCILMAN CLARKE: All right.

18 You know, I pose that question, and I
19 understand... on a local level in
20 particularly with municipally-sponsored
21 or -authorized projects, you know,
22 because Councilpeople are the ones that
23 people can most get an opportunity to
24 have the interaction with, that there's
25 specific levels of conversation at a

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2 minimum. Sometimes we do well,
3 sometimes we don't.

4 MR. CRAWLEY: Mm-hmm.

5 COUNCILMAN CLARKE: But on the
6 State level, there seems to be minimal
7 discussion about real participation.

8 MR. CRAWLEY: Yes.

9 COUNCILMAN CLARKE: And they
10 just take the position that, Well, this
11 is the Commonwealth, as if somehow, we
12 don't live in the Commonwealth and it's
13 not our tax dollars being a part of
14 that process.

15 It's not clear to me what the
16 level of participation is as it relates
17 to the expansion of the Convention
18 Center or these two gaming facilities.

19 MR. CRAWLEY: We got our
20 fingers crossed. They're sending all
21 the right signals so far, and we should
22 know very shortly where they are with
23 that.

24 COUNCILMAN CLARKE: Okay, all
25 right. Thank you.

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2 Thank you, Mr. Chairman.

3 COUNCILMAN GOODE: Thank you.

4 Any other questions for this

5 panel?

6 (No further questions.)

7 COUNCILMAN GOODE: Thank you.

8 MR. CRAWLEY: Thank you very

9 much.

10 COUNCILMAN GOODE: Darlene

11 Jenkins, is she still here?

12 (No response.)

13 COUNCILMAN GOODE: Jackie

14 Hill?

15 UNIDENTIFIED SPEAKER: She

16 left.

17 COUNCILMAN GOODE: Emmanuel

18 Freeman, I don't see him.

19 Dennis Montague, I don't see

20 him as well.

21 Janelle Williams?

22 (Witness comes forward.)

23 COUNCILMAN GOODE: Good

24 afternoon, Miss Williams. Please state

25 your name for the record and proceed

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2 with your testimony.

3 MS. WILLIAMS: Good afternoon.

4 My name is Janelle Williams and I'm --

5 can you hear me now?

6 Good afternoon. My name is
7 Janelle Williams, and I'm the President
8 of Janelle Williams, Inc. I have been
9 certified with the City of Philadelphia
10 as a minority women-owned business
11 since 1989, and I have participated in
12 innumerable contracts throughout those
13 almost 20 years.

14 I'm here today -- first of
15 all, I did read over the bill, 060226,
16 and the bill sounds like a great
17 improvement to the current system, but
18 my question is only if in reality, the
19 new provisions are implemented and
20 protected by the laws that establish
21 it.

22 I have a letter. I'm only
23 going to read a part of it. That's why
24 I'm here, because I've just had a
25 recent experience that I thought that

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2 this was a good forum to bring this
3 information to.

4 I wrote a letter to the
5 Director of Finance on February the
6 8th, 2007, and it goes like this:

7 Per request of your office, I
8 am submitting this letter as my
9 complaint concerning bid opportunity --
10 I won't go through all the numbers, but
11 it was a bid opportunity for the
12 recertification process for MBEC.

13 On January 4, 5, and 10, 2007,
14 I proceeded in trying to participate in
15 this RFP. I visited online the
16 philadelphiaprocurement philadelphia.
17 gov website and selected the MBEC
18 consulting bid information
19 announcement. I attempted many times
20 to access the link that should bring up
21 the full RFP.

22 Unfortunately, your website
23 was having technical difficulties, and
24 both the contexts listed on the bid
25 page were inaccurate. I called both

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2 contacts, and I repeatedly tried to
3 speak to Miss Nichols from MBEC to get
4 some information. I was told that
5 Miss Nichols had no idea about this bid
6 and that she did not have time to speak
7 with me.

8 My pursuit became more and
9 more discouraging, as I contacted the
10 Department of Finance, spoke with
11 Mr. O'Brien. I contacted
12 Miss Wilkerson, Mr. Paceo (sp?), and
13 several people over the next few days.
14 All my efforts throughout that week
15 were unsuccessful. It was a waste of
16 time for my company.

17 My company has had many years
18 of experience, and I felt that this was
19 a good opportunity to expedite our
20 expertise to be a part of this
21 certification or re-cert process as a
22 contractor.

23 My perception is that the
24 business opportunity climate for
25 minority firms has greatly declined in

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2 the last seven years. And my question
3 is today: Why?

4 At this point, I am very
5 hesitant about pursuing contract
6 opportunities, even though I have been
7 certified for some time with the City.

8 I am not here to bring about a
9 lot of rhetoric to the table, but I
10 speak out of my heart.

11 I would like to see the
12 leveling of the playing field for
13 minority companies and the City of
14 Philadelphia to become more sensitive
15 and proactive to the commitment of
16 minorities, whether it's women-owned
17 businesses or disadvantaged businesses.

18 I feel strongly today that I
19 have not come here just to represent
20 Janelle Williams, Inc., but also, I
21 feel as though that I can be a voice
22 for many other minority firms who share
23 some of the same commonality; that is,
24 rejection and unfairness of the system.

25 I want to thank you for your

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2 time, and my prayer is that the City of
3 Philadelphia will take this meeting
4 seriously.

5 Thank you.

6 COUNCILMAN GOODE: Thank you,
7 Ms. Williams.

8 Councilman Rizzo.

9 COUNCILMAN RIZZO: Thank you,
10 Mr. Chairman.

11 Thanks for being here today.

12 You indicated that you wrote a letter
13 dated January-something --

14 MS. WILLIAMS: Mm-hmm.

15 COUNCILMAN RIZZO: -- to the
16 Finance Director. Did you ever get a
17 response?

18 MS. WILLIAMS: No, no, never
19 got a response from anyone. And at one
20 point, I was so discouraged, I had
21 decided to take it even farther. And I
22 just kind of, at this point when I was,
23 you know, being aware of this forum, I
24 just felt like I could get closure of
25 it, because the Council needs to know

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2 that, you know, all this information is
3 available to say that we're here to
4 support you even technology and et
5 cetera. But in reality, it's not
6 available for all firms.

7 I'm not saying some minority
8 firms didn't get an opportunity, but I
9 would think that when a procurement
10 opportunity goes out, each qualified
11 firm should have an opportunity to
12 respond in an RFP.

13 COUNCILMAN RIZZO: And as you
14 indicated, you were already
15 pre-qualified.

16 MS. WILLIAMS: As an MBEC?
17 Oh, yes, since 1989.

18 COUNCILMAN RIZZO: My question
19 is, you only sent one letter to the
20 Finance Director, and the rest were
21 done, like most people do, through
22 telephone calls and other --

23 MS. WILLIAMS: Yes, yes.

24 COUNCILMAN RIZZO: Could you
25 provide to the Chair a copy of the

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2 letter to the Finance Director, please?

3 MS. WILLIAMS: Yes. I have
4 copies with me.

5 COUNCILMAN RIZZO: And that's
6 the only written communication that you
7 have?

8 MS. WILLIAMS: That's right.

9 COUNCILMAN RIZZO: Thank you.

10 Thank you, Mr. Chairman.

11 MS. WILLIAMS: Can I add one
12 thing too? I had meant to bring it up
13 in my presentation.

14 I think the recertification
15 process needs to be looked at in more
16 detail, that it should be more
17 efficient than what it is.

18 I don't know what has
19 happened, whether this proposal has
20 been awarded to a company or what the
21 case is, but this re-cert process has
22 been a nightmare, which it should not
23 have been.

24 And because of my experience
25 with the City since 1989, I felt though

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2 that my company could have really had a
3 great input in causing this to be more
4 efficient.

5 COUNCILMAN RIZZO: Well, maybe
6 as a result of this process, it will
7 get better, and there will be future
8 opportunities. Don't be discouraged.

9 COUNCILMAN GOODE: Councilman
10 Ramos?

11 COUNCILMAN RAMOS: Thank you,
12 Mr. Chairman.

13 Have you ever been awarded a
14 contract from the City of Philadelphia?

15 MS. WILLIAMS: Yes, I have.
16 Several.

17 COUNCILMAN RAMOS: Several?

18 MS. WILLIAMS: Mm-hmm.

19 COUNCILMAN RAMOS: Okay, thank
20 you.

21 COUNCILMAN GOODE: Any other
22 questions for this witness?

23 (No further questions.)

24 COUNCILMAN GOODE: Thank you.

25 MS. WILLIAMS: Thank you.

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2 COUNCILMAN GOODE: Is Ari

3 Merretazon here?

4 (No response.)

5 COUNCILMAN GOODE: Is there

6 anyone else to testify on this bill?

7 (Witnesses come forward.)

8 COUNCILMAN GOODE: Ms.

9 Robinson?

10 MS. ROBINSON: Good afternoon.

11 COUNCILMAN GOODE: Please

12 state your name for the record.

13 MS. ROBINSON: Yes. My name

14 is Judith Robinson, owner and broker of

15 Complete Real Estate Services. Thank

16 you for the opportunity today to

17 testify on Bill No. 060226.

18 Not to be redundant, but areas

19 that I think have been discussed

20 earlier today of concern would be the

21 goal-setting; most importantly

22 enforcement, penalties, and the term

23 "clawback."

24 Councilman Goode, I remember

25 in some legislation that you presented

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2 regarding the banks, I believe it was,
3 that's the first time I saw this
4 clawback terminology, and it's not the
5 same, I'm sure, but something to that
6 extent may be of value in this process.

7 Also, as Councilpeople, you
8 have influence, power and influence.
9 District Councilpeople really have a
10 lot of influence as it relates to
11 boards and commissions -- PHA,
12 Redevelopment Authority boards, various
13 commissions. They also purchase and
14 have a lot of power to give dollars as
15 it relates to a lot of this development
16 going on.

