COUNCIL OF THE CITY OF PHILADELPHIA

COMMITTEE ON COMMERCE AND

ECONOMIC DEVELOPMENT

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Room 400, City Hall
Philadelphia, Pennsylvania
Thursday, November 15, 2007
1:15 p.m.

- - -

PRESENT:
COUNCILMAN W. WILSON GOODE, JR., CHAIR
COUNCILMAN DARRELL L. CLARKE
COUNCILMAN FRANK DiCICCO
COUNCILWOMAN DONNA REED MILLER
COUNCILWOMAN BLONDELL REYNOLDS BROWN
COUNCILMAN FRANK RIZZO

BILL 050950 - An ordinance amending Chapter 17-1000 of The Philadelphia Code, entitled "Employment of Low- and Moderate-Income Persons by City Contractors"...

BILL 070684 - An ordinance amending Title 17 of The Philadelphia Code, entitled "Contracts and Procurement," by enacting a new Chapter 17-1500, entitled "Philadelphia Fair Criminal Record Standard"...

RESOLUTION 070741 - Resolution authorizing the Committee on Commerce and Economic Development to hold hearings to review the annual disparity study...

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COUNCILMAN GOODE: Good afternoon. This hearing is called to order. This is a public hearing of the Committee on Commerce and Economic Development on Resolution No. 070741 and Bill No. 050950 and No. 070684. My name is W. Wilson Goode, Jr., Chair of the Committee.

I note that a quorum is actually present, but a quorum is no longer necessary. We will only be hearing the resolution today.

The title of Resolution No. 070741, authorizing the Committee on Commerce and Economic Development to hold hearings to review the annual disparity study and City contract participation goals released by the Finance Department pursuant to Title 17 of The Philadelphia Code.

Bill No. 050950 is not being heard today at the request of Councilman DiCicco, who requested the hearing originally, and Bill No. 070684 is now

also being held at the request of the sponsor, Councilwoman Miller.

Our first panel for the resolution is MBEC and Econsult.

Let me note for the record Committee members present: Councilman DiCicco, Councilman Rizzo, Councilman Clarke was here and left the room. The other Councilmembers and Committee members are on their way. Councilwoman Miller was here as well, who will return.

Please state your name for the record.

MS. NICHOLS: Yes. Good afternoon, Councilman Goode. My name is Carolyn Nichols. I'm the Director of the Minority Business Enterprise Council and Deputy Director of Finance.

MR. MULLIN: Good afternoon, Chairman. My name is Steve Mullin, M-U-L-L-I-N, with Econsult Corporation.

MR. HUANG: Lee Huang, H-U-A-N-G, Econsult Corporation.

COUNCILMAN GOODE: Thank you.

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Ms. Nichols, will you be presenting the action plan that you submitted?

MS. NICHOLS: Yes.

COUNCILMAN GOODE: Thank you. Please proceed.

MS. NICHOLS: I thought it was important to present the action plan as part of the resolution's inquiry into the preparation of the participation goals that were presented in the third quarter FY07 report. It's part of our discussion of how -- not only how the FY08 participation goals were presented, but also how we intend to present the annual participation goals going forward and also in response to concerns that have been raised of late by the Controller's Office and others in terms of how the M/W/DSBE participation report is developed and so forth. So I thought it was important to set this forth. I appreciate your patience in allowing me to give this to you on such late notice.

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But just to go through it very briefly, within the next two to three weeks, we intend to accomplish a complete and thorough review of the participation report numbers that were presented in the FY06 report, FY07 third quarter report and soon-to-be-released fourth quarter FY07 report, and this review and verification will become part; in other words, will become an addendum, to the FY06 annual disparity study that's already been submitted to Council.

This step is crucial in order for the City to verify and validate the City's actual utilization of M/W/DSBEs in City contracts, which serves as the baseline for the City's anti-discrimination policies and the methodological cornerstone of the City's remedial actions, including disparity studies.

If the City's participation numbers are perceived as not credible, then all or any of the

anti-discrimination strategies through MBEC or any other City agency is rendered ineffective and suspect as a practical reality.

As part of the addendum, Econsult would also include a goal-setting report, which will serve as a policy guideline for the office of Director of Finance and MBEC to establish the City's annual participation goals that are required by relevant City Council legislation and could also be incorporated in setting M/W/DSBE participation goals in individual City contracts.

The Commonwealth of Pennsylvania has adopted this methodology, and we believe that the City can benefit from using this methodology to establish credibility and believability in the City's annual participation goals, as well as the entire M/W/DSBE participating goal-setting process that serves as the

basis for MBEC's participation reports and M/W/DSBE utilization strategies.

Upon the completion of this review and findings, I intend to set up a briefing at your convenience that would include City Council representatives, the Controller's Office and any other appropriate stakeholders that want to get involved with us, at which the findings of the Econsult review will be presented. Certainly questions can be asked. The report can be amended based on these discussions, and Econsult's final report will be attached as an addendum to the FY2006 annual disparity study and released to the public and be made available on the City's website.

It's crucial that the integrity of the City's participation numbers, which serves as a baseline for everything that we do at MBEC in terms of the anti-discrimination policies, must be established. So that's why we felt it was compelling that we set this process

in motion before Christmas, before the end of this Administration and the commencement of a new Administration.

So we look forward to your office participating, all of Council participating with us to clarify the participation numbers so that we can all be on the same page and understand going forward what we need to do and where we're going.

COUNCILMAN GOODE: Thank you for your testimony, Ms. Nichols.

Let me note for the record that Councilwoman Blondell Reynolds Brown, a member of the Committee, is also present.

Ms. Nichols, let me begin by stating for the record, the Minority Business Enterprise Council has released several different documents that are available on their website related to participation: a new glossy piece telling about the record of the Street Administration over the last seven, eight years; a disparity study that was done by

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Econsult; a report up to the third quarter of Fiscal Year 2007; and a report dealing with Fiscal Year 2006. I would like to begin questioning regarding some of the participation numbers and goals set within those documents before Econsult presents their testimony.

And I would note to the Committee members that copies of the goals for Fiscal Year 2008 can be found in the packets.

Let me start with the first question, Ms. Nichols. What participation goal was set for disadvantaged businesses, DBEs, for Fiscal Year 2007?

MS. NICHOLS: In 2007, FY2007, the goals were not set in the same manner that they were for FY08 pursuant to the legislation 060855-A. So typically the goals were established department by department. So as you go through the detail, you'll see the goals were set in that manner, and what we found --

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COUNCILMAN GOODE: So there was no overall goal for participation of disadvantaged businesses in City contracting for Fiscal Year 2007?

MS. NICHOLS: That's correct, other than the Mayor's articulated goal of 25 percent. So we found that to be effective in implementing the legislation 060855-A, it made sense to have citywide goals, which probably should have been done all along, quite frankly. But in the past, the goals were always set departmentally, and in the report you would show the goals of the reporting fiscal year, you would show what was achieved in the past fiscal year and you would show what the prospective goal was for the upcoming fiscal year. But it was always done and broken out by department.

COUNCILMAN GOODE: Let me ask the question a different way, and if we can stick to the answers to the question, that would make it a lot easier and it would go a lot smoother.

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You stated the Mayor's goal of 25 percent, but aside from the fact that there are mandated goals that are set now or there's a mandate that goals be set, as leader of the Minority Business Enterprise Council, in the last fiscal year, which just ended on June 30th, what percentage of contract dollars was supposed to go to businesses that were not owned by white men?

MS. NICHOLS: I'm not sure what you mean by "was supposed to go."

COUNCILMAN GOODE: As leader of MBEC, during the last fiscal year, from July 1, 2006 to June 30, 2007, what percentage of contract dollars were supposed to go to businesses that were not owned by white men?

MS. NICHOLS: Okay. As leader of MBEC, I adopted the goal that was set forth by the Mayor, which was 25 percent. So we sought to achieve that goal. So it would have been 25 percent of -- I believe FY07 was 539 million awarded

contracts during that year. So the goal, if you will, even though it wasn't formally stated as such, the goal that we were targeting would be to achieve 25 percent awarded contracts for that year be awarded to non-majority companies.

COUNCILMAN GOODE: So if I ask the question in reverse, as leader of MBEC, during the last fiscal year, what percentage of business were you expecting to go to businesses owned by white men?

MS. NICHOLS: I thought I just said we were targeting the 25 percent.

COUNCILMAN GOODE: That's not the question I asked. I asked the question in reverse. So your anticipation in the last fiscal year was what percentage of business was actually supposed to go to businesses owned by white men?

MS. NICHOLS: No. Our goal was at 25 percent of the City's awarded contracts --

COUNCILMAN GOODE: You're not

listening. The question is, what percentage was supposed to go to businesses owned by white men.

MS. NICHOLS: Were supposed to go?

COUNCILMAN GOODE: Yes.

MS. NICHOLS: I'm not -- maybe I'm missing it. I'm not following exactly what you're saying. As I understand your question, and you can certainly -- and this is how I understand your question. As I understand it, what you're asking me --

COUNCILMAN GOODE: Disadvantaged businesses are businesses that are not owned by white men.

MS. NICHOLS: Right.

COUNCILMAN GOODE: The other businesses are owned by white men.

MS. NICHOLS: Right.

COUNCILMAN GOODE: What percentage of total contract dollars were supposed to go to businesses owned by white men in the last fiscal year?

MS. NICHOLS: I'm not clear on what you mean by "was supposed to go."

COUNCILMAN GOODE: You're the head of MBEC.

MS. NICHOLS: What we do is target --

COUNCILMAN GOODE: And you set a goal --

MS. NICHOLS: What we do is target the goals.

COUNCILMAN GOODE: You're head of MBEC, right?

MS. NICHOLS: Yes.

COUNCILMAN GOODE: And you set a goal for businesses not owned by white men.

MS. NICHOLS: Not owned.

COUNCILMAN GOODE: And so you assume the rest is going to businesses owned by white men; is that correct?

MS. NICHOLS: No, not necessarily. The target -- let me explain. The target that we deal with at MBEC is 25 percent to certified

businesses. Now, as Econsult, the disparity study and the DJ Miller disparity study has shown, there are also non-white businesses that do business with the City that are not certified, and those businesses also do business with the City.

COUNCILMAN GOODE: My question is about contract dollars. In terms of contract dollars, what percentage of contract dollars were you expecting to go to businesses owned by white men in the last fiscal year? It's an honest, direct, simple question.