17 For many years now, I've
18 attended Redevelopment Authority Board
19 meetings, and often, we ask questions
20 about equity in delivering of these
21 services, so I just want you all to use
22 your power and influence as best to
23 influence these boards and commissions.

24 In addition, the same
25 developers are used most often in a lot

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2 of this development in the
3 neighborhoods. And as concept plans
4 are conceived, I would encourage you
5 all to talk to these developers.

6 A lot of them are the same.

7 They have a majority of the work.

8 Certainly, you can go back to them and
9 make sure that if they have not done
10 due diligence in one contract that they
11 do not get others.

12 So thank you very much for the
13 time, and have a great day.

14 COUNCILMAN GOODE: Thank you.

15 Any questions for this
16 witness?

17 (No questions.)

18 COUNCILMAN GOODE: Thank you.

19 Is there anyone else to
20 testify?

21 (Witness comes forward.)

22 COUNCILMAN GOODE: Good
23 afternoon. Please state your name for
24 the record.

25 MR. HARRIS: Good afternoon,

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2 distinguished Councilmembers here with
3 us today on the committee. My name is
4 Phillip Harris. I am President of
5 Financial Integrity Resources
6 Management. We're a Philadelphia-based
7 disadvantaged business enterprise.

8 I did submit a copy of my
9 testimony, and I'm going to deviate
10 slightly just to help conserve time
11 today.

12 Thank you, Councilman Clarke
13 and all of the sponsoring
14 Councilmembers for requesting hearings
15 on the Economic Opportunity Plan
16 legislation to help promote increased
17 diversity and inclusion in all City
18 contracts. I'm also a Philadelphia, a
19 lifelong resident, living in City
20 Councilwoman Verna's district in
21 Southwest Philadelphia.

22 After returning from church
23 one Sunday, about to sit down for
24 lunch, I hear a gunshot go off right in
25 front of my house and witnessed the

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2 smoke of the gun blast rise right in
3 front of my window.

4 I rushed my nine-year-old
5 daughter upstairs into the second-floor
6 bathroom. As you can imagine, she was
7 terrified and asked if we could move to
8 a different neighborhood. One of my
9 neighbors witnessed that it was a young
10 African-American 13- to 15-year-old
11 teenagers.

12 For those of you listening,
13 you may be asking yourself, Does
14 Mr. Harris know this is a hearing on
15 economic opportunity for minority-owned
16 businesses?

17 Thank you for giving me a
18 little latitude. As many of you know,
19 economic opportunity, meaningful
20 participation, and inclusion is
21 directly tied to the quality of life.

22 As a current resident,
23 business-owner, taxpayer, I still do
24 not understand why the City hires and
25 retains and continues to pay millions

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2 of contract dollars to brokers and
3 consultants that are located outside of
4 the City.

5 How many of those companies
6 located outside of the City and State
7 are going to provide a positive role
8 model to that 13-year-old running down
9 the street, firing a gun, putting his
10 life at risk and the community in
11 danger? How many are going to offer
12 that teenager a job opportunity?

13 If you want to increase the
14 local tax base, give more contract work
15 to Philadelphia-based businesses. You
16 know what? Those guys in the suburbs
17 will get the message soon once they're
18 cut off that they will bring their
19 businesses back into the City to create
20 jobs and economic opportunity for all.

21 This is a very important piece
22 of legislation which includes language
23 to provide timely payments of City
24 contracts. Timely payments and cash
25 flow for a small business is vital. I

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2 would suggest adding that language that
3 prime contractors are required to
4 disburse and pay subcontractors within
5 five business days to strengthen the
6 benefit to minority disadvantaged
7 businesses.

8 I hope this legislation will
9 receive a hundred percent of City
10 Council vote because it is a vote for a
11 better and safer Philadelphia.

12 Thank you for your time and
13 opportunity to share my thoughts,
14 ideas, and experience with you today.
15 I would like to thank all City
16 Councilmembers that have invited me
17 into your offices, written letters of
18 support, and have supported small
19 Philadelphia-based minority business
20 development.

21 COUNCILMAN GOODE: Thank you,
22 Mr. Harris.

23 Are there any questions for
24 this witness?

25 (No questions.)

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2 COUNCILMAN GOODE: Thank you
3 again.

4 MR. HARRIS: Councilmember
5 Goode, if I may address the question
6 about the waiver you asked some of
7 other members today.

8 I think a waiver is a curse
9 word. It gives everyone an excuse, and
10 they will list 20 why they can't find a
11 minority contractor -- no one's
12 qualified.

13 I've personally been
14 interviewed on several of the
15 consulting contracts. They'll call you
16 up. They'll take your name and number
17 or they'll write you on the MBEC list
18 that is person that you talked to.
19 They have no intention of including you
20 in the contract 'cause they know that
21 waiver is their exit plan to exclude
22 minority participation in the contract.

23 What I've seen successful --
24 and it was stated earlier and is worth
25 repeating, and another piece is if

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2 there's a DBE as a prime, there should
3 be tangible points awarded to that DBE
4 contract in the evaluation process. A
5 joint venture should be given the
6 second-most amount of points, and a
7 subcontractor the third amount of
8 points.

9 If the prime and/or
10 contracting community doesn't get a
11 serious message from the City that this
12 is really important to them, they're
13 going to conduct business as usual, and
14 then again, exclusion will continue to
15 happen.

16 Also, what I've seen is that
17 if people claim a waiver or a unique
18 circumstance, the company and/or client
19 has a responsibility to call the men to
20 say we're asking for a best and final
21 offer. Either you find the minority
22 contractor or you're going to do
23 business outside of the City; you're
24 not going to do business with the City
25 of Philadelphia.

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2 I realize the MBEC testified
3 earlier, saying that yes, I know
4 everyone is undermanned, underworked.
5 I think they ought to reach out to each
6 department head and person who
7 purchases contracts and put some
8 accountability on that department
9 'cause that they can't be everywhere
10 and be seen a lot of places.

11 So even -- and I'm going to
12 speak to raising it to \$250,000.
13 There's a lot of money to be lost and a
14 lot of contracts under the \$250,000
15 radar screen. And, again, I would put
16 the onus on the department head or the
17 purchaser.

18 Another point I want to make
19 out in the legislation -- and I don't
20 know if it's addressed well -- I'm in
21 the insurance business, and we receive
22 commissions. We also conduct some
23 voluntary benefit work requiring a
24 payroll slot at the City, which our
25 company was fortunate enough to obtain

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2 one.

3 I've seen other contracts to
4 the tune of 6 to \$7 million a year of
5 revenue, and probably 60 percent of
6 that ends up being commissions and
7 profits paid to companies outside the
8 City. And A lot of times, the
9 purchasers and/or the contractor get
10 together and say, Well, this is not
11 really City money; it's the individual
12 employee paying this, so we don't have
13 any jurisdiction over that.

14 And, again, they're looking
15 for an excuse or a waiver to take
16 millions of dollars of revenue,
17 business revenue, that could create
18 viable business inside of our city, is
19 given too many opportunities and then
20 still today, as I stated earlier,
21 leaves our city.

22 Thank you. That will conclude
23 my comments for today.

24 COUNCILMAN GOODE: Thank you,
25 Mr. Harris.

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2 Is there anyone else to
3 testify on this bill? Please come
4 forward.

5 (Witness comes forward.)

6 COUNCILMAN GOODE: Please
7 state your name for the record and
8 proceed with your testimony.

9 MR. JACKSON: Hello. Ronald
10 Jackson, Sr., from Isaac Stevens &
11 Associates.

12 Good afternoon, committee, and
13 I just want to thank you for the
14 opportunity that I can leave some
15 thoughts with you.

16 I'm more so that would be an
17 end-user or an end-benefit of this
18 proposal, of this bill that's going to
19 go forth, so I highly support it, Bill
20 060226.

21 My background has been over 26
22 years in the engineering construction
23 field. I graduated from Dobbins, went
24 to Temple University, and then went
25 over to computer-aid design drafting.

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2 I work with Penoni Associates, Day &
3 Zimmerman Engineers, Black & Beech, and
4 a lot of engineers in the City.

5 I further moved on over to
6 procurement, selling and buying
7 equipment for state and government
8 agencies because of the Internet. The
9 Internet created a non-face for me so
10 that when I would bid on any project,
11 the primes wouldn't know who I am.

12 That created great success for
13 me because it seems as though that some
14 of the primes, when they find out that
15 you are a minority, especially an
16 African-American male, there's a
17 disconnect.

18 But I'm very grateful to the
19 fact of the technology because, number
20 one, on this bill, there's a gentleman
21 who just was before me saying that the
22 word "waiver" is a curse word. There
23 should be no language, because of the
24 technology of this day, that a prime
25 should say they want to fill out or

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2 they want apply for a waiver.

3 You can, or maybe some of your
4 children can easily find, a certified
5 minority company or African -- or a
6 minority company on the Internet, just
7 on the Internet. So what that is, is
8 just a lazy statement from these primes
9 that don't want to do the due
10 diligence.

11 You have MBEC, you have the
12 Hispanic Chamber of Commerce, you have
13 all these chambers of councils
14 platforms and MBEC that has these
15 certified minority firms listed.

16 So for someone to say that
17 they can't find a qualified, certified
18 minority firm is just to me personally
19 an outright lie. And that language
20 "waiver" should be just stricken
21 completely. That's just my opinion.

22 The other thing I just want to
23 bring to your attention is that I've
24 done everything possible to respond to
25 and to participate on these bidding

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2 contracts.

3 And one example was with the

4 School District of Philadelphia.

5 Eleven months ago, I responded to a bid

6 that was out there. I went to a

7 meeting, and one of the members of the

8 School Board said that there was really

9 no large -- there was really no support

10 for minorities in the bidding process.

11 I responded to a couple of bids and

12 found out that I was very successful.

13 Well, as of today, I have over

14 \$13.2 million in awarded and scheduled

15 awarded contracts for -- for School

16 District contracts, but I have not been

17 awarded yet because the primes that

18 spoke to me personally and agreed that

19 they would use my services and they

20 would buy my product and that my cost

21 was competitive, as soon as they

22 received their contract from the School

23 Board, communications stopped.

24 That just -- that just totally

25 blows my mind or just upsets me so much

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2 that for three months, I have had
3 conversation after conversation with
4 prime contractors, and they agree by
5 filling out their letters of intent and
6 all these procedures that you have in
7 place towards minority support, and the
8 very moment that the contract was
9 signed, they stopped communicating with
10 me.

11 Now, the language that the
12 School Board put together was that
13 these primes are awarded the contract
14 and now they should give you your
15 subcontract agreement. It seems as
16 though that the intent of a lot of
17 these primes is really not to work with
18 minority firms.

19 And I also just want to put a
20 good plug in for the School Board
21 because they created a compliance
22 program that goes back to these primes
23 and say that the minority firm that you
24 selected you have to use because at the
25 last minute, you just can't counsel

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2 them out.

3 So the issue again is the
4 accountability.

5 City Council, I hope and pray
6 that you put in is this type of
7 accountability to make sure that this
8 bill is effective and not just paper
9 because right now, I'm experiencing
10 some great frustration and difficulties
11 that I have \$13.2 million on my books
12 to be scheduled, scheduled awards, and
13 not one of them have been signed off by
14 my primes.

15 Not only that, not one prime
16 has ordered not even a \$100 product
17 from me, and I just want the City
18 Council to know the impact and the
19 reality that's out there that some of
20 these primes -- as a matter of fact, a
21 lot of these primes play this game and
22 play paperwork, but I'm an end-user to
23 this, and African-American male, been
24 in business for over 20, years and have
25 never experienced this type of

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2 disrespect and patronizing that I've
3 had in the last three months.

4 Thank you.

5 COUNCILMAN GOODE: Thank you
6 for your testimony.

7 Are there any questions for
8 this witness?

9 (No questions.)

10 COUNCILMAN GOODE: Is there
11 anyone else to testify on this bill?

12 (No response.)

13 COUNCILMAN GOODE: I thank
14 everyone for your patience.

15 Those that are here to testify
16 on Resolution 070106, we will still be
17 taking testimony on that resolution,
18 but we will move into a public meeting
19 at this time to consider this bill.
20 The primary sponsor has to leave, and I
21 want to make sure we also maintain a
22 quorum. So we will move from our
23 public forum to our public meeting to
24 consider Bill 060226.

25 The Chair recognizes

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2 Councilman Clarke for a motion on the
3 amendments to Bill 060226.

4 COUNCILMAN CLARKE: Thank you,
5 Mr. Chairman.

6 I have circulated the
7 amendments earlier. There is one
8 change in the earlier amendment on
9 Page -- on the amendment actually on
10 Page --

11 COUNCILMAN GOODE: Third page.

12 COUNCILMAN CLARKE: -- the
13 third page. The waiver provision
14 number 3 we are deleting from this
15 amendment. I am going to ask all of
16 the parties involved on the formulation
17 of the original language to come up
18 with some language that is acceptable.

19 As was said today, there's
20 clearly some concerns about providing
21 an opportunity or an early-out, so to
22 speak, for particular people who
23 respond to bid solicitations, so I'm
24 going to ask the Administration to work
25 with the pertinent parties to come up

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2 with some language that's acceptable.

3 The only other major portion
4 of the amendments is with respects to
5 the contracts that will be effected by
6 this. In the earlier version, it's the
7 only bills that were approved by City
8 Council. This language now includes
9 all bills in addition to which there is
10 a \$250,000 threshold.

11 So, Mr. Chairman, I move that
12 the -- for the approval of the
13 amendments to Bill No. 060226.

14 (Motion seconded.)

15 COUNCILMAN GOODE: All those
16 in favor?

17 Those opposed?

18 The bill is amended.

19 The Chair recognizes
20 Councilman Clarke for a motion on Bill
21 No. 060226, as amended.

22 COUNCILMAN CLARKE: Thank you,
23 Mr. Chair.

24 I move that Bill No. 060226 be
25 reported out of committee as amended

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2 and be reported out of committee with a
3 favorable recommendation.

4 (Motion seconded.)

5 COUNCILMAN CLARKE: And a
6 request for a suspension of the rules.
7 I'm sorry.

8 (Motion seconded.)

9 COUNCILMAN GOODE: All in
10 favor?

11 Those opposed?

12 Bill No. 060226, as amended,
13 is reported out of committee with a
14 favorable recommendation and a
15 suspension of the rules to allow for
16 first reading at our next Council
17 session.

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2 COUNCILMAN GOODE: We will now
3 move back into our public hearing on
4 Resolution 070106 I'll read the title
5 again.

6 A resolution authorizing the
7 City Council's Committee on Commerce
8 and Economic Development to hold
9 hearings to examine current invoicing
10 and disbursement procedures and
11 policies in City procurement and
12 contracting so as to determine measures
13 that may be required to implement and
14 ensure best practices and standards for
15 prompt payment.

16 Our first witness for --
17 actually, Councilwoman Campbell, do you
18 have opening comments?

19 COUNCILWOMAN CAMPBELL: Yes.

20 COUNCILMAN GOODE: The Chair
21 recognizes Councilwoman Campbell.

22 COUNCILWOMAN CAMPBELL: Good
23 afternoon.

24 I want to thank you, a lot of
25 you, for bringing your specific

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2 concerns to my attention, and I look
3 forward to the insight you will provide
4 us today on this very important topic.

5 I note for the record that the
6 issue of prompt payment is of concern
7 to me and the constituents I serve. I
8 have been successful most recently in
9 negotiating a similar type of agreement
10 with the principal parties involved
11 with the low home improvement
12 construction site on 52nd Street.

13 This proposed legislation here
14 would affect a larger group of people
15 across the board and do away with the
16 piecemeal approach when trying to
17 accommodate the needs for prompt pay in
18 the construction industry in
19 Philadelphia.

20 I understand this legislation
21 that would address the issue of prompt
22 pay for prime contractors,
23 subcontractors, and sub subcontractors
24 who are not paid in a timely way in
25 connection with a public construction

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2 contract. I intend to include the
3 private sector as well.

4 The timeliness of payment to
5 these groups of people have a district
6 impact on the workers and their ability
7 to provide for their families. Many of
8 you here today represent groups of
9 workers as well as contractors, so
10 thank you again for appearing.

11 I would like for your
12 testimony to be as inclusive as
13 possible, but I want you to speak about
14 the following:

15 What is the problem as you see
16 it?

17 Why are you in favor or
18 opposed to this legislation?

19 What procedures and remedies
20 are needed for prime contractors,
21 subcontractors, and sub subcontractors
22 who are not paid in a timely way in
23 connection with a public or private
24 construction contract?

25 How are you, your company, or

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2 workers affected in a material way by
3 the current practices?

4 Is there a legislation now
5 that speaks to this issue, but what we
6 have is a failure to enforce it.

7 I will have to get the opinion
8 from the Procurement Department
9 advising us of the cost of fiscal
10 impact this type of legislation will
11 have on the City and its future planned
12 construction improvement projects.

13 The ultimate results of these
14 hearings will be to provide for timely
15 payment to prime contractors,
16 subcontractors, and sub subcontractors.

17 COUNCILMAN GOODE: Thank you,
18 Councilwoman.

19 We thank all of the witnesses
20 that have been so patient. Some had to
21 leave, and so this hearing will be
22 recessed to take additional testimony
23 on this resolution, but for those who
24 are here, we will give them an
25 opportunity to testify.

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2 Is John Phillips here?

3 (No response.)

4 COUNCILMAN GOODE: Joseph
5 Dougherty?

6 MR. DOUGHERTY: Yes.

7 (Witness comes forward.)

8 MR. DOUGHERTY: Good

9 afternoon, members of the committee.

10 It's been a interesting afternoon, and
11 just listening to the previous item on
12 the agenda was a learning experience
13 for me, and it has to do a lot with
14 what we're about to talk about at the
15 present time because any legislation
16 that governs procedures for fair and
17 equal opportunities for the acquisition
18 of construction contracts in the City
19 of Philadelphia must also include, I
20 feel, provisions that guarantee prompt
21 payment to those same contractors for
22 whom we strive to guarantee inclusion
23 in the great resurgence we are
24 witnessing here in our city these days.

25 Without prompt payment

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2 language that prohibits such contract
3 loopholes as if we get paid, you get
4 paid, which is a common thing today,
5 and that prohibits any waiver of rights
6 language that denies a contractor or a
7 subcontract his or her rights to file a
8 lawsuit if not paid in a timely manner
9 or not even paid at all.

10 I believe that such prompt
11 payment legislation should also include
12 language that prohibits retaliation
13 against any person or entity -- a
14 contractor, for example, or a
15 subcontractor -- who is forced to file
16 such a lawsuit against a large prime,
17 a general contractor or developer,
18 because what they do to you in that
19 event is just blackball you. You're
20 off the list. It's invisible -- you
21 guys can't see it, we can't see it.