MS. NICHOLS: I guess my answer is, I wasn't -- I'm not -- as leader of MBEC, I wasn't planning or expecting -- that isn't the focus of what I do. So I guess you could say that if I'm expecting 25 percent of businesses to go to MBEC certified firms, then the converse of that would be that 75 percent would be to majority companies, if you look at it that way. Because I was targeting what

non-majority companies are getting.

COUNCILMAN GOODE: You took a long time to get there.

The DBE goal --

MS. NICHOLS: I mean, it's not that what I expected.

COUNCILMAN GOODE: You took a long time to get there.

MS. NICHOLS: All right. All right.

COUNCILMAN GOODE: The DBE goal for Fiscal Year 2008 is 32 percent; is that correct?

MS. NICHOLS: Yes.

COUNCILMAN GOODE: Why?

MS. NICHOLS: What we did was, utilizing the legislation, we looked at the present availability of the qualified DBE firms. We looked at the participation on past contracts. We looked at a forecast of eligible contracts to be awarded within the fiscal year, and we looked at the latest annual disparity study, which recommended a goal

of somewhere in the neighborhood of 19 to 25 percent. We also looked at the DJ Miller disparity study which had been previously prepared that looked at -- that talked about a range of somewhere in the 20's, in that range.

We looked at all of those factors and determined that based on those factors, 32 percent would be a goal that we could articulate for the third quarter, and as I've discussed with you previously --

COUNCILMAN GOODE: Ms. Nichols --

MS. NICHOLS: -- we always had the expectation --

COUNCILMAN GOODE: Ms. Nichols --

MS. NICHOLS: I just want to finish. Let me finish, please.

COUNCILMAN GOODE: Actually, I'm not going to let you finish.

MS. NICHOLS: All right.

COUNCILMAN GOODE: I'm going to

ask a simple question, because you're giving me long statements on every question I ask you and you're not getting to the point. We're going to spend a whole lot of time here we don't need to spend here, because these are very simple questions that require very simple --

MS. NICHOLS: Those are the factors I looked at to come up with those numbers.

COUNCILMAN GOODE: My question is, how can you achieve 32 percent during this fiscal year if you couldn't achieve 25 percent in the last fiscal year?

MS. NICHOLS: Well --

COUNCILMAN GOODE: Simple question.

MS. NICHOLS: I believe that we can achieve it.

COUNCILMAN GOODE: Could you achieve 32 percent last year?

MS. NICHOLS: I believe we could have, yes.

COUNCILMAN GOODE: Why didn't

you?

MS. NICHOLS: We didn't achieve it because we didn't -- the City didn't do everything that we needed to do to achieve it. But it is achievable. Thirty-two percent is achievable. Twenty-five percent is achievable.

COUNCILMAN GOODE: Thank you.

MS. NICHOLS: It is.

COUNCILMAN GOODE: Simple answers.

MS. NICHOLS: It is. It's achievable.

COUNCILMAN GOODE: Why is the goal for African-American-owned businesses only ten percent of all contract dollars?

MS. NICHOLS: What I did -- and this is what I did in setting the goal -- the MBE goal overall was 20 percent. In looking at the factors I just explained to you, historically African-American firms have all performed at the level of about 50 percent of the MBE goal. We

also looked at the performance level for the third quarter report for FY07, which I included to you -- which is included in the FY07 report --

COUNCILMAN GOODE: So the goal --

MS. NICHOLS: -- which showed about a seven percent participation.

COUNCILMAN GOODE: So the African-American goal was set at 50 percent of the MBE goal?

MS. NICHOLS: That's about what we were looking at. And we also looked at what was achieved.

COUNCILMAN GOODE: I'm asking how you made the decision.

MS. NICHOLS: I'm trying to answer. That's what we looked at and we considered. Those are the factors that we looked at.

We also understood that this is our first time at doing this. This is the first time in the history of MBEC that we've broken out the ethnic groups.

So this is the third quarter report. We knew that we would have another opportunity in the fourth quarter report to look at the numbers and review them and set them again.

COUNCILMAN GOODE: Ms. Nichols, I am trying to be patient and I want to be nice, and I told Councilman Clarke, I promised him, that I'm going to try to be nice.

MS. NICHOLS: I'm trying to tell you the truth.

COUNCILMAN GOODE: Stop being defensive, answer the questions very simple. The first question I asked you was, what was the goal for 2007, fiscal year 2007. The answer was 25 percent.

MS. NICHOLS: Yes.

COUNCILMAN GOODE: The second question I asked you was, what percentage of contract dollars were supposed to go to businesses not owned by white men. The answer is 25 percent.

MS. NICHOLS: Yes.

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COUNCILMAN GOODE: The question is, what percentage was supposed to go to businesses owned by white men. The answer is 75 percent.

The next question was the DBE goal for Fiscal Year 2008 is 32 percent. The answer is yes. Why? Because that's what we determined it could be. I asked you is 32 percent achievable if you couldn't achieve 25 percent the year before. You said yes.

Now my question is simply, why did you set a ten percent goal for African-American-owned businesses? You began to say that you set the goal because historically African-American businesses have only received half of what minority businesses have received and that's why you set the goal. Now, if that's why you did it, just say that's why you did it and we can move on.

MS. NICHOLS: Well, that was one of the factors, Councilman. That wasn't the sole factor. That was one of

the factors.

COUNCILMAN GOODE: I just want to know why you did it, and only you know, so tell me.

MS. NICHOLS: I'm trying to tell you, but you -- that was one of the factors. That was one of the factors. We also looked at the -- just as the legislation says, we looked at the forecast, we looked at what the performance was in the past contract, we looked at the performance during the third quarter, and that's how I came up with it. And I also said that it was part of my intent to put these numbers in the third quarter report, review them and then revise them as need be for the fourth quarter.

COUNCILMAN GOODE: That has nothing to do with the ten percent goal. Why did you set the ten percent goal?

MS. NICHOLS: I just said it.

COUNCILMAN GOODE: Because it's half of the minority goal?

MS. NICHOLS: That's part of it.

COUNCILMAN GOODE: What's the other part? I'll let you talk, but you have to talk about what we're talking about, which is why you set the ten percent goal.

MS. NICHOLS: I am talking about what we're talking about. We looked at the performance of African-American firms in the third quarter. We have the numbers in the third quarter report. That was a factor that I looked at in determining the goal.

COUNCILMAN GOODE: So what was achieved in Fiscal Year '07 in terms of African-American-owned businesses?

MS. NICHOLS: It was about seven percent for the third quarter.

COUNCILMAN GOODE: So African-American-owned businesses received seven percent of contract dollars in Fiscal Year '07. So you set a ten percent goal for Fiscal Year '08,

which you believe is consistent because African-Americans have only received about half of what minority businesses have received. So are you saying that while you say that 25 percent DBE participation is possible, 32 percent DBE participation is possible, what is possible in terms of African-American-owned participation?

MS. NICHOLS: I believe --

COUNCILMAN GOODE: Is it seven percent? Is it ten percent? Can it go higher than ten percent? Just tell me.

MS. NICHOLS: We can go higher than ten percent.

COUNCILMAN GOODE: Then why didn't you?

MS. NICHOLS: My plan -- because it's an incremental approach. My plan is to double the participation goals within the next two to three years. I believe that African-American firms can perform at the level of 15 percent to 20 percent, consistent with the data that we

have with the various disparity studies, and I intend to build up to achieve that.

COUNCILMAN GOODE: My question is, for Fiscal Year 2008, what is achievable in terms of participation by African-American-owned businesses?

MS. NICHOLS: Well, I believe the ten percent is achievable.

COUNCILMAN GOODE: Is 15 percent achievable in Fiscal Year 2008?

MS. NICHOLS: It's possible, yes.

COUNCILMAN GOODE: Is 20 percent achievable?

MS. NICHOLS: It's possible, but I would say 15 percent is achievable, I believe, based on --

COUNCILMAN GOODE: Is 20 percent achievable?

MS. NICHOLS: It could be, yes.

COUNCILMAN GOODE: Is 25 percent achievable.

MS. NICHOLS: I think that may be above the -- it's possible, yes, it is

possible, based on professional services.

COUNCILMAN GOODE: Is 30 percent achievable? You know I'm going to keep going until you stop.

Is 30 percent achievable?

MS. NICHOLS: It's possible, yes.

COUNCILMAN GOODE: Is 35 percent achievable?

MS. NICHOLS: That I'm not sure of. I think there we may have outstripped the utilization data I've looked at.

COUNCILMAN GOODE: So 30 percent participation is achievable for African-American-owned businesses, but your overall DBE goal was 32 percent?

MS. NICHOLS: The overall DBE goal at least that I set for the third quarter was 20 percent. The overall goal was 32 percent. Oh, yes, you're right. It's 32 percent. I'm sorry. Yes, 32 percent.

COUNCILMAN GOODE: I'll ask the

question again. So 30 percent participation by African-American-owned businesses is achievable in Fiscal Year 2008, but your overall goal for all DBEs, African-Americans, Latino, women, disabled, is only 32 percent?

MS. NICHOLS: In your questioning you asked me if it was possible, and I said yes.

COUNCILMAN GOODE: Okay.

MS. NICHOLS: Now, the goal that I set at 32 percent, I wanted to hit something that we could achieve, we could hit as a threshold. We can certainly exceed -- we could always exceed the goal. The goal is only a threshold. And I set the 32 percent as an achievable goal that we can hit. But your questions to me was is it possible to hit higher. Yes.

COUNCILMAN GOODE: Did you exceed the 25 percent goal for last year?

MS. NICHOLS: No. We hit 21.34. So we didn't quite make it. We

were about three points away.

COUNCILMAN GOODE: But you probably came close to 25 percent?

MS. NICHOLS: Yes, we did.

COUNCILMAN GOODE: Because you set a 25 percent goal.

MS. NICHOLS: Correct. Yes.

COUNCILMAN GOODE: So if the goal was 32 percent for all disadvantaged businesses but 30 percent you say is achievable by African-American-owned businesses, should the overall goal be higher?

MS. NICHOLS: The overall goal can be higher. Yes, it can be.

COUNCILMAN GOODE: And should the African-American goal be higher?

MS. NICHOLS: Yes, it can be.

COUNCILMAN GOODE: Why isn't the African-American goal higher? Why is the African-American goal ten percent?

MS. NICHOLS: I set the goal based on the factors that I discussed. It was our first attempt at this. I put

it in here. I knew it would be reviewed and discussed, and I can always amend it for the fourth quarter. It was never my intention for it to be in stone and that's it.

COUNCILMAN GOODE: We have established that you set a ten percent goal for African-Americans, but 30 percent is achievable, in your mind. So let's move on --

MS. NICHOLS: It could be. Okay.