22 My prime job is, I'm the
23 business manager for the ironworkers
24 here in the City of Philadelphia. I
25 also sit on the labor board, the Board

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2 of Labor Standards for the City of
3 Philadelphia, so I see a lot of -- I
4 gain a lot of experiences and see a lot
5 of people that are abused in the
6 process and really don't have -- at
7 least they don't know, or in a lot of
8 instances, they don't have a place to
9 go to either complain without being
10 retaliated against.

11 You know, I see a lot of small
12 contractors. Today, we spent most of
13 the afternoon talking about minority
14 and woman business enterprise and
15 disability business enterprise, and
16 when you're talking about contractors
17 like that, that fit in that category,
18 you're more than likely talking about
19 smaller contractors.

20 Probably the most difficult
21 part of going into business is
22 formulating a line of credit so you can
23 pay your bills in between payments from
24 the general contractor or developer, or
25 in some cases if you are already a

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2 prime, the owner.

3 The people we're talking
4 about -- and I've listened to the
5 conversation today -- are all probably
6 going to be small contractors. They're
7 not going to have a lot of money to
8 begin with, and one of their biggest
9 problems is going to be to get a line
10 of credit to hold them over in between
11 payments. And if those payments aren't
12 in a timely manner, then it just that
13 much more difficult.

14 A perfect example of what I'm
15 talking about and not always for small
16 contractors but the Philadelphia Eagles
17 stadium, the Linc, they call it the
18 Lincoln Financial and then Citizens
19 Bank Park, both very slow payment.
20 We've had contractors, our union
21 contractors, most of which in the
22 ironworker industry are subcontractors
23 that get stiffed at the Eagles stadium
24 and had to barter for monies that were
25 owed to them and filed a lawsuit in

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2 order to promulgate that payment.

3 And at the Phillies stadium,
4 another situation of slow payment, not
5 as deliberate as the Eagles stadium,
6 but nevertheless, look at the money the
7 City and the State is spending on
8 projects of that size, and we don't
9 realize that there are small
10 contractors involved here in our own
11 town that are being exploited.

12 And what happens if you don't
13 get paid on time and you're not big
14 enough to -- or you can't forward to
15 hold out long enough to make weekly
16 wage payments and weekly health and
17 pension payments, what happens is, you
18 got to make the paycheck first, but
19 you're always -- you're going to start
20 in a delinquent fashion with your
21 workers' health plan, pension plan, and
22 other types of benefits. You just
23 start digging a hole that most of those
24 small contractors can't get out of.

25 You know, prompt payment

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2 legislation is a good thing for --
3 especially for the people we've been
4 talking about today. And there's a
5 heck of a lot more small contractors
6 than there are large. You know, you
7 guys on the City Council here know all
8 the big players in the City of
9 Philadelphia, and they're all guilty,
10 without mentioning any names, right
11 across the board of exploiting smaller
12 subcontractors and intimidating them if
13 they try to file a lawsuit or take any
14 legal process against them just to get
15 paid the money that's owed to them for
16 the work that they've already finished.

17 I want to thank you for your
18 time and for giving me the opportunity
19 to speak on behalf of this legislation,
20 and I'm sure if we come back again,
21 I'll be back here with some more people
22 that are interested in the same type of
23 legislation, because it is an epidemic
24 and not just in our city; this is
25 something that's going on throughout

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2 the country.

3 But since we're trying toed
4 good things here in the City of
5 Philadelphia, and, you know, we can --
6 we got to clean up the front of our
7 house first, and that's one of the best
8 things we can do, 'cause it's going to
9 help us with employment.

10 Our hope is the smaller
11 contractors being able to go in
12 business and stay in business, and by
13 doing so, they're going to be hiring
14 the people that we're trying to help.
15 And we just got to force the big guys
16 with the deep pockets to give money in
17 a timely fashion.

18 Thank you.

19 COUNCILMAN GOODE: Thank you.

20 COUNCILMAN DICICCO:

21 Mr. Dougherty?

22 COUNCILMAN GOODE: Thank you
23 for your testimony and your patience.

24 Councilman DiCicco and then
25 Councilman Rizzo.

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2 COUNCILMAN DICICCO: Thank

3 you. Thank you, Mr. Chairman.

4 Good afternoon, Mr. Dougherty,
5 and thank you for your testimony.

6 Is it fair to say that this
7 practice of slow payment as it is
8 relates to the small-business
9 entrepreneurs, is it fair to say that
10 in many instances, we have a difficult
11 time even getting these small business
12 to see want to bid on these jobs
13 because of the history?

14 MR. DOUGHERTY: Certainly,
15 certainly. You know, we just had spoke
16 earlier -- I listened to someone bring
17 up the SEPTA payments. You know, we
18 had a story, a true story where a
19 contractor of ours worked at the
20 Phillies stadium, and he was the steel
21 contractor down there, and because of
22 the slow payment there and his
23 unfortunate chain of events, they put
24 him on the Market Street elevated job
25 right after that, with SEPTA being

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2 noted for slow payment, he's out of
3 business today from just those two
4 jobs. And he had a lot of potential.
5 And they did a good job, you know.

6 It's the Eagles stadium that's
7 wobbling around, not the Phillies
8 stadium.

9 COUNCILMAN DICICCO: I
10 remember some big issues that this
11 council had to deal with in regards to
12 the payment from the owners of the
13 Eagles and the prime contractors and
14 how that filtered down to the
15 subcontractors.

16 MR. DOUGHERTY: Councilman, if
17 you were one of those contractors and
18 you're reluctant to bid on those jobs,
19 even though the -- if you can get the
20 job, it can put you over the top, it
21 can make you or break you, but you
22 could also -- the odds are that it
23 would break you rather than make you.

24 You know, you're going to have
25 to -- you wouldn't go into business

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2 until you knew what kind of work you
3 were doing. By the time these smaller
4 contractors go into business, they
5 probably already worked as a
6 tradesperson, and they know what the
7 heck they're doing, and then they're
8 going know people in the industry to
9 hire to build a good workforce, you
10 known.

11 And this is not just for
12 unions. I speak -- most of the time
13 when I speak, I'm speaking as a union
14 representative, but this is a generic.
15 This legislation is needed for merit
16 shop people as well as union people.
17 It's a catastrophe that's been going on
18 for a long time.

19 And I say catastrophe it is if
20 you're the one that's not getting paid
21 and you have your home on the line and
22 so all your employees do as well.

23 COUNCILMAN DICICCO: I think
24 there's a misunderstanding. Most
25 people think that if you're a business

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2 person, you're someone who's
3 automatically making lots of money and
4 is doing very well. They don't
5 understand some of the other issues
6 that go along with the risk of being in
7 business, and this just adds to that
8 risk, which makes it more difficult not
9 only for those companies to survive but
10 to encourage smaller companies
11 minority- and women-owned companies
12 from even being able to have a part to
13 get into that process.

14 So thank you for your
15 testimony. I think this is certainly a
16 no-brainer for you. Thank you.

17 MR. DOUGHERTY: You're
18 welcome, Councilman.

19 COUNCILMAN GOODE: Councilman
20 Rizzo?

21 COUNCILMAN RIZZO: Good
22 afternoon. In just a couple sentences,
23 what do you believe is the reason? And
24 if you said it, I apologize. What do
25 you believe is the reason for the slow

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2 payment?

3 MR. DOUGHERTY: It trickles
4 down from the top. From experience, I
5 see slow payment coming from the owner
6 to the developer. I see -- and as the
7 job gets closer to the end, it gets
8 slower because people at that point of
9 a construction site are looking at the
10 profit margin.

11 For example, if you take any
12 Phillies stadium, for example -- let's
13 take the Eagles stadium; it's a better
14 situation. You had -- the owner there
15 got so much money from our state and so
16 much money from our city and whatever
17 he had to put up in order to get the
18 new Eagles stadium built.

19 He hired a management company,
20 not construction management, just a
21 project a management company by the
22 name of KUD (sp?), and they're a
23 subsidiary by the name of Kajima, who's
24 a management company, and what they
25 actually do is, if you're building a

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2 project, you could -- they'll just take
3 absolute responsibility for the whole
4 project. They help select the site,
5 the architects, the engineering, they
6 get the financing and everything, all
7 the way up till the turning over the
8 key to the building or project itself.

9 They, in order to get that
10 job, have to give you a gross maximum
11 price of what it's going to cost you.
12 And then you can just imagine. You
13 know the number and you're taking bids
14 from general contractors that are under
15 you.

16 In the example of the
17 Philadelphia Eagles stadium, it was
18 Turner Construction Company.
19 Underneath Turner and another company,
20 I forget the name of it, but they're a
21 joint venture. They got stiffed as
22 well.

23 Normally, it's the general
24 contractor waiting for payment from the
25 owner. In this case, KUD was the

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2 management company, and they're paying
3 all the bills, and as the -- and with
4 all the extra work that was done down
5 there, changes that the owner made that
6 weren't going to be covered from state
7 funds or city funds and that KUD signed
8 off on --

9 COUNCILMAN RIZZO: Do you
10 think it's a strategy just to --

11 MR. DOUGHERTY: That seems to
12 me --

13 COUNCILMAN RIZZO: Do you
14 think it's a strategy to be
15 slow-paying? I mean, there's people
16 that wait to pay on line to the last
17 very day to take advantage of every
18 dollar.

19 MR. DOUGHERTY: In that case,
20 the closer they get -- the closer the
21 job gets to finish, the less money you
22 have left --

23 COUNCILMAN RIZZO: But let --

24 MR. DOUGHERTY: -- the
25 management company, whether it's

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2 construction management or financial
3 management like KUD was, they have a
4 profit.

5 So when you're getting close
6 to their number, say if they wanted to
7 make \$25 million there and there's only
8 27 million left --

9 COUNCILMAN RIZZO: Like you
10 say, it's always better in your account
11 than someone else's.

12 MR. DOUGHERTY: That's right.

13 COUNCILMAN RIZZO: But my
14 question is: What is the experience
15 that you have with getting paid your
16 contractors to do work for the City?

17 I got just a call from a very
18 small vendor to the City six months
19 behind in getting paid. I'm talking
20 about a little guy, I'm talking about a
21 guy that just provides --

22 MR. DOUGHERTY: Common.

23 COUNCILMAN RIZZO: Six months.
24 I mean, I don't know how a person can
25 do business with the City. They've got

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2 to obviously be fairly advanced, been
3 around a while, because I can't imagine
4 a startup company or a company just a
5 few years old surviving or even wanting
6 to do business.

7 What do you believe -- is it
8 because they're so overwhelmed, they're
9 understaffed? Is it again a strategy?
10 Why would it take six months to write a
11 check for a thousand bucks to someone
12 that performed a service to the City of
13 Philadelphia?

14 MR. DOUGHERTY: First of all,
15 it's not just the City-funded projects.

16 COUNCILMAN RIZZO: Well, now
17 I'm just asking you about --

18 MR. DOUGHERTY: You're seeing
19 that with City projects, but it's an
20 epidemic that's going on in private
21 industry, the private construction
22 industry as well.

23 The smaller the contractor,
24 certainly he's already agreed to
25 perform the work involved and do the

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2 work properly. So if he's done the
3 work -- and it all depends on the
4 language of the contract, but usually
5 they'll go 25 percent of the job, you
6 get a payment, 50 percent of payment,
7 75 percent of payment.

8 And each time you submit an
9 invoice, the general contractor or
10 developer above you will have that work
11 that you say you just finished
12 inspected. He has X-amount of days --
13 or should have X-amount of days to do
14 that.

15 Sometimes if they don't
16 have -- if they didn't get paid from
17 the developer or the owner, then
18 they're not going to release any money
19 to you. You're going to have to wait
20 until they get it. And even after they
21 do get it, they just take their time,
22 and they're not worried about a small
23 contractor.

24 And you were right,
25 Councilman. The small contractor can't

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2 wait too long for that money. He's
3 going to go out of business, and it's
4 going to discourage him to bid that
5 type of work or with that specific
6 general contractor again, which is
7 contrary to what we're trying to do
8 here.

9 COUNCILMAN RIZZO: Right,
10 exactly. Maybe what we can do --

11 MR. DOUGHERTY: We're trying
12 to put people in business, and if
13 they're afraid to bid the job --

14 COUNCILMAN RIZZO: Yeah.
15 Maybe there's something
16 legislatively --

17 MR. DOUGHERTY: -- they'll
18 never get off the ground.

19 COUNCILMAN RIZZO: Maybe
20 there's something legislatively if
21 there's not language, Mr. Chairman, in
22 the procurement that once a company has
23 provided a service, there should be a
24 timeline associated with the payment.

25 For -- again, this one vendor

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2 that I'm referring to and I won't
3 reveal, six month is the average; he's
4 got some invoices that are almost
5 a-year-old that he hasn't been paid.

6 MR. DOUGHERTY: It's not
7 unusual.

8 COUNCILMAN RIZZO: Maybe what
9 we can do as a council is to put some
10 language into the legislation that
11 requires them, unless there's an
12 extenuating circumstance, a dispute or
13 whatever, most of the time when I find
14 -- when I try to help someone get paid,
15 it's because it's sitting someplace on
16 a desk. It isn't because there's a
17 policy. It's just that somebody says,
18 "Well, we haven't gotten to it yet."

19 Well, guess what? If they
20 have to start paying interest on a
21 delayed payment, maybe that will get
22 their attention.

23 MR. DOUGHERTY: Certainly.

24 COUNCILMAN RIZZO: So maybe we
25 should look at that to see what we can

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2 do to assure that there's a flow. If
3 the department is running shorthanded,
4 that isn't a good thing because that's
5 putting a burden on someone else.

6 And maybe we need to make sure
7 that they get an interest payment
8 assessed to do that slow payment. That
9 will certainly get their attention.

10 I don't know if there's
11 something we can do about that.

12 MR. DOUGHERTY: Well, between
13 legislation --

14 COUNCILMAN RIZZO: But I
15 assume we can.

16 COUNCILMAN GOODE: I'm pretty
17 sure that's where Councilwoman Campbell
18 is going with this.

19 MR. DOUGHERTY: Yes.

20 COUNCILMAN GOODE: Are there
21 any other questions for this witness?

22 (Witness comes forward.)

23 COUNCILMAN GOODE: Would you
24 like to testify?

25 MR. McHUGH: Mr. Chairman, I'm

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2 on the list to speak. My name is Ed
3 McHugh. I'm Vice President of the
4 Ironworkers International and I'm
5 President of the Ironworkers District
6 Council of Philadelphia and Vicinity.

7 And just to expand a little
8 bit on the question from Councilman
9 Rizzo about whether it's an intention
10 to do this or whether there are
11 mitigating circumstances.

12 What you're seeing a lot of
13 today in the construction industry is
14 jobs are going out for bid, they're put
15 on a fast track, and they're going out
16 for bid and they're being released with
17 incomplete drawings.

18 For instance, let's take Local
19 401's case. They're steel erectors,
20 okay? Well, that steel has to be
21 fabricated by a fabricator, and in a
22 lot of cases, the erector is the same
23 contractor or it's someone who the
24 fabricator uses a lot.

25 He gets drawings that aren't

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2 complete. He has to fabricate that
3 steel through his knowledge of the
4 fabrication business and the AISC Code
5 to be done right, properly so it will
6 pass inspection.

7 Now, a lot of this becomes
8 negotiable items, and it's done, as was
9 previously mentioned, with intent.

10 Somewhere during the course of
11 the job, somewhere in the chain of
12 command, someone decides, Well, we want
13 to change this, we want to change that.
14 The owner decides he wants something a
15 little fancier -- he wants to put this
16 part over here or that part over there.

17 This all requires change
18 orders. Change orders are executed,
19 they're signed on the job routinely by
20 a representative of the executor and a
21 representative of the subcontractor.
22 No one puts any thought in the change
23 order.

24 Well, I didn't authorize
25 that -- I being the project manager for

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2 the prime contractor; or I, being the
3 owner's representative, didn't
4 authorize that change order, therefore
5 we don't want to pay for it. And
6 really, it's a game being played out
7 there.

8 And what's basically needed is
9 just firm, uniform language to tighten
10 up all of these loopholes in both the
11 public and the private sector because
12 the truth be told, it actually
13 happens -- although the Councilman says
14 he's seen instances in the public
15 sector here, it's much more prevalent
16 in the private sector.

17 And working together with our
18 contractor partners through our
19 labor-management initiative, we have
20 taken the initiative to do this
21 previously. And across the river, we
22 got it done statewide in the State of
23 New Jersey with a prompt-payment law,
24 which I believe Joe has provided a copy
25 for everybody, if you would care to

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2 take a look at it, that is fair from
3 the top down, right from the
4 developer-owner right down through the
5 smallest tier of subcontractor.

6 The largest general
7 contractor's association in the State
8 of New Jersey partnered with us in
9 endorsing and lobbying this issue to
10 get it through, so it's not a one-sided
11 bill; it's fair to everybody.

12 Whether it's a union,
13 non-union job is not an issue. It's an
14 issue of someone who went out there on
15 their word, did their job, and now
16 isn't being paid for it, you know.

17 And, again, it puts a small
18 contractor -- they don't have cash
19 flow. They need to be paid for the
20 work they did so they can pay their
21 bills, they can pay their employees,
22 they can pay the benefits that they
23 have to give these people health and
24 welfare coverage, and provide for
25 pensions and retirement for them.

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2 And it's just kind of a
3 win/win. Someone talked earlier at the
4 table about a win/win situation. The
5 proper bill with the proper language is
6 a win/win situation for the whole
7 construction industry, and there's
8 absolutely nobody in it that suffers
9 except someone who comes in as an
10 owner/developer or a big project
11 manager with some intentions other than
12 doing the right thing. They're the
13 only ones who would suffer from this.

14 COUNCILMAN GOODE: Thank you,
15 Mr. McHugh. Do you have any other
16 testimony you would like to offer?

17 MR. MCHUGH: Pardon?

18 COUNCILMAN GOODE: Do you have
19 other testimony that you would like to
20 offer?

21 MR. MCHUGH: Well, the only
22 thing I would say is, we were going to
23 bring one of our good steel-erector
24 contractors in with us to testify as to
25 how this has particularly affected him

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2 today, but he's actually giving a
3 deposition for a lawsuit over a job
4 that he didn't get paid on. It's kind
5 of ironic.

6 (Laughter.)

7 MR. MCHUGH: And, you know,
8 along the lines of the previous bill, I
9 would just like to say, you know, there
10 were a lot of good points there, and
11 anybody can look down the street and
12 see one of our woman business
13 enterprises reaching higher into the
14 sky every day to make Comcast the
15 largest job in the skyline of
16 Philadelphia, and we're very proud of
17 that woman's business enterprise.

18 COUNCILMAN GOODE: Thank you.

19 Are there any other questions
20 for this panel?

21 (No further questions.)

22 COUNCILMAN GOODE: Thank you.

23 All right. Guy Pigliacelli?

24 (No response.)

25 COUNCILMAN GOODE: Robert

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2 Duffy?

3 (No response.)

4 MR. MCHUGH: Thank you.

5 COUNCILMAN GOODE: Thank you.

6 Robert Keller?

7 (No response.)

8 COUNCILMAN GOODE: Bianca

9 Hart?

10 (No response.)

11 COUNCILMAN GOODE: Lonnie?

12 (Witness comes forward.)