COUNCILMAN GOODE: Let's move on to women.

Why is the goal for women-owned businesses only ten percent of total contract dollars?

MS. NICHOLS: Say it again.

COUNCILMAN GOODE: Why is the goal for women-owned businesses only ten percent of total contract dollars?

MS. NICHOLS: There again, it was based on the same factors that I discussed regarding African-American

firms. I looked at the performance of women-owned businesses, as I discussed, and that's how I came up with the number for each of the categories.

COUNCILMAN GOODE: So what was achieved in Fiscal Year '07?

MS. NICHOLS: In Fiscal Year '07, it was about -- I think it was close to seven percent.

COUNCILMAN GOODE: For women-owned businesses?

MS. NICHOLS: It was about the same as the African-American business firm. It was about the same.

COUNCILMAN GOODE: So the goal was ten percent, but what percentage of participation could women-owned businesses achieve in Fiscal Year 2008? Is it higher than seven percent?

MS. NICHOLS: It could always be higher than seven percent.

COUNCILMAN GOODE: Is it higher than ten percent?

MS. NICHOLS: It could be.

COUNCILMAN GOODE: Could women-owned businesses achieve 15 percent of total contract dollars?

MS. NICHOLS: They could, yes.

COUNCILMAN GOODE: Could they achieve 20 percent of total contract dollars?

MS. NICHOLS: Now, 20 percent I think we would hit maybe a utilization -- availability may be a problem, could be an issue there.

COUNCILMAN GOODE: So 20 percent for women?

MS. NICHOLS: It's possible.

COUNCILMAN GOODE: So so far we're at possibly 30 percent for African-Americans and 20 percent for women.

MS. NICHOLS: As a possibility.

COUNCILMAN GOODE: That's 50 percent, isn't it?

MS. NICHOLS: Yeah. As a possibility, yes.

COUNCILMAN GOODE: Okay.

MS. NICHOLS: There's a difference between achievability and --

COUNCILMAN GOODE: Do you actually believe that African-Americans and women can receive 50 percent of contract dollars?

MS. NICHOLS: I believe that they should receive 50 percent and they can receive it.

COUNCILMAN GOODE: I'm talking about for Fiscal Year 2008. Do you actually believe that African-Americans and women can achieve 50 percent participation in terms of all contract dollars?

MS. NICHOLS: They can, yes.

COUNCILMAN GOODE: Okay.

MS. NICHOLS: It's possible.

COUNCILMAN GOODE: What percentage of Philadelphia businesses are owned by African-Americans?

MS. NICHOLS: It's --

COUNCILMAN GOODE: What percentage of Philadelphia businesses are

owned by African-Americans?

MS. NICHOLS: I believe it's -- I have that information right here.

COUNCILMAN GOODE: You don't know off the top of your head?

MS. NICHOLS: I do, but it kind of faded. I have it right here. And I have the latest census data that I have available for 2004.

Approximately 9,285 of the 62,894 businesses in Philadelphia County are African-American-owned. It's about 14.8 percent of the region's businesses.

COUNCILMAN GOODE: I didn't ask the region. I asked what percentage of Philadelphia businesses are owned by African-Americans.

MS. NICHOLS: Philadelphia County I have 14.8 percent. That's the only data -- that's the data that I have, unless you have different numbers.

COUNCILMAN GOODE: And how many black-owned businesses are there in Philadelphia?

MS. NICHOLS: It's 9,285.

COUNCILMAN GOODE: And 9,285?

MS. NICHOLS: Correct, of approximately 62,894 businesses.

COUNCILMAN GOODE: And how many black-owned businesses are certified?

MS. NICHOLS: It's about 50 percent of the directory. It's probably a little under a thousand. It's about 50 percent of the directory is African-American-owned businesses. The directory is currently 1,200. So it's probably, I would say, about a thousand. It's about 50 percent of 1,200.

COUNCILMAN GOODE: I'm sorry. Let me rephrase the question, because the question is actually in the context of Philadelphia businesses. How many black-owned businesses in Philadelphia are certified?

MS. NICHOLS: Of the thousand approximately -- and I don't have the exact numbers in front of me. Of the African-American businesses that are

certified -- I don't have the exact number right in front of me. I can certainly get it to you, but most of those businesses are in the Philadelphia County region by far, and I can get the precise number to you. I don't have it in front of me.

COUNCILMAN GOODE: So there are about 9,285 black-owned businesses in Philadelphia, and roughly how many are certified?

MS. NICHOLS: About half of our directory. I'll just say a thousand, give or take.

COUNCILMAN GOODE: A thousand is kind of high, but if you want to say --

MS. NICHOLS: All right. 900, then.

COUNCILMAN GOODE: If you want to say a thousand, I'll take --

MS. NICHOLS: It's about 50 percent of our directory is African-American-owned businesses.

COUNCILMAN GOODE: Philadelphia African-American-owned businesses.

MS. NICHOLS: Yes, Philadelphia African-American-owned.

COUNCILMAN GOODE: I'll dispute that number later on.

MS. NICHOLS: All right. Well, I'll get the precise number to you.

COUNCILMAN GOODE: What percentage of Philadelphia businesses are owned by women?

MS. NICHOLS: Women-owned businesses total 13,890, or 22 percent.

COUNCILMAN GOODE: Twenty-two percent.

MS. NICHOLS: Correct.

COUNCILMAN GOODE: Twenty-two percent of Philadelphia businesses are owned by women?

MS. NICHOLS: Yes. That's what the U.S. census says.

COUNCILMAN GOODE: How many women-owned businesses are there in Philadelphia?

MS. NICHOLS: Thirteen thousand eight-ninety is what I have.

COUNCILMAN GOODE: Thirteen thousand?

MS. NICHOLS: Eight-ninety.

COUNCILMAN GOODE: And how many women-owned businesses, Philadelphia women-owned businesses, are certified?

MS. NICHOLS: About 30 percent of the businesses in the MBEC directory are women-owned businesses, about 30 percent. Now, in that 30 percent, that also includes minority women as well. So there could be an overlap between the African-American and --

COUNCILMAN GOODE: What percentage of Philadelphia women-owned businesses are certified? I'm sorry. How many Philadelphia women-owned businesses are certified?

MS. NICHOLS: It's probably -- now, there we have a little bit of a higher number of reciprocals in there. So I'll say -- and I'll get the precise

numbers to you, but I'll say around 70 or 80 percent of those numbers.

COUNCILMAN GOODE: I'm asking how many actually women-owned businesses from Philadelphia are certified.

MS. NICHOLS: That's what I said, about 80 percent of --

COUNCILMAN GOODE: How many, number?

MS. NICHOLS: So 30 percent of 1,200. What's 30 percent of 1,200? About 400. About eighty percent of 400.

COUNCILMAN GOODE: So I'm using your numbers.

MS. NICHOLS: Yeah, using my numbers.

COUNCILMAN GOODE: So the percentage of African-American and women-owned businesses may be as high as 36 percent?

MS. NICHOLS: Say that again.

COUNCILMAN GOODE: The percentage of African-American and women-owned businesses in Philadelphia

may be as high as 36 percent?

MS. NICHOLS: Not African-American-owned businesses. Women-owned businesses.

COUNCILMAN GOODE: Listen. The percentage of African-American and women-owned businesses may be as high as 36 percent?

MS. NICHOLS: Thirty-six percent of our directory? I'm not understanding the 36 percent you're talking about. I'm not following. I'm sorry.

COUNCILMAN GOODE: The percentages of businesses in Philadelphia, the percentage of African-Americans and women-owned businesses may be as high as 36 percent?

MS. NICHOLS: Oh, I see. Yes.

COUNCILMAN GOODE: You said African-American-owned businesses are 14 percent.

MS. NICHOLS: And 22 percent. Correct. Okay. I wasn't following you.

Yes.

COUNCILMAN GOODE: And there are roughly 23,000 African-American and women-owned businesses?

MS. NICHOLS: Yes. The 13,890 and the 9,285 from the U.S. census data.

COUNCILMAN GOODE: So how many African-American and women-owned businesses are certified?

MS. NICHOLS: As I stated, out of our directory, 1,200, about half are African-American, which includes women, and about --

COUNCILMAN GOODE: Just give me the numbers. Just give me the numbers.

MS. NICHOLS: About a thousand African-American, including women, and women-owned businesses are about 31 percent of our directory.

COUNCILMAN GOODE: You really don't understand why I'm frustrated, do you? The only question I asked you was how many black and women businesses are certified in Philadelphia. That's the

question I asked.

MS. NICHOLS: I'm trying to give you the numbers.

COUNCILMAN GOODE: Just give me a number.

MS. NICHOLS: I don't have the precise numbers in front of me, so I'm just estimating. In the women-owned businesses, there are also minority --

COUNCILMAN GOODE: You can take a second, as much time as you want. We'll wait, and then give me a number.

MS. NICHOLS: And you want the number of African-American-owned businesses, women-owned businesses that are certified?

COUNCILMAN GOODE: I want the number of black and women-owned businesses that are certified, the number of black and women-owned businesses in Philadelphia that are certified.

MS. NICHOLS: Okay. Let me take one second to think about it.

About a thousand out of the

1,200 would be African-American-owned businesses, which would include African-American women, and also women-owned businesses, to the exclusion of minority women. So the number I'm getting, I have numbers in front of me from Econsult, would be about a thousand.

COUNCILMAN GOODE: Okay. So these are the numbers we're going to work with right now. These numbers we're going to work with right now. Let's say roughly 36 percent of the businesses are either owned by black people or women, which accounts for about 23,000 businesses, and 1,000 are certified.

MS. NICHOLS: That's about right.

COUNCILMAN GOODE: How many should be certified?

MS. NICHOLS: My target would be, I think -- we're at 1,200 now. Realistically I would say 2,000 firms should be certified, would be the target. Now, that's not saying that more firms

could not be, because just because a business is African-American, women-owned doesn't necessarily want to be certified, but as a target, I would estimate 2,000.

COUNCILMAN GOODE: Let me change the question. Of the 23,000 black and women-owned businesses in Philadelphia, how many could be certified? We've concluded roughly a thousand are certified. How many could be certified?

MS. NICHOLS: Out of 23,000. Well, based on -- and this is an estimation. Based on the pace of the incoming applications that are coming in --

COUNCILMAN GOODE: That is not my question.

MS. NICHOLS: Well, I'm trying to -- because there's no way I can --

COUNCILMAN GOODE: That is not my question.

MS. NICHOLS: -- tell you how many want to be certified.