13 COUNCILMAN GOODE: Please

14 state your full name for the record and
15 then proceed with your testimony, and
16 thank you for your patience.

17 MR. STANLEY: Okay. I am
18 Lonnie Stanley of the Kimmel Group. We
19 are a minority-certified IT consultant
20 with the City of Philadelphia. We have
21 been doing business with the City since
22 1995. The majority of our contracts,
23 we have been prime, and in some
24 instances, we've also been a
25 subcontractor.

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2 I thank you, Mr. Chairman, for
3 your time and for the other
4 Councilpeople for being here. Thank
5 you.

6 I just wanted to -- actually,
7 I received this notice really late to
8 be here, and I apologize. I didn't get
9 a chance to actually look at what was
10 being proposed and am working kind of
11 hard with daylight savings time issues.
12 We're an IT firm so we have been busy.

13 But I do want to speak on two
14 things. Councilwoman Campbell
15 mentioned a couple of questions she
16 wanted answered directly, so that's
17 what I would like to address.

18 The number-one question is
19 what is the problem? The problem is,
20 when you are a subcontract and you're
21 small, whether it's minority-,
22 woman-owned or disabled, it's really
23 moot at this point.

24 If you're a small contractor
25 and you're dealing with a sub that's

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2 very large, I think the majority of the
3 time we find is that there's profit and
4 greed in play. And they really don't
5 care what the small business -- whether
6 you get paid or not, quite honestly.

7 We've dedicated a lot of time
8 and a lot of expertise to push them as
9 much as we can to ask them why it's
10 being delayed, why haven't you paid us?
11 We continue to call and pester them.

12 But there was one instance
13 where it took us ten months to get paid
14 on a project. That project, our
15 portion was \$50,000, so for 10 months,
16 we went without \$50,000 on a project
17 when we were a subcontractor.

18 Finally, at the end of the
19 day, when we did receive payment, we
20 did not receive the entire amount that
21 we thought we were supposed to receive.
22 There was an additional, quote/unquote,
23 bonus of a few point that was they were
24 awarded which we didn't receive, even
25 though we did most of the work.

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2 So I think Councilman Clarke
3 had mentioned earlier that it's sort of
4 like status quo for some of the types
5 of things that happen, and that's part
6 of the problem. The primes really
7 don't care. There's really no true
8 economic penalties if they don't pay
9 you on time. And so, therefore, it
10 continues.

11 I think there was a question
12 about whether or not we are in favor of
13 prompt payment. Many of you up there
14 know we are in favor of this. I think
15 I've contacted Councilman Rizzo in the
16 past, and the question is always asked
17 of me about other City officials -- are
18 you getting paid in time? I think
19 everyone knows there's a problem.

20 Over the years, what we have
21 done as a small company, we've survived
22 through the grace of God, number one;
23 but, number two, what we were able to
24 do is actually obtain a line of credit.
25 Without a line of credit, we wouldn't

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2 be here.

3 For the first five years of my
4 organization, when I did not receive
5 prompt payment, I basically went into
6 debt. We neglected to pay tax
7 withholding. So basically, we had to
8 deal with the IRS fund later on, and we
9 paid all those, and we're past that.

10 But as a small company, when
11 you don't have the cash to pay your
12 employees and you don't have the cash
13 to pay their benefits and you don't
14 have the cash to pay into here IRA
15 plans, you do what you can.

16 The number-one strategy was, I
17 didn't pay myself. That only lasts for
18 a few when you have a wife tapping you
19 on the shoulder, so -- but we survived

20 What procedures should there
21 be for those that aren't paid timely?
22 I think Councilman Rizzo touched on
23 that. Normally, when my private-sector
24 companies don't pay in a timely
25 fashion, number one, I asked them for

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2 some interest because there's money
3 that they've been sitting on for quite
4 some time that had I had it, I'd be
5 getting interest from the bank.

6 Number two, after 60 days, I
7 normally take my private entities to
8 court. I don't do that with the City.

9 Number one, the contract is quite
10 large; and, number two, I don't know of
11 anyone who's successfully sued the City
12 over not being paid for a contract, so
13 that's just not something that we do.

14 How are we affected? We
15 mentioned that before. There are times
16 when we basically rob Peter to pay
17 Paul. I have to pay my employees. If
18 my employees aren't paid, I would no
19 longer have a business, so we do
20 whatever we can.

21 Over the years, we've done as
22 much as shut down our office, turned in
23 leases early, whatever we could do to
24 basically bootstrap this organization.

25 Is there a failure to enforce

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2 any laws that are in effect today? I'm
3 not sure. Once again, I apologize. I
4 haven 't had a chance to take a look at
5 any laws that are in effect, but I
6 definitely will do that and take a look
7 at that.

8 Being a prime contractor, I
9 will say that the majority of time when
10 we don't receive prompt payment, it has
11 been the case of maybe an invoice was
12 sitting on someone's desk, someone lost
13 it, someone neglected to turn it in.

14 I will say that since 1995,
15 both Procurement and Finance have taken
16 major leaps, and we've been getting
17 paid the majority of time very
18 promptly. We now have the online
19 system where we can track to see
20 whether or not our invoice was
21 submitted to the system. It will then
22 tell you whether or not a check is
23 being submitted.

24 And we no longer receive
25 checks from the City. We now receive

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2 direct payment. So when they say the
3 check is in the mail, it's already been
4 in the bank. So that's a positive and
5 that's happened over the last five
6 years, so that's something that we say
7 is great.

8 But the problem is between the
9 time that you submit your invoice to
10 the paying department to the time that
11 it shows up on the Internet, it's a
12 chasm. You have no idea why it's
13 there.

14 Yes, Councilman?

15 COUNCILMAN GOODE: Councilman
16 Rizzo?

17 COUNCILMAN RIZZO: While
18 you're here, will my BlackBerry change
19 the time again three weeks from now?

20 MR. STANLEY: A couple of
21 weeks from now, it should be okay,
22 Councilman.

23 COUNCILMAN RIZZO: I'm just
24 kidding. Don't bill me for that.

25 MR. STANLEY: Okay, all right.

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2 COUNCILMAN RIZZO: The
3 question is: Have you ever said to a
4 client no? Have you ever said no.

5 MR. STANLEY: Have I ever said
6 no to a --

7 COUNCILMAN RIZZO: Have you
8 ever said no to a client that's -- I
9 know it's probably not the smart thing
10 to do.

11 If someone doesn't pay you,
12 have you ever refused to do business
13 with them in the future? Have you ever
14 said to them, Look, we have to end the
15 relationship. I'd love to do business
16 with you.

17 I guess that's cutting off
18 your nose to spite your face, I would
19 assume, but have you ever -- what do
20 you say to a person -- not the City of
21 Philadelphia so much, but what do you
22 say to a client that's a slow pay?

23 Or some people, I think, build
24 into their pricing customers that
25 slow-pay in some cases.

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2 MR. STANLEY: In our instance,
3 we have told the customer that we will
4 no longer do business with you. And
5 normally, the relationship is to the
6 point where we found that -- for one,
7 this is a small organization, and they
8 only owed us probably \$4,000.

9 COUNCILMAN RIZZO: Right.

10 MR. STANLEY: And they paid a
11 portion of it, \$2,000, and then another
12 \$2,000, and it went on for 90 days.

13 I was finally able my to get a
14 hold of the president of the
15 organization, who said, Oh, my
16 bookkeeper has been doing that as a
17 policy, paying some payments but not
18 paying them all. I apologize. We let
19 him go. The check is in the mail.

20 So we do say no.

21 COUNCILMAN RIZZO: That gets
22 their attention on occasion, doesn't
23 it, when you say, "I'm not going to
24 work for you anymore"?

25 MR. STANLEY: Yes, it does.

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2 COUNCILMAN RIZZO: 'Cause if
3 they want you, they're going to pay.

4 MR. STANLEY: They're going to
5 pay, yes.

6 It's hard to say no when you
7 have a large contract with large
8 entities such as the City of
9 Philadelphia.

10 COUNCILMAN RIZZO: Right,
11 exactly, but I'm glad to hear things
12 are working well for you there.

13 MR. STANLEY: Yes, they are,
14 sir.

15 COUNCILMAN RIZZO: Good.
16 Thank you, Mr. Chairman.

17 COUNCILMAN GOODE: Thank you.
18 Are there any questions for
19 this witness?

20 (No further questions.)

21 COUNCILMAN GOODE: Thank you
22 very much.

23 MR. STANLEY: Thank you for
24 your time.

25 COUNCILMAN GOODE: Sharon

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2 Williams?

3 (Witness comes forward.)

4 MS. WILLIAMS: Good afternoon,
5 Councilmen and women. My name is
6 Sharon Williams. Thank you for having
7 me.

8 COUNCILMAN GOODE: Pull the
9 microphone a bit closer.

10 MS. WILLIAMS: Okay. My name
11 is Sharon Williams. I don't know
12 whether this is a forum for me to talk
13 about the lack of payment, but I'm
14 going to take the time to do that
15 anyway.

16 I'm a licensed private
17 detective, okay, and I've been licensed
18 by the City of Philadelphia, and I work
19 all over the State of Pennsylvania.

20 The problem -- I really can't
21 put my finger on it as far as lack of
22 payment. Sometimes I think it's
23 because people don't want to do their
24 job. You know, I've gone to Finance on
25 numerous occasions and asked them, you

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2 know, where's the check? You know,
3 I've done my work, I've done the
4 investigation that's been, you know,
5 handed to me. All I wan to do is, you
6 know, get paid.

7 And I'm told that the City
8 doesn't have the funds or "Don't think
9 that you're going to get rich by
10 working here" or, you know, things that
11 just discourage me.