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COUNCILMAN GOODE: Listen, my question is if there are 23,000 businesses owned by black people and women in Philadelphia and 1,000 are now certified, how many could be certified? That's my question. Could be certified.

MS. NICHOLS: Any number could be certified, Councilman. The certification is voluntary. It's based on the interest of the business. You're asking me to estimate somebody's interest.

COUNCILMAN GOODE: No, I'm not. I'm asking you how many could be certified.

MS. NICHOLS: Any number could be certified. Any number could be certified.

COUNCILMAN GOODE: And you wonder why you have a hard time here.

MS. NICHOLS: Any number could be certified.

COUNCILMAN GOODE: Let me move on. I'm almost finished with you. All

right?

There are 163,000 disadvantaged businesses in the region; is that correct?

MS. NICHOLS: Say again.

COUNCILMAN GOODE: There are 163,000 disadvantaged businesses in the region; is that correct?

MS. NICHOLS: Yes. In the Philadelphia MSA, yes.

COUNCILMAN GOODE: So there are 163,000.

MS. NICHOLS: Correct. Yes.

COUNCILMAN GOODE: How many are certified?

MS. NICHOLS: Well, in our directory there are 1,200 currently.

COUNCILMAN GOODE: So out of 163,000 disadvantaged businesses in the region, 1,200 are certified. How many bid on City work annually?

MS. NICHOLS: Close to 300.

COUNCILMAN GOODE: I think the number is a little bit higher.

How many are awarded City work annually?

MS. NICHOLS: As of our last numbers, how many bid -- let me go back.

COUNCILMAN GOODE: I believe the bid --

MS. NICHOLS: Yeah. I have to apologize.

COUNCILMAN GOODE: I believe the bid number is 500 to 600.

MS. NICHOLS: Yeah.

COUNCILMAN GOODE: And the award is 277.

MS. NICHOLS: Yes. Correct. I'm sorry.

COUNCILMAN GOODE: So let's start over.

There are 163,000 disadvantaged businesses in the region, 1,200 are certified, 500 to 600 bid, and less than 300 are awarded contracts; is that correct?

MS. NICHOLS: Yes.

COUNCILMAN GOODE: So of the

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163,000 disadvantaged businesses within the region, less than 300 are awarded contracts on an annual basis; is that correct?

MS. NICHOLS: Well, in Fiscal Year FY06, yes, that's where the 277 number came from. That number could vary year to year.

COUNCILMAN GOODE: Okay. Of the 163,000 disadvantaged businesses within the region, on average how many are awarded contracts on an annual basis?

MS. NICHOLS: On average, the ratio has been -- this is just a ratio, because I would have to look at each fiscal year, but on the average, I would say that probably only a quarter --

COUNCILMAN GOODE: Is that the same as 300?

MS. NICHOLS: Yeah. It may be a little more than that.

COUNCILMAN GOODE: That was my original question, was --

MS. NICHOLS: It may be a

little more than that some years, Councilman. It could be a little less than that some years. I would have to look at each year, but I think that's probably accurate.

COUNCILMAN GOODE: So it's roughly 300 disadvantaged businesses get contracts every year, roughly?

MS. NICHOLS: Roughly.

COUNCILMAN GOODE: And that's 25 percent of the 1,200 people you have in your directory.

MS. NICHOLS: Correct.

COUNCILMAN GOODE: But there are 163,000 disadvantaged businesses in the region.

MS. NICHOLS: Yes.

COUNCILMAN GOODE: Do you know what the problem with MBEC is?

MS. NICHOLS: Yes.

COUNCILMAN GOODE: There's absolutely no need for you to exist as an agency if all you do is certify and you have the same directory of about a

thousand people and you assume that the same percentages of that same 1,000, 1,200 people in your directory are going to get what they're going to get based upon history, when the bottom line is you have 1,200 businesses certified out of 163,000 in the region. That doesn't make any sense. Can you help that make sense for me?

MS. NICHOLS: It doesn't make sense, and that's why we're moving forward, because it doesn't make sense. You get no argument from me that it doesn't make sense.

COUNCILMAN GOODE: This is where I sit back and allow you to talk fully. I want you to explain to me how the 163,000 disadvantaged businesses in the region, you only have 1,200 certified, and you then claim that there are only certain levels of participation that are achievable by black-owned businesses and by women-owned businesses, knowing that it's because you're only

pulling from the same 1,200 when there are 163,000 businesses out there, when in fact all of them may not want to be certified, all of them may not offer products and services the City can use and/or request. But, clearly, the reason why MBEC doesn't work is because you don't give out the contracts, you only certify the agencies, and you don't do a good job of that. Is that true or not true? I'll let you explain. I'll be quiet for as long as you want me to be quiet.

MS. NICHOLS: Well, I can't dispute anything you've just said. My tenure at MBEC has been to move forward away from what you just said.

Since you're going to let me talk, I'll talk.

When I first came to MBEC, we were so understaffed and underresourced. That's the problem. You want to know why MBEC doesn't work? It doesn't have the resources to work. That's why it doesn't

work. I came in there with a budget level of 22 employees with 13, one staff person in certification. Part of my role in my first six months was to fully staff certification. I came in. Employees were doing what they could with what they have. And that's the MBEC story. MBEC does what it can with what it has. And that's not an excuse. That's been what has happened.

I came in there. There was almost a year's worth of backlogged files that had to be worked through. We worked through that. We were able to hire four staff people immediately. We're nowhere near -- no, we're not near where we need to be to go after the 165,000 you've just talked about. We're not there.

We had to put internal management controls in place to be able to process paperwork so that people aren't waiting for it an inordinate amount of time. We have to install the necessary electronic systems. We are the

only top ten city in the United States that does not have an electronic web-based certification tracking and compliance system. That, sir, is the problem. You know, you cannot run around after 50 application certifications that come in per month, which is about the average. So there's a lot of interest in the program. You cannot complete that certification with four people running around tracing files by hand. That's the problem. So the certification cannot be accomplished adequately. That's absolutely true. Because we don't have the staffing, the resources or the technology to do so, and that's only part of it.

The other part of MBEC staff has to do bid evaluation, set participation ranges with the same problems, with the same understaffing, with the same lack of technology, working with approximately 500 bids that come out per year in supplies, services and

equipment and public works, in addition to professional services contracts. In total in any given city year, you're talking about approximately 5,000 contracts. If you're talking about new contracts, you're talking about amendments and you're talking about renewals.

There is no way that that kind of staffing complement can accomplish certification, bid evaluation reviews, set ranges, do compliance, for which there is no official contract compliance staff to be able to manage the compliance so that we can make sure that contractors are doing what they told us they were going to do. We don't have the staffing. We don't have the technology to be able to do that.

So part of what I've been trying to do to come in there is try to put the mechanisms in place to be able to address exactly what you're talking about.

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I don't have any argument with what you've just said. My charge, as long as I'm being allowed to do it or whatever successor agency there may be, is going to have the same issue. You'll be sitting in front of whoever is going to be at this table next year saying, I have problems with you, just like you're saying you have problems with MBEC. It's going to be the same thing if there's not a commitment to fund, support and resource whatever organization that is in this seat, whatever it may be, to carry out that mission. That is the problem.

I don't have any disagreement with what you've said. I'm out here a couple of dollars short, late and everything else trying to run around to accomplish this. That's been the frustration of what we've been trying to do. That's what my tenure has been about for a year and a half, trying to accomplish a mission short in terms of budget, resources. That's what we've

been trying to do. That's what it's been.

And I'm speaking to you in all sincerity. You can be frustrated with me if you want to, but that's what it is. In all sincerity, we come, all of us -- there are MBEC employees sitting right here that come to the office every day and try to do what they can with what they've got, and that's the bottom line.

COUNCILMAN GOODE: Are you finished?

MS. NICHOLS: Yes.

COUNCILMAN GOODE: Okay. I wanted you to say everything you wanted to say.

First, I do know who I'll be talking to next year. It will be Rob Dubow. And this year it should have been Vince Jannetti. The truth of the matter is that the change we made to the City Charter was one that we made on purpose, which was assign the Finance Director the responsibility of doing a disparity study

and setting goals, and that responsibility should be at the cabinet level if an Administration takes this issue seriously.

So I will be talking to Rob Dubow about the same issues next year, but I'm assuming it will be with a different response.

The second thing is, I let you talk as long as you want to talk and I'll let you talk as long as you want to talk again. The question again is, there are 163,000 disadvantaged businesses in the region. They only get roughly 300 contracts a year. Is that because you only have 1,200 certified?

MS. NICHOLS: I don't think that's the total reason, no. And part of when Econsult presents, there are non-certified minority and women that do business with the City. In other words, doing business with the City -- certification is not a prerequisite for doing business with the City, and there

are firms that can do business with the City without being certified.

So I don't -- we don't set forth the predicate that you have to be certified as a minority, women, disabled-owned person, otherwise you can't do business with the City. That's part of the strategy that Econsult recommended to us, that we not limit. Because, as you know, there are going to be firms that are not going to be certified regardless. So we don't want to cut those firms off and say, Okay, well, you're a minority woman and you're not certified, therefore you can't do business with the City. There have to be ways to work with that kind of utilization, because that's still utilization of minority, women-owned businesses or disabled-owned businesses.

So we don't want to be limited and narrow in our approach to including these businesses in working with the City.

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COUNCILMAN GOODE: One more time. There are 163,000 disadvantaged businesses in the region. They receive annually roughly 300 contracts. How many contracts could those 163,000 disadvantaged businesses in the region receive? Because it looks as if they're receiving the same 300 contracts, the same rough percentage of the same list of certified people. And, in fact, you said on the record that you even devised the African-American goal and the women goal based upon historical participation and based upon historical participation related to this list of only 1,200 people, 1,200 businesses.

MS. NICHOLS: Well, all 165,000 businesses may not want to do business with the City. I can't sit and say --

COUNCILMAN GOODE: Not my question.

MS. NICHOLS: -- how many contracts they could have gotten.

COUNCILMAN GOODE: That's not

my question. How many contracts does the City of Philadelphia let on an annual basis?

MS. NICHOLS: Bid contracts, it's about -- I believe it's about 500 bid contracts. And like I said before, I don't -- the total is somewhere in the thousands in terms of renewal -- new contracts, renewed and extended contracts, professional services. So it's thousands of contracts. I don't have the precise number of front of me, but it's about 500 at least bid contracts a year, which is SS&E and public works, somewhere in that neighborhood, that are bid annually, new contracts that are bid annually.

COUNCILMAN GOODE: And non-bid?

MS. NICHOLS: Non-bid, Councilman, I don't have the precise number in front of me, because I have a number that includes new contracts, amendments and renewals for the professional services. I've been told

it's somewhere in the nature of 5,000, which includes all of that in terms of new contracts.

COUNCILMAN GOODE: So roughly how many contracts are let on an annual basis?

MS. NICHOLS: I would estimate maybe 1,500 as an estimate. And I'm estimating with the professional services, as I don't have that in front of me. I can certainly get that precise number to you. It's somewhere in that neighborhood, not counting the amendments and the renewals.

COUNCILMAN GOODE: So --

MS. NICHOLS: Somewhere in there.

COUNCILMAN GOODE: So the 163,000 disadvantaged businesses in the region, there are about 1,500 contracts let by the City on an annual basis. How many contracts could be given to disadvantaged businesses?

MS. NICHOLS: Again, it would

have to be targeted. I would say 25 percent.

COUNCILMAN GOODE: I want a number of the 1,500. I don't want an actual percent.

MS. NICHOLS: Twenty-five percent of 1,500.

An estimate of 375, an estimate.

COUNCILMAN GOODE: Thank you.

Councilwoman Brown.

COUNCILWOMAN BROWN: Yes. Thank you.

Of the 1,000 certified, how many have been certified for this year? How many have been completed over the last ten months?

MS. NICHOLS: We've completed probably over the past year -- about 300 are certified in a calendar year generally. I've been tracking the numbers more closely over the past six months. It's been about a thousand -- I'm sorry; a hundred. So it's about 300,

as an average, about 300 per calendar year are certified.

COUNCILWOMAN BROWN: And based on discussions with your office, it takes three months after all the paperwork is in?

MS. NICHOLS: Correct.

COUNCILWOMAN BROWN: Now, your tenure has been, your leadership post, has been for how many months?

MS. NICHOLS: It's only been since May of 2006, May 15th of 2006.

COUNCILWOMAN BROWN: Speak to some of the corrective action you say you've taken under your leadership to improve the number of those who seek certification.

MS. NICHOLS: Okay. Specifically in certification, one of the first things we did was to hire specialists to be able to handle the application process, because obviously when I came in, there was one person that was available, because of attrition and

because of other things. We also set up --

COUNCILWOMAN BROWN: Define what you mean when you say "specialist." Specialist in what?

MS. NICHOLS: MBEC specialist that handles the actual application. I'll just say MBEC specialist. It could also be a management trainee that handles the actual physical application.

So, first of all, we had to get people in that could handle the applications, because without staff, you have applications coming in, but they can't be processed.

COUNCILWOMAN BROWN: They sit.

MS. NICHOLS: So they sit, and then you get a backlog and everybody gets angry, and understandably so.

The second thing we did was set up a deputy of certification. So in addition to having specialists, we have a coordinator, which is kind of a mid-level supervisor, and then a deputy of

certification to be able to specifically target certification, because it is the heart of what MBEC does and you needed that leadership to be able to, first of all, handle the massive backlog that had to be handled. On the federal side, we had over 684 federal DBE files that had been improperly grandfathered in the federal system.

COUNCILWOMAN BROWN: You say improperly?

MS. NICHOLS: Improperly grandfathered in, and we had to work through the review of all of those files under the supervision of PennDOT. And this is at the same time that we're managing the City certification files.

COUNCILWOMAN BROWN: And help me understand why the City was charged with a project of that scale that was federally related.

MS. NICHOLS: Well, the City has always been a certifying participant in the unified certification program.

The City has always accomplished federal DBE certification, because the City has federal highway funds that flow into Street Department projects and also airport funds.

COUNCILWOMAN BROWN: Okay.

MS. NICHOLS: For those projects, the participants, the firms, need to be federal DBE certified.

COUNCILWOMAN BROWN: Okay.

MS. NICHOLS: So the City has always accomplished that certification.

COUNCILWOMAN BROWN: And with that responsibility does not come administrative dollars where you hire staff --

MS. NICHOLS: No.

COUNCILWOMAN BROWN: -- specifically for that?

MS. NICHOLS: Correct. It's an unfunded mandate.

COUNCILWOMAN BROWN: I see. Okay, then. Are there any reciprocity agreements between the Commonwealth,

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Philadelphia and New Jersey or Delaware where small business people if they're already certified in Philadelphia, that that is respected or acknowledged in surrounding areas?

MS. NICHOLS: The reciprocal certification?

COUNCILWOMAN BROWN: Yes.

MS. NICHOLS: We accept reciprocal certification from other jurisdictions. The surrounding agencies, some of them do and some of them don't. But certainly we've been doing that since 2005.

COUNCILWOMAN BROWN: Councilman Goode has a follow-up question on that.

COUNCILMAN GOODE: Ms. Nichols, how long does it take for someone to receive a reciprocal certification?

MS. NICHOLS: Well, again, depending on the backlog, we try to set a target of two weeks to process the application. Because of, like I said, backlog and depending on the workflow,

anywhere from two to three weeks.

COUNCILMAN GOODE: For reciprocal certification?

MS. NICHOLS: Yes, based on the backlog.

COUNCILMAN GOODE: And how long does it take for a recertification?

MS. NICHOLS: A recertification we set -- recertification certification we have the target of the 90 days. And, again, that's based on workflow because of the amount of applications that are in flow.

COUNCILMAN GOODE: Why would recertification take 90 days?

MS. NICHOLS: Only because of the number of applications that we have. Again, because of the limit of staff, that's why --

COUNCILMAN GOODE: So there's no prioritization of people who were once certified and have already done business with the City?

MS. NICHOLS:

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Recertification -- a firm remains certified. So even if there's delays because of the backlog, because of understaffing, that firm remains certified, so the new certification -- the new application --

COUNCILMAN GOODE: You know that's not true.

MS. NICHOLS: It is true.

COUNCILMAN GOODE: It is not true.

Ms. Hitchcock, could you approach the witness table.

MS. NICHOLS: It is true. Firms remain --

COUNCILMAN GOODE: It's not true.

MS. NICHOLS: In the recertification process, they remain certified.

COUNCILMAN GOODE: It's not true.

Ms. Hitchcock, please identify yourself for the record.

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MS. HITCHCOCK: My name is Candace Hitchcock, Deputy Director of Operations, MBEC.

COUNCILMAN GOODE: How long does it take for a firm to be recertified?

MS. HITCHCOCK: We have done certifications for recert within two weeks.

COUNCILMAN GOODE: How long does it take on average?

MS. HITCHCOCK: Pardon me?

COUNCILMAN GOODE: How long does it take on average?

MS. HITCHCOCK: On average, it can take over a month, again, depending on workflow and the number of people and the applications.

COUNCILMAN GOODE: So --

MS. HITCHCOCK: But from start to finish, it takes about two weeks.

COUNCILMAN GOODE: So if a bid is put out and a firm that was once certified is not up to date on their

certification and they have applied for recertification and the prime contractor wishes to do business with that firm that has once been certified by the City, has already done business with the City and is simply seeking a recertification, how is that firm dealt with? Are they dealt with as a certified firm?

MS. HITCHCOCK: Yes. If the prime contractor asked that question or even the vendor himself, they are currently certified until such time as they are actually processed through the system. They are not penalized for not having actually been processed.

COUNCILMAN GOODE: Was that the case for Beverly Harper recently?

MS. HITCHCOCK: What I know of Ms. Harper's situation, that was about --

COUNCILMAN GOODE: Was that the case with Beverly Harper recently? Because you know Beverly Harper contacted each and every office.

MS. HITCHCOCK: Yes.

COUNCILMAN GOODE: Councilwoman Tasco's office dealt with it. Councilwoman Brown's office dealt with it. My office dealt with it. And was that the case in that situation?

MS. HITCHCOCK: I'm not sure of the incident. I didn't deal with her. I talked to her, but I didn't handle her file.

COUNCILMAN GOODE: Was she treated as a certified firm?

MS. HITCHCOCK: I don't know.

COUNCILMAN GOODE: Ms. Nichols, was she treated as a certified firm?

MS. NICHOLS: Yes. She's certified.

COUNCILMAN GOODE: Was she treated as a certified firm?

MS. NICHOLS: I don't know how she was treated. Treated by whom? She's certified. You remain certified --

COUNCILMAN GOODE: Did you talk to my office about this issue?

MS. NICHOLS: I didn't talk to

your office, no. I talked to several offices, but not your office, I don't believe. I don't think I talked to your office about it.

COUNCILMAN GOODE: You didn't speak with my Chief of Staff seated to your right?

MS. NICHOLS: I spoke to several offices about it.

COUNCILMAN GOODE: You didn't speak to my Chief of Staff seated to your right?

MS. NICHOLS: Sadique? I may have. I spoke to a lot of people about it.

COUNCILMAN GOODE: You said you didn't.

All right. Thank you.

MS. NICHOLS: Someone else in my office may have spoken to him about it.

COUNCILMAN GOODE: Councilwoman Brown.

COUNCILWOMAN BROWN: I want to

go back to Councilman Goode's initial question. Are those businesses who come in for recertification treated with any level of priority? What is the SOP, standard operating procedure, for treating businesses who come purely and only for recertification?

MS. NICHOLS: The standard operating procedure is because these firms are certified, the priority is to certify non-certified firms first. That has always been the priority, because they're not certified at all. Certified firms remain certified until the recertification process is completed so they're not in danger of losing their certification.

So what we've done is, when -- prime contractors sometimes do get upset, and I do recognize that, because they look at the certification letter, they see an expiration date and they become concerned. So what we do is, we do provide on a priority basis in-process

letters. So that way, we can show the prime or anyone else that's interested in that firm that that firm is certified pending the completion of the recertification process.

COUNCILWOMAN BROWN: So what is the trigger in the system for that -- how did you identify that letter, reprocess?

MS. NICHOLS: In-process.

COUNCILWOMAN BROWN: In-process letter. What's the trigger so that our offices then do not get the calls that they are waiting for weeks for a reprocess letter and they are in jeopardy of losing the opportunity to be a part of that transaction?

MS. NICHOLS: Correct. What I've done is --

COUNCILMAN GOODE: The question was also whether you prioritize recertifications.

MS. NICHOLS: Yes, we do, and I'm going to explain the process that I put -- one of the other processes,

internal management control processes, I put in place when I came.

When I came, firms were expiring that needed to be recertified, but they were not receiving any notice. And that does cause a problem, because then you do have a lapse, because then the firm expires and then they're really in trouble because then they're not certified. What I did to remedy that, I set up a staff person who was charged with monitoring the directory, monitoring the expiration dates and making sure every month we call each firm prior to their expiration date to notify them that they're about to expire. We send out letters to say, Your expiration date is coming up for your recertification, your reassessment will be due, send in an application.