12 I'm very discouraged in that
13 matter because I feel as though that
14 these people are taking their job
15 personal and keeping me from getting
16 paid for work I've already done, so
17 that's a part of that problem.

18 What procedures are needed? I
19 believe that you take the personality
20 out of it and tell the person to do
21 their job. Or the person who's in
22 charge of Budget and Finance, "Listen,
23 you know, you have a certain amount of
24 time to put the vouchers in the system
25 to pay these people. Why aren't they

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2 being paid?"

3 I think it has to start with
4 the supervisors, you know, who have
5 these employees working under them,
6 because when I go to Finance and I talk
7 to -- I believe his name is Mr. Cross,
8 he doesn't know anything about what's
9 going on, okay?

10 I submitted a bill one time --
11 you see, I have to pay out of my pocket
12 first. Any cases that I get, I have to
13 submit the money first, and then I
14 submit a bill at the end of the case.

15 All right, I submitted a bill
16 back in August of last year 'cause I
17 had to go out of the country on a case,
18 and all of that money came out of my
19 pocket. And when I submitted the bill,
20 there was nothing said to me why I
21 wasn't being paid.

22 When I spoke to Finance again,
23 they said, "Well, you didn't circle
24 this, you didn't give me that," and
25 that wasn't true. What happened was,

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2 they finally told me that I need to do
3 bring in my credit card receipt so they
4 could see that I actually paid for the
5 trip. The trip was already done,
6 completed, the bills were submitted.

7 I did submit my credit card,
8 even though I submit all of the bills
9 that go with that trip, it's given to
10 them along with my voucher, so I don't
11 know what that was all about.

12 How does it affect my
13 business? It affects me tremendously,
14 okay? Since I have to put my money out
15 first, I need to have that money back
16 to me so I can continue to do the work,
17 so I can continue to investigate the
18 cases that are assigned to me.

19 I believe that Councilman
20 Rizzo stated that, and I agree with
21 him, where vouchers are laying on
22 people's desks, and they just put them
23 aside and just forget about you. You
24 know, if you asked them again what
25 happened to it, they'll say, "Well, we

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2 were told by the City Controller to
3 hold down the costs" or "We're not
4 going to pay you because" -- whatever,
5 you know.

6 So I'm being -- I'm very
7 discouraged about not being paid. I
8 hope that Councilpersons can do
9 something about this because it hurts
10 somebody who is a small-business person
11 like myself.

12 COUNCILMAN GOODE: Councilman
13 Rizzo?

14 COUNCILMAN RIZZO: You would
15 think -- and it's just for the record,
16 and I'm not saying this to you
17 directly, but you would think managers
18 within that department would get a
19 report on a daily or a weekly basis
20 that would show them the status of
21 their accounts payable that this is 30
22 days old, this is 50 days old, this is
23 90 days old, and a supervisor would say
24 to the people that are pushing the
25 paper, You've got this, this, this,

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2 this, this. You know, what's the
3 status of it?

4 I just can't imagine that it's
5 that manual a system because it's just
6 mind-boggling to think that a piece of
7 paper gets pushed over for \$10,000 and
8 some is vendor waiting to be paid.

9 I'm glad we're here for this.
10 I leaned over to the Council lady, and
11 I said this is really a good piece of
12 legislation because it affects so many
13 people that feel powerless in getting
14 their money.

15 And you described, being
16 self-employed, that it's out of your
17 kitty until you --

18 MS. WILLIAMS: It comes out of
19 my pocket.

20 COUNCILMAN RIZZO: Exactly.
21 Well, thank you.

22 MS. WILLIAMS: And the taxes
23 are just absorbant [sic]. I mean, the
24 City taxes for a small business like
25 myself, if I don't get that money back,

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2 I still got to pay taxes on that.

3 COUNCILMAN RIZZO: Well, you
4 know, it's interesting you say that
5 because one of the witnesses today
6 wrote me a note and said basically the
7 reason -- when he used the language
8 that it costs him -- that he's not
9 competitive because of the cost, he
10 said it's not because he charges more;
11 he says it's because his wage taxes his
12 BPT, his higher business taxes, his man
13 hour rate here and lady hour rate is
14 higher than some of the companies in
15 the suburban communities. They can
16 come in here and automatically charge
17 less because you have fixed costs that
18 are higher than someplace out in Bucks.
19 Montgomery, Chester, Delaware County,
20 or across the bridge to New Jersey.

21 MS. WILLIAMS: Exactly. Well,
22 one thing I had noticed about the City,
23 by the end of the year, they'll hurry
24 up and mail you all your money so that,
25 you know, by the end of the year, they

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2 can claim it as money paid out to you,
3 you know, for taxes purposes, okay,
4 when I don't receive my last check
5 until maybe the next year, but they'll
6 hurry up and, you know, mail it to me
7 so that they can claim the fact that
8 they paid that for tax purposes.

9 So I'm hoping that City
10 Council will do something about this
11 prompt payment.

12 Thank you very much.

13 COUNCILMAN GOODE: Thank you
14 for your testimony.

15 Are there any questions for
16 this witness?

17 (No further questions.)

18 COUNCILMAN GOODE: Thank you
19 very much.

20 Is there anyone else to
21 testify on this?

22 Mr. Ali?

23 (Witness comes forward.)

24 MR. ALI: Once again, my name
25 is Jihad Ali. I'm a member of the

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2 Association of Unionized Contractors.

3 And one of the things -- they
4 asked me to come here today and testify
5 on their behalf. Two of the
6 contractors were recently listed in the
7 Philadelphia Business Journal on the
8 list of minority contractors. The top
9 25, Lou Terrado (sp?) is listed as
10 number 18, and Al Brown from Complete
11 Ironworks is listed as 23.

12 And one of the things, when
13 you read the list of the attendees that
14 were here that were supposed to speak
15 today, a lot of them were union
16 officials. And, you know, I have the
17 distinct experience of having been a
18 union member, a union contractor, and
19 an advocate, and I also worked with
20 developers.

21 One of the things we have --
22 we're talking about different --
23 different -- I guess different agencies
24 when we look at this payment thing.
25 We're talking about the City on one

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2 end, where people are direct
3 contractors. On the other end, we're
4 talking about subcontractors who are
5 second-tier subs of contractors who are
6 working for agencies or projects that
7 funded by agencies.

8 What the union guys basically,
9 I believe, when you look at the issue
10 of who gets hurt, it's the men. So
11 from the union's perspective, they're
12 here because when a contract is not
13 paid and he doesn't pay his union
14 fringe benefits, then the men and women
15 working on those jobs, their health and
16 welfare fund is not paid.

17 And this is something that
18 each men on the job receives at the end
19 of the month. They receive an
20 accounting of all the hours they
21 worked.

22 So if a contractor is on the
23 job and he's not paid and the man goes
24 to the union steward, at the end of the
25 month, he says, Look, I didn't get my

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2 health and welfare paid from "XYZ
3 Contractor," then they start the
4 process to tell that contractor to pay
5 his fringe benefits.

6 But I think that when you look
7 around this room, when we don't see
8 people here, I don't believe that the
9 word went out to the complainants, and
10 part of that is because now with the
11 change in requirements of the federal
12 government, every union has an LM2 form
13 that they have to complete, and on each
14 one of those forms, list their
15 outstanding accounts receivable. And
16 each one will identify a contractor and
17 what he's behind by.

18 If the staff -- if your staff
19 can access that list and work with the
20 unions, because we get into a -- we get
21 into like, I guess, a privacy thing.
22 You'd have to ask them to come and tell
23 you their reasons, but there's a whole
24 list.

25 And what's really unique is if

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2 you look at these LM forms, depending
3 on which trade you're looking at, some
4 unions, they might have revenues of
5 \$20 million a year. Whatever accounts
6 receivable might be only 500,000.
7 Other unions might have revenues of
8 5 million, and their account
9 receivables could be a million.

10 Well, that's telling me from
11 an informed point of view that those --
12 and some unions could have 35 million,
13 accounts receivable zero. Well, that's
14 telling you they have a hammer there.
15 They don't let anybody on.

16 The other ones are a little
17 more lenient, like maybe the
18 ironworkers. It's just so -- it was a
19 coincidence. I didn't know the
20 ironworkers were coming.

21 But Al Brown from Complete
22 Ironworks, he's an ironworker. He has
23 a union outfit called Imoja (sp?), and
24 he wasn't paid on a project, on a
25 (indiscernible) project that was under

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2 the Redevelopment Authority. So it was
3 actually a coincidence 'cause he wasn't
4 paid on the project.

5 And then Lou Terrado from
6 Terrado Construction, he wasn't paid on
7 a project.

8 So each of them asked me to go
9 to the owner and talk to the owner
10 about paying 'em. If not, then I would
11 talk to the board because most boards,
12 like most Councilmembers, you are
13 concerned about people.

14 But in this particular
15 instance, I went to the president of
16 the company, and I asked him out of
17 respect, because we had a history of
18 protest going back for, you know, like
19 ten years -- he knew that I would
20 protest, he knew that I would get some
21 men, and I'd stand up and protest.

22 So I said out of respect, he
23 once asked me, he said, "Look, Jihad,
24 if you ever have a problem, will you
25 come to me first?" So I kept my word

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2 and I went to him first.

3 I said, Look, I have an issue
4 about two men. One man wasn't -- Lou
5 Terrado wasn't paid for 13 months. Al
6 Brown wasn't paid for almost a year.

7 The issue was whether it was
8 change orders or whether it was they
9 weren't paid yet. It really doesn't
10 matter to the recipient of that money
11 because they did the work, and they
12 have bills.