What we did was, we sent out, over a period of a month, we sent out I don't know how many thousand letters to every firm to let them know, Here is an

application, here's a certification application, you need to fill this out because your date is coming. And we would keep monitoring that, and we have a staff person that works with firms. Because we understand everybody doesn't calendar, everybody doesn't keep track of their certification dates. So we're very sensitive to monitoring the expiration dates of firms to avoid any disruption, and then further to give primes any assurance they need. We've spoken to primes personally. We've sent letters to prime contractors to let them know that that contractor is certified pending the completion of the recertification process.

So we are very sensitive to the recertification dates. And, again, because of understaffing, yes, sometimes time does pass. I'm not going to argue that point. Sometimes more time passes than should pass. I'm not going to sit here and argue that. But what we try to

do is make sure that there's no disruption in that firm's certification.

COUNCILWOMAN BROWN: And so the manual steps that you just went to sounds like what you've stated earlier in your testimony; that is, the need for technology, which would remedy this manual tracking of --

MS. NICHOLS: Thank you, yes.

COUNCILWOMAN BROWN: -- dozens and dozens and dozens of apps.

MS. NICHOLS: Correct.

COUNCILWOMAN BROWN: What cities do you know currently have technology in place that would address exactly what you just described?

COUNCILMAN GOODE: One second.

The 1,200 people on the list, how much technology do you need, I mean, to determine who is going to lapse on the certification? Let's be for real about this.

MS. NICHOLS: Well, it's 1,200 people, but what I'm trying to say,

Councilman, there are 60 people coming in per month putting in new applications.

COUNCILMAN GOODE: That has nothing to do with what we're talking about right now.

MS. NICHOLS: Yes, it does, because it involves the tracking.

COUNCILMAN GOODE: We're talking about recertification. If there are 1,200 people on the list, the same old 1,200 people on the list, it doesn't change that much. What level of technology do you really need in order to determine when their certification is going to lapse? That's just ridiculous.

MS. NICHOLS: Well, it's not just the City side. It's also the federal side.

COUNCILMAN GOODE: We're talking about City certification right now. We're talking about 1,200 people on this list.

MS. NICHOLS: Well, it's a little more complicated with that,

because with the reciprocals, there are very different dates in terms of the expiring, and now all of that has to be monitored. It's not just the 1,200 static people. It isn't. It's constantly -- people are constantly coming and going. It may be 1,200 people, but it's a different 1,200 people. People come and people go. It's not as static as, okay, it's the same 1,200 people, they're certified, then they come back and they become recertified. It's a constant flow of people coming in and out. It's a different group of people coming in and out constantly, not to mention the new certifications that come in every month and apply.

COUNCILMAN GOODE: It is not a totally different group of people. It may not be exactly the same 1,200, but it's not a totally different group of people. That's not true.

MS. NICHOLS: Well, in order to

avoid situations that you've just described, we need to have the technology to avoid people waiting, to avoid people being lost. That's what it takes. It's based on the staffing of people that we have. And I know you're not here to talk about the federal program, but there's a whole other program that needs to be monitored as well. There are applications coming in --

COUNCILMAN GOODE: I guess my question --

MS. NICHOLS: -- with the same staff.

COUNCILMAN GOODE: If I ask my question cynically, then maybe I shouldn't ask it cynically, because maybe you didn't think it was a real question. My question was, what level of technology do you really need to track recertification when you've only certified 1,200 people?

MS. NICHOLS: There is certification tracking software specific

to certification that every top ten city has.

COUNCILMAN GOODE: And you should have it and we want you to have it and someone should bring it up at budget time, we'll make sure you have it, but the question is, you really think you don't have the level of technology right now to track who needs to be recertified on a list of only 1,200?

MS. NICHOLS: It's more than just the list of 1,200. It's 1,200 -- the tracking doesn't just deal with recertification, Councilman. The tracking deals with new applications.

COUNCILMAN GOODE: I'm asking about recertification.

MS. NICHOLS: And I'm saying that the tracking system deals with new certification as well.

COUNCILMAN GOODE: But I'm asking you about recertification.

MS. NICHOLS: And I'm saying for ease -- the maximum ease of process,

the certification tracking system would help us avoid the kind of problems that we're talking about. That's all I'm saying.

COUNCILMAN GOODE: My question is, are you saying you do not have the technology currently to track who needs to be recertified? Is that what you're saying?

MS. NICHOLS: No. What I'm saying is, we do it manually. What I'm saying is, we have to use --

COUNCILMAN GOODE: But you don't have to do it manually. Because you don't have that particular software, you still don't have to do it manually. Are you really trying to say you do not have the technical capacity to track recertification on a list that's this small?

MS. NICHOLS: The only technology that we have is a ten-year-old tracking system that the -- it has basic information in there. To track the dates

that you're talking about, employees have to keep track of those dates in Lotus Notes or in their own computer to be able to get to the firm prior to the expiration date to notify them and to keep that going.

COUNCILMAN GOODE: And that is not that difficult.

MS. NICHOLS: Well, that's what goes on.

COUNCILMAN GOODE: But I'll let Councilwoman Brown finish. I really want to move on in the hearing, but the last issue is really a simple question. Do you know right now how many firms need to be recertified within the next six months?

MS. NICHOLS: I have that in the office. I don't have that number in front of me. I can get that to you. I don't want to misquote a number. We do have that number, yes. I don't have it right in front of me.

COUNCILMAN GOODE: You know how

many --

MS. NICHOLS: Yes. We know how many firms need to be recertified.

COUNCILMAN GOODE: -- firms need to be recertified within the next six months?

MS. NICHOLS: Yes, based on the -- like I said, I have a person assigned to manage that.

COUNCILMAN GOODE: Yet, you just said you didn't have the technology.

MS. NICHOLS: I don't have the technology. The person has to do it manually.

COUNCILMAN GOODE: Councilwoman Brown.

MS. NICHOLS: The person has to do it manually.

COUNCILWOMAN BROWN: Tell me what cities you know currently have technology in place that would address the number of impediments you've discussed during your testimony, like tracking, companies that need to be

recertified, separating out those who are in need of recertification versus those who are at the first step of the certification process. What cities have it right?

MS. NICHOLS: I can just state simply the top ten cities all have it. I've been able to --

COUNCILWOMAN BROWN: Identify a few of those cities for me.

MS. NICHOLS: Okay. A few of those cities, the city I've worked most closely with is Houston, Texas. The Director, my counterpart in Houston, has erected specific software. I've contacted that rep. We've actually had discussions.

COUNCILWOMAN BROWN: And others? Let's just --

MS. NICHOLS: New York, Chicago, Boston, Phoenix, Los Angeles. Any of the top ten cities just off the top, or even locally, New Jersey, Newark, and any of those cities all have a form

of tracking software that I'm talking about.

COUNCILWOMAN BROWN: Okay. All right, then. Thank you for your testimony.

COUNCILMAN GOODE: Thank you.

MS. NICHOLS: Thank you.

COUNCILMAN GOODE: For the record, Councilman Clarke said I was more than fair.

MS. NICHOLS: Say again.

COUNCILMAN GOODE: Councilman Clarke said I was more than fair.

MS. NICHOLS: You're always more than fair, Councilman Goode. I don't have any problem with it.

COUNCILMAN GOODE: Thank you for your testimony.

MS. NICHOLS: We're here to answer your questions and move forward.

Thank you.

COUNCILMAN GOODE: Mr. Mullin, I'm sorry for the wait. I'm going to ask that your testimony be given to the

stenographer and incorporated into the transcript, and I have a couple very simple questions.

MR. MULLIN: Okay.

COUNCILMAN GOODE: According to Ms. Nichols' testimony, Econsult has been asked to now do a goal-setting report; is that correct?

MR. MULLIN: Yes.

COUNCILMAN GOODE: But Econsult was not originally asked to set the goals, participation goals?

MR. MULLIN: We were asked to identify goals -- we were looking at the '06 numbers. So the goals for '07, which would follow from '06, the year was already basically done. So we proposed a mechanism for that, but didn't propose specific goals.

COUNCILMAN GOODE: Have you been asked to propose specific goals now?

MR. MULLIN: I think so, yes. More of a framework.

Lee Huang of my shop is here

and has talked in more detail on this, but we do want to look at the -- and we have been asked to take a look at setting up a goal-setting report.

COUNCILMAN GOODE: So you've been asked to establish the goals for the future?

MR. MULLIN: Yes. Yes.

COUNCILMAN GOODE: Only two more questions. The first being, will those goals be based upon regional numbers in terms of capacity or will they be based upon Philadelphia numbers?

MR. MULLIN: We looked at -- it will be metropolitan area.

COUNCILMAN GOODE: And why not Philadelphia?

MR. MULLIN: The numbers that we have and the data that we have, although we do have some Philadelphia County numbers, most of the numbers and the comparison numbers that we have are metropolitan areas. We could, by the way, look specifically at Philadelphia

County.

COUNCILMAN GOODE: You don't think that would be better? Just for the record, African-American-owned businesses make up six percent of businesses in the region, but 14 percent of businesses in the City, according to the numbers that were presented by Ms. Nichols. Women-owned businesses make up 26 percent of businesses in the region, and that number is somewhat comparable to the number that was presented in terms of Philadelphia.

But in the end, we know that the numbers, particularly as it relates to African-American-owned businesses, Latino-owned businesses, so forth, there's a higher percentage of businesses within the City than there are within the region. And so if you use the metro numbers, then a ten percent goal actually doesn't seem as low, particularly when you look at seven percent participation last year and only six percent of

African-American businesses -- only six percent of the businesses in the region being African-American-owned. But when you look at that number within Philadelphia, which I believe may be higher than 14 percent, then you begin to approach new goals across the board.

And so I think we simply have to look at Philadelphia numbers rather than metro numbers. But whether we're using Philadelphia numbers or using metro numbers, does it make any sense to ask a consultant to do a disparity study but not ask them to make recommendations on the goals?

MR. MULLIN: I think the two of those go hand in hand.

COUNCILMAN GOODE: They definitely go hand in hand in terms of the amendment to the Home Rule Charter that requested that the Finance Director, not MBEC, but the Finance Director on an annual basis 30 days before the end of the fiscal year submit to the Mayor and

Council a disparity study and set annual participation goals. And they were meant to go hand in hand.

So these goals, do you believe them to be based upon the disparity study?