13 So when I went to the
14 contractor, he paid 'em, but the
15 end-result of that going to them, they
16 got listed on a list where they're not
17 called anymore for work. They both
18 have come to me with that and said,
19 Well, you know, even though the guy has
20 paid us -- and this must be six or
21 seven months where they used to be
22 solicited all the time, now they're not
23 solicited. So whatever you do, there's
24 going to be -- you have to show aware
25 that some people will retaliate against

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2 that.

3 But when the Councilwoman
4 asked how are people affected? The men
5 are not paid, taxes are not paid. But
6 unlike any other agency, if you don't
7 pay your federal taxes, you only have a
8 limited amount of time, because if you
9 don't pay 'em, the government will move
10 against you.

11 But in the meantime, before
12 that action is taken, when they put a
13 lien on you, more than likely, the
14 unions will see that lien listed in the
15 Federal Register, so they will take you
16 to court, and they'll show up with --
17 whether you're a Hispanic, they'll up
18 with a Hispanic attorney. They'll show
19 up with somebody. If you're a female,
20 they'll show up with female attorneys,
21 somebody to take you to court to get
22 their wages.

23 And then as a result, your
24 credit is hurt and then you
25 subsequently go out of business.

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2 And, unfortunately, you know
3 nobody's proud -- nobody's happy to
4 talk about their failures, but I'm here
5 today to tell you that prior to me
6 doing all of these other things, I was
7 a union contractor at a union contract
8 company.

9 And one of the ways that -- I
10 told you earlier in my previous
11 testimony, when I got out of the
12 service, I was a veteran, and I had
13 worked in construction, but I wanted to
14 stay in construction but I wanted the
15 union.

16 But then, back then, your
17 father, Councilman Goode, was the
18 mayor, and he had an aggressive plan
19 for inclusion. And as a result of his
20 plan, he wanted opportunities created.

21 And we used to have a woman in
22 one of the agencies at the
23 Redevelopment Authority. Her name
24 escapes me now. But there was a
25 project and someone had listed me -- a

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2 developer at the time had listed me on
3 the contract to participate, but they
4 never called me, but the agency sent me
5 a notice that I was listed.

6 I believe the name just came
7 to me. It was Gwen Campbell for OHCD.
8 She called me and asked me, was that
9 true? And I said yes, it was. She
10 said -- she held up a million dollars
11 until they got me in a meeting. Within
12 24 hours, I was meeting with the
13 corporate officials.

14 I came down to City Council
15 because they said, Well, look, we'll
16 let you in the union, but you got to
17 get somebody to help you. I came down
18 to this Council Chamber, and some
19 Councilmembers were present.

20 They were having a meeting,
21 but one of the officials from one of
22 the unions was here and he saw me, and
23 he took care of my problem and I was in
24 the union.

25 So as I got in the union, one

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2 of the things that affected me later on
3 down the road, maybe about ten years
4 later, I was on a project -- I think
5 the Shriners Hospital. The contract --
6 we were a second-tier contractor, and
7 how that affects second-tier
8 contractors is, if you're the owner and
9 you hire a company, that company has a
10 direct relationship with you. The
11 subcontractor doesn't; he has a direct
12 relationship with his contractor 'cause
13 he's a second-tier sub.

14 So he can't come to you to
15 complain to you. He has to go to his
16 contractor, who he has a direct
17 contractual relationship with, so
18 they're left out of the loop.

19 And most contracts with
20 subcontractors on, when we look at
21 union, non-union, there's a clause in
22 the contracts that say "paid when
23 paid," like one of the previous people
24 testified.

25 And if you look, we ask, Well,

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2 how do we get around that? Well, if
3 you look -- you know, I once told my --
4 like I have some children like, and I
5 remember telling my son, it's nothing
6 that you could come up with that I
7 haven't faced or somebody else in this
8 family hasn't faced.

9 Well, that's equally true on
10 this legislative thing. There's
11 nothing that we can come up with that
12 this legislative body or people that
13 have preceded you didn't face.

14 So I was looking at some of
15 the previous issues when I researched
16 that case on the Bechtel decision, and
17 one of the things I came across was the
18 contractors improvement law, which is a
19 State act.

20 And that act -- there's some
21 language in the act that says that
22 contractors cannot include in their
23 language where people can give away
24 their rights, like the right to sue,
25 the right to file liens, that kind of

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2 stuff. And that passed legislation.

3 Well, we need that type of
4 language for contractors and
5 subcontractors 'cause they need to have
6 their rights and they need to have the
7 avenues to pursue their rights.

8 Earlier, one of the previous
9 people testified and said, Well, do you
10 think that there's a strategy? Well,
11 that's a yes to that, because sometimes
12 it is a strategy, because most
13 businessman, depending on who we're
14 talking to, from the owner's
15 perspective, well, the strategy is,
16 they can beat up on the little guy,
17 because the little guy, unlike the
18 previous person who testified, they
19 can't go to court, because not only are
20 you going to court for one person, if
21 it was a person that's not paid, they
22 have to fight the union, they have to
23 fight the contractor, and more than
24 likely, they have to defend their self
25 against the Internal Revenue Service.

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2 So their legal challenge is really
3 steep.

4 So -- and then, you know, when
5 you really look at this contracting
6 thing, most subcontractors fund the job
7 because they're not paid until they've
8 already been in the job 30 or 60 days,
9 and then after an initial point,
10 they're paid every 30 days. Well,
11 they're funding a job so their money is
12 at risk.

13 Now you have, you know, an
14 unethical developer or a contractor to
15 come along, and he says, Well, you
16 know? I got all this money. It's 10
17 percent of this money, maybe a hundred,
18 200,000 that's just sitting. If I can
19 make this guy default, then I'll have
20 all that, I'll come and I'll finish it
21 for maybe 50 or 75, and I got all the
22 surplus.

23 And no matter what contractor
24 you look at -- now, I'm familiar with a
25 contractor out in the 52nd Street area

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2 that's doing a project, and he's up
3 against tremendous odds because he's
4 trying to reorganize and get some
5 things done, but all it takes is one of
6 those -- somebody to get the word to
7 that developer to hold up that payment,
8 because if they hold up his payment, he
9 won't be able to pay everybody
10 underneath of him, and then he's in
11 such a precarious situation that people
12 will move against him, and he'll have
13 no recourse.

14 So one of the things I think
15 Council has to look at, you really have
16 to look at each different agency
17 separately and come up with a strategy.
18 So if you're talking about one of these
19 municipal authorities, what can you put
20 in there, because they're
21 self-governed. And if you can
22 coordinate with some of the other
23 agencies who have legislative authority
24 like the Pennsylvania minority business
25 agency up in Harrisburg or maybe some

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2 of the other agencies that may have
3 more leverage, then we can get this
4 thing addressed.

5 But there also should be, like
6 we talked about earlier, like an
7 advocate. Like this Council maybe
8 should have an advocate that can keep
9 this Council informed.

10 You know, one thing came to me
11 when you talked earlier, one of the
12 people testified and they said, well --
13 they talked about the stadium. One
14 thing that came out of the stadiums --
15 I'm not sure if you all were in Council
16 then, but this Council had went through
17 great lengths to get inclusion.

18 Well, what the developer did
19 was, he signed an agreement with an
20 agency to provide the documentation to
21 this Council. When this agency was
22 called back in front of Council to
23 answer questions about inclusion,
24 agency said, "I'm sorry. That's
25 proprietary." And because of that, you

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2 couldn't gets the information that you
3 authorized.

4 So we have to be mindful.

5 Like I said earlier, there's history
6 here. All we have to do is be mindful.
7 We have to get more on this issue of
8 pay, we have to get more in touch with
9 the complainants, because if you or
10 your staff -- and if they don't know,
11 I'll show 'em how. You can pull out
12 every LM report that was submitted as
13 of 2005. Most of them are available
14 now. And you can get every person who
15 potentially owes these unions, and you
16 can get them in to tell you what some
17 of the difficulties they may have
18 faced.

19 But you're definitely on the
20 right track, because without paying
21 people, we affect everything. We put
22 businesses out, we eliminate that whole
23 opportunity to provide examples for
24 other people who can pursue a lucrative
25 business, 'cause this is the last

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2 frontier.

3 When you look at construction,
4 construction is the last frontier where
5 you can really get ahead based on your
6 ability and the sweat off your brow.
7 You don't have to have a high school
8 education, you don't have a college
9 degree; all you have to do is have is
10 ability.

11 And that's really true for
12 entry into any one of these trades, so
13 you can go from being a high school
14 dropout, get into one of these trades,
15 and you can make 75 to \$80,000 a year
16 just being a member on a crew.

17 So, you know, this Council,
18 you really -- and like I told you all
19 earlier, you have a tremendous task
20 ahead of you, but nothing in this
21 country ever began with a big effort;
22 it started with a small group of
23 dedicated people just like yourselves.
24 So I think you can do it, but you just
25 got to, you know, like they say, put

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2 your mind to it.

3 COUNCILMAN GOODE: Thank you.

4 Any questions for this

5 witness?

6 (No questions.)

7 COUNCILMAN GOODE: Is there

8 anyone else to testify?

9 (No response.)

10 COUNCILMAN GOODE: Let me note

11 for the record that Councilwoman

12 Blackwell was also in attendance today.

13 The hearing on Resolution

14 070106 is recessed to the call of the

15 Chair.

16 This concludes our public

17 hearing and public meeting. Thank you

18 to committee members. Thank you,

19 Councilman Rizzo.

20 This concludes our meeting.

21 (Proceedings end at 4:45 p.m.)

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I HEREBY CERTIFY that the

proceedings of the City of Philadelphia

Council Committee on COMMERCE and ECONOMIC

DEVELOPMENT are contained fully and

accurately in the stenographic notes taken by

me on Monday, March 12, 2007, and that this

is a true and correct statement of same.

JOSEPHINE CARDILLO
Registered Professional Reporter

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