MR. MULLIN: I'm sorry. I didn't hear you.

COUNCILMAN GOODE: Do you believe these goals to be based upon the disparity study?

MR. MULLIN: I think I would say yes, but I would condition that to say loosely, because they weren't the result of any specific number that came out of our disparity study.

COUNCILMAN GOODE: I'll let that suffice and suggest that if they were only loosely based upon the disparity study -- and I'm not even sure they were loosely based upon the disparity study. I will accept that they were loosely based upon the disparity study as a reason why we really don't

have any need to question you about the disparity study, because in the end, the major purpose for this hearing is to discuss the goals that were set and what they were based upon, and obviously they weren't necessarily based upon the disparity study.

So we thank you for coming to testify.

Are there any questions from members of the Committee?

(No response.)

COUNCILMAN GOODE: Thank you again.

MR. MULLIN: Okay. Thank you.

COUNCILMAN GOODE: Millennium 3 Management, Mr. Crawley.

Good afternoon. Please state your name for the record and proceed with your testimony.

MR. CRAWLEY: My name is Bruce Crawley. I'm President of Millenium 3 Management and Board member of the Technical Assistance Center for Emerging

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Contractors, an organization that focuses on the growth and development of African-Americans who are in the construction industry.

MR. FULLARD: I'm Anthony Fullard, Vice-President of Millennium 3 Management.

MR. CRAWLEY: Good afternoon, Councilman and Councilwoman Blondell Reynolds Brown.

As I've mentioned in previous testimony before this Council, our interest in having the City of Philadelphia develop the job creation and economic development potential of black and minority businesses dates back at least to 1996.

Two years after a small group of us established the African-American Chamber of Commerce in the City, we met with the Rendell Administration and with Council President John F. Street and began a process that included a six-month-long analysis of the City's

minority procurement efforts. We provided to both men a 15-point plan for improving the operation of MBEC and the effectiveness of what was, even then, a grossly ineffective minority business development program in the City of Philadelphia.

Those recommendations, regrettably, received negligible support and sat on the shelf through the last two years of the Rendell Administration. In February 2000, we re-presented those findings and recommendations to then new Mayor John Street, with the naive assumption that a mayor who had been elected with 96 percent of the African-American vote would have a special sensitivity to what was already a glaring missed opportunity for the City's minority business community and for the municipal economy as a whole.

Today, there is almost universal recognition of this City's deficiencies in developing its black and

minority business potential. The recent Controller's report, together with editorial coverage in the Philadelphia Daily News and Philadelphia Tribune, have played important roles in helping to raise the awareness of the crisis.

By now, it is widely known that the City's minority business development processes, its tracking, financing, certification, goal achievement and overall management, have been dramatically substandard and have cost the City's economic and its minority communities in ways that are too numerous to mention.

The Controller's report, based on the testimony of a wide range of minority and female business owners, does a powerful and effective job of making those points clear and are, in our opinion, largely irrefutable.

The issue now, with the availability of overwhelming evidence, and a City Council and a new Mayor who

seem to share a public commitment to finally curing the problem is where we go from here.

The Controller's report has made several substantive recommendations, including the reduction in the far too easy granting of waivers to prime contractors, the need to unbundle City contracts to match minority business capacity, the establishment of a minority business-related financing and bonding program, a prompt payment policy, improved compliance enforcement and monitoring, among others.

While all these suggestions drawn directly from the testimony of the City's own black and minority businesses are indeed valid, we take issue with the Controller's implication that MBEC itself, the agency which his own report described as having, quote/unquote, "failed in its mission," should be salvaged and somehow restructured.

We believe that MBEC's mission

was flawed from the outset; i.e., it included the assumption that only businesses owned by white males could qualify as prime contractors for the City and that black, Hispanic, Asian, disabled-owned and white female businesses could only participate once the contract was awarded to the white male-owned firm as a subcontractor.

Such a posture, among other things, has completely stripped black and minority businesses of any legal standing in negotiating fair participation in City contracts. That inherent problem has been exacerbated by what appears to be a complete lack of support, other than lip service, from the top of the City Administration, and has sent a signal into the local minority business community across the region and throughout the country that Philadelphia is among the very worst places in the United States of America to establish and grow a minority business.

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The abysmally low participation percentages, the virtual lack of minority prime contracts, the largely low minority participation levels from the private sector, therefore, are no accident.

Given MBEC's flawed structure, perennially inexperienced and inadequate staff and lack of administration support, the agency produced precisely what the leaders of this government have wanted it to produce for minority business owners, virtually nothing.

For that, MBEC does not deserve to be restructured. For that, the agency, its mission, its culture and its nationally embarrassing legacy should be abolished, and that should be done as soon as reasonably possible.

As we have discussed in an earlier report to the members of City Council, we recommend that a new minority business development agency be created and that it should report directly to the Mayor's Office. With the realization

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that private sector gross receipts in the most recent 2002 economic census constituted $111 billion as compared to the municipal government's 5.9 billion in 2006, the minority business development agency should also be responsible for maintaining relationships with the private sector to encourage and monitor minority business participation in that arena; that the City demand and institute a sweeping change in the way municipal certifications of minority vendors are done. The current process under MBEC has been a significant negative contributor to Philadelphia's lack of meaningful minority business growth.

By way of comparison, in a city with 20,295 minority-owned firms and 18,976 female-owned firms, MBEC claims just 838 certified minority female businesses after 25 years of operation. And I heard them talk in the earlier presentation about 1,200. I've seen that in the formal reports. When we go to

their website, we can find 838, unless there's another website somewhere that we don't know about.

The Director of the City's new, more effective minority business development agency should be an experienced, credentialed professional, preferably one with a business management degree and with procurement management and diversity management experience. Like those sought to fill other critically important positions, that person should be identified as a result of a professional national search.

It is virtually impossible to grow the capability and capacity of the minority business community if those firms are relegated solely to subcontractor status, with the limited project management and narrow margins such participation entails. Therefore, the City should include local economic development criteria for virtually all contracts and unbundle portions of those

contracts to meet the capacities of emerging minority and mainstream entrepreneurs.

In the City's 2003 disparity study, white male-owned prime contractors received 99.6 percent of public works contracts. They received 99.1 percent of services, supplies and equipment contracts on the prime side, and 97.2 percent of prime professional and personal services contracts.

Cities such as Atlanta, with 12.35 percent minority prime contractor goal achievement, and San Antonio, with 28.9 percent prime MBEs and six percent prime WBEs, should be role models for our local initiative.

The need for a special emphasis to provide access to financing has been made in the Controller's report and we have long agreed. In 2003, our non-profit, the Technical Assistance Center for Emerging Contractors, established a highly successful accounts

receivable-based loan pool with PIDC and local commercial banks. That program now needs to be expanded into professional services and supported by the City, especially in recognition of the local government's historically slow payment practice for all vendors. Without financing, a slow-paying municipal contract may be the very thing that leads to the cash flow strangulation of an emerging business and to the eventual demise of that business.

This will require considerable work.

With the national consolidation of the commercial banking industry, municipalities such as Philadelphia are resigned to having to deal with the same financial institutions no matter what their geographic location.

To highlight the problem, in a recent analysis we conducted with Councilman Goode on behalf of the entire City Council, we found loan rejection

rates for Atlanta businesses as follows: African-American businesses were rejected for loans at a rate of 47 percent. Hispanic businesses were rejected at a rate of 39 percent. White female businesses' rejection rate dropped to 26 percent, and white male businesses were rejected at just 21 percent of the time. Eighty percent of white male businesses that applied for business loans were approved.

The applicants were, of course, all adjusted for comparable levels of credit risk. So you didn't have black firms and Hispanic firms with poor credit going up against white male-owned firms with great credit. They had the same level of credit risk.

It's clear that there will have to be involvement by local and perhaps state government if this proposed new financing approach is to be successful.

It won't happen of its own accord, not even in Atlanta.

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There has also been a significant problem in minority business goal setting based largely on the fact that availability of minority businesses has been defined as those that have been certified by MBEC, currently constituting 1.46 percent of all minority and female businesses in the City.

And, Councilman, I heard you talk about what percent it represented of the region, but in the City alone, that certification represents 1.46 percent of minority and female businesses.

If we are to hold the new minority business initiative accountable, its goals should be expanded to include, in addition to the simple business participation percentages, the total number of certified business. That should be a goal. That should be accountable every year. How can you after 25 years of operation have 835 certified business, only 575 of which are Philadelphia based? The rest of them are

all based in some other state.

The percentage of minority prime contractors participating in contracts should be a goal. They should be accountable for that. The new minority business development agency should be accountable for that.

The percentage of certified firms that actually receive contracts. We heard you ask that question. That is critically important.

Number of clients participation in City-sponsored training programs. We can't assume that people who get contracts have sufficient training, though they be professionals, though they be qualified to do their contract. Business changes every day. Nuances change. Software changes. We need to make sure our people have on-line and in-person training, and we need to monitor the level of that training for those participants.

The average monthly number of

website visits. Do we have a website that's attractive to and informative to minority business owners and are they going there to find out? Do we have the interface?

Number of contract opportunity matches. In a given year, how many businesses are matched with an opportunity, both internal City government and those businesses and external, those businesses with external prime contractors? How many matches are being made every year? And if you don't have that in your accountability profile, then we won't be able to answer the kinds of questions you asked this morning.

Number of financing and bonding accommodations facilitated by the City should also be measured and accountability of the new situation, because we know if you don't have the financing, you won't be successful, and we see that the financial services institutions have an inclination as not

to provide those financings to minority businesses.

We have been especially disappointed to see the evidence that only 42.3 percent of the City's services, supplies and equipment vendors, only 47.9 percent of professional services and only 58 percent of public works vendors were Philadelphia-based companies. The City should extend a credit in the RFP analysis for local minority participants on a contract. Today only the prime contractor receives a local bid credit. And when you bring that bid package to the table, you should get extra credit for bringing -- if you have subcontractors and they happen to be minority, if they happen to be a local minority, you should get credit for that. We're trying to enhance the local economy.

According to the Emerging Workforce of Disabled Entrepreneurs, a 1998 Harris survey found that almost

half, 42 percent, of unemployed people with disabilities reported they were unable to find work because employers did not recognize their abilities. One-third, 32 percent, said they had been discriminated against because of their disability. Respondents said they were refused jobs, given less responsibility than co-workers, paid less than co-workers and denied health coverage, promotions and opportunities to be interviewed for jobs.

Not surprisingly, therefore, people with disabilities are increasingly choosing small business and self-employment opportunities rather than the option of employment. In 1993, there were 520,000 self-employed workers with disabilities across the country. Workers with disabilities are nearly twice as likely to be self-employed as those who are not disabled. In 1994, more than 14 percent of individuals with disabilities owned or worked in a small business,

compared with eight percent of persons without disabilities.

According to the DJ Miller study, however, only seven of the 11,355 vendors in the City's Procurement Department vendor file were classified as disabled.

That, by any standard, is unacceptable and should be corrected by the new minority business agency immediately.

Finally, if we are to ever be truly serious about achieving the job creation and other economic benefits that can accrue from successful minority business development efforts, we will need to track our performance accurately.

The Controller's report pointed out that MBEC's most recent participation level report is substantially inflated because the agency never bothered to check whether the minority businesses included in the perfunctory bid process ever actually participated in the

contracts. They took the prime's word that they were going to give them the business. They never went back and checked.

Even more alarming is the City's own admission in its 2006 disparity study that its one-year spend over the review period was $5.9 billion, but that so-called disparity study only covered a review of about 539 million in contracts, about nine percent of the total. Even if you put in the quasi governmental agencies, another 365 million thereabouts, it brings it up to 15 percent. Fifteen percent of the contracts were reviewed. And so the percentages of participation that were claimed, that were promoted, that were publicized represent only ten to 15 percent of the total spend of the City, and so for us, that means the other 91 percent of the City's expenditures, on which they clearly understand involves virtually no minority participation

mandate, was not even included. That clearly renders the data in the report not only grossly inflated as a percentage of total business, but also effectively useless.

For the good of the entire City economy, for the future of our families and neighborhoods, this kind of game playing and subterfuge has to be ended immediately, on January 2, 2008.

In a city whose population is 45 percent African-American, ten percent Hispanic and about five percent Asian, we do the City's overall economy a tremendous disservice if we don't finally make this issue the priority it always deserved to be.

I'll close by quoting once again an excerpt from the September 2000 Milken Institute/U.S. Department of Commerce report on minority business. Quote, "Economic growth cannot be sustained without the inclusion of minority businesses and an infusion of

capital into those businesses. Absent broad-based institutional investor participation in minority and immigrant business communities, soon to be the new majority of businesses, continued growth in the American economy is impossible, affecting not just minority businesses but putting the nation's macroeconomy at risk.

Thank you very much.

COUNCILMAN GOODE: Thank you for your testimony, Mr. Crawley. I have one question and then one comment.

Question: Do you have a current number for the percentage of Philadelphia businesses that are owned by African-Americans?

MR. CRAWLEY: Yes, we do. There are 10,576 African-American-owned firms in Philadelphia County; 3,211 Hispanic; 6,337 Asian; 18,976 female. Together they constitute about 58 percent of all the businesses in the City of Philadelphia.

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COUNCILMAN GOODE: Thank you.

The only comment is, I completely agree with your testimony, and the simple statement, the purpose of this hearing is to simply describe that which you've always done, you give what you always got. And so that if MBEC exists a couple months from now, nothing will change. And that's my only comment.

Councilwoman Brown.

COUNCILWOMAN BROWN: Of the 10,576 African-American-owned businesses, what number are African-American women? Because I find it always difficult to figure out where they're being counted.

MR. CRAWLEY: That's very difficult, Councilwoman, because the only people who are broken out from these data as women are white women. For purposes of minority participation, when you see a category of female businesses, those are white females. Black females are included with blacks. Hispanic females are included with Hispanics.

We can pull that data out of the MBEC certification. We've got that information. In fact, I don't see it in front of me right now, but we've gone through and looked at every single MBEC-certified firm and we know which of those. We can forward you that information. But for purposes of managing at the federal level, at the state level and even at the municipal level, females are lumped into their ethnic category.

COUNCILWOMAN BROWN: White females are lumped into the category?

MR. CRAWLEY: Well, the only females that are pulled out separately and given their own goals are white females. I don't know why.

COUNCILWOMAN BROWN: Okay. On Page 4 of your testimony you mention seven areas where goals should be addressed. Discuss briefly for me this recommendation of bonding accommodations facilitated by the City.

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MR. CRAWLEY: One major impediment to primarily construction firms but there are other firms that require bonding, insurance performance, insurance, to give comfort to the person letting or the institution letting the contract that the contract will be fulfilled, and they base that on your track record. So the insurance company comes in, they give you a bond to cover whatever the stated value of the bond is required by the entity letting the contract. And often times a major impediment for minority-owned firms is that there is a bond requirement written in to the RFP. And if they can't qualify for that bond, they can't get the contract.

So in addition to working capital financing, there ought to be a really -- and this is a recommendation that the Controller's Department also brought to the table -- that there ought to be a municipal-facilitated bonding

capability that has teeth, that works and that is accessible to these contractors.

COUNCILWOMAN BROWN: So is that to suggest, then, that cities like San Antonio and the others that you mentioned have adequately addressed these areas, including maybe the bonding hurdle?

MR. CRAWLEY: Some of the cities?

COUNCILWOMAN BROWN: Yes, the two cities that you mentioned in your testimony.

MR. CRAWLEY: Yeah. Those cities are very active in that.

COUNCILWOMAN BROWN: Well, to underscore Councilman Goode's comments, your consistency is there and the clarity and the manner in which you express the gravity of the problem is welcome.

Thank you for your testimony.

MR. CRAWLEY: Thank you very much.

COUNCILMAN GOODE: Thank you again for your testimony. I look forward

to working with you in the future.

Mr. Philip Migliarese.

MR. MIGLIARESE: Good afternoon, Councilman. Good afternoon, Councilwoman. My name is Philip J. Migliarese, Jr., and for the record, I'm a Commission member of the Mayor's Commission on People with Disabilities and also the Chairman of their Employment Committee, but today I'm here in the capacity of a private citizen and a disabled individual who has made application to MBEC for certification and also to shed some light on the areas that I consider MBEC has been creating barriers for individuals in that process.

To begin, I had filed an application with MBEC for certification on October 10, 2006, and we are now 13 months plus some days past that date and I am still not certified, nor have I been denied. Before I proceed further to indicate what I think is the problem with the certification at this point in my

case anyway is, I'd like to turn the attention to certification rules and regulations of MBEC and the Mayor's Order 02-05.

Certification regulations specifically say that MBEC has 90 days to approve or disapprove or act on an applicant's certification affidavit.

COUNCILWOMAN BROWN: One point of information is -- because I asked about that as well -- is 90 days after all of the paperwork is in. So the agency does not begin to move or take action until the entire application is completed.

MR. MIGLIARESE: Correct. To elaborate on that, a correct application is not an incomplete application. Therefore, if it's an incomplete application and it's not remedied within 15 days of the notice of that deficiency, MBEC is required to send the entire application file back to the applicant.

So that act in itself would

constitute that there's an incomplete application. The applicant failed to act on the deficiency. Therefore, they're not even in the running at this point for certification, because the application is returned.

Now, if the application is not returned, that's a perfect indication that it's still active, and if there is no other notice of deficiency, the time period is running.

Now, in my particular case, I filed the application in October of 2006. I did receive a few notices from MBEC in the month of November. At that point, they were remedied immediately, well within the 15 days.

From that point on of November, I did not hear from MBEC until April the 9th of 2006 (sic), which was in excess of 134 days from the last paperwork I submitted to them as far as their request was concerned.

Now, going back to the rules

and regulations, the certification process is, they have 90 days. Now, within 90 days if they don't think that they can complete this application, they are, according to the certification rules, to send a notice to the applicant requesting an extension. The rules also go forward to say specifically that in no case -- and it's very emphatic in the rules -- in no case shall the process exceed 120 days. In my case, the first procedure on my application exceeded 134 days. I never received a letter from MBEC indicating that they need an extension of time. My application couldn't have been incomplete, because it was never returned, and I never had a deficiency notice from MBEC within the 134 days. So, therefore, the application was in, it was active, the paperwork was in order.

I did hear from MBEC again in April of that year, 2006 (sic), which exceeded 134 days. When I heard from

MBEC at that time, they requested additional information. Most of the additional information they requested was redundant information, information that I supplied to them in October of 2006. Therefore, they came back and said, 134 days later after my initial application, that they're rendering my application incomplete after 134 days because I did not supply certain documents. That was not true. Them documents were supplied. And I did have a discussion with the individuals at that time and they did realize that they did ask me for duplicated information. But at that time, they also posed the question to me and said, But, oh, we need to know that you have a business privilege license. Well, my business privilege license was submitted with my certification affidavit, and I said, You already have that.

They said, Yes, but we don't know if you paid for it.

So at that point, I was stunned, like, well, I have a license. I don't think the City of Philadelphia would have issued me a license unless it was paid for. Well, in any event, I had to go and supply them with the check, a cancelled check, showing that I paid for my license. So that was the outcome of the inquiry 134 days after I initially submitted my application.

From that time until the present, I still have no determination on my application. I still don't know where it's at. I still don't know if I'm certified, not certified. I have not heard from MBEC, except for one instance a young lady in the office who said she took over my case called me, I believe, at the end of September informing me that she now took over my case and that she was in the process of discussing my case with OVR, Office of Vocational Rehabilitation.

So I happened to see this young

lady in person the next day and I asked her, Why did you go to OVR? She explained that they go by their rules of certification of the person's disability. I says, Well, fine. I says, OVR is on my committee. Who did you speak to in OVR and did they give you what you wanted?

So she turned around at that point and told me that, Well, no, I really can't get in touch with anybody at OVR, and if you know anybody at OVR, could you have them call me.

I says, Well, sure, I'll do that.

So I did have one of the supervisors call, and when the supervisor called, the young lady told the supervisor, I can't talk to you because you know the applicant, and hung up on him.

Now, the time limit again exceeded the 120-day period. So here I am not once did it exceed the 134 days, which I did put MBEC on notice that

you're not abiding by the rules and regulations, you're not in compliance with the certification regulations and you're outside the parameters of the Mayor's Executive Order. So one time they did it. We talked about it. They went ahead and did it a second time. So here I am 13 months later, two times over the limit, and still nothing is happening.

My reason for being here today again is as a private citizen, and none of my remarks or statements are to be construed as that of the Commission, because I turned this evidence over to the Commission not too long ago and they are in the process of reviewing what I've given them, and at some point they will take a position on the matter. But at this time, it's strictly -- my testimony is strictly as an individual and an applicant to MBEC.

Now, I just heard a few moments ago the young lady that preceded me gave

all the reasons why MBEC is not performing in accordance with the expectations of Council and the public at-large. There are merits to her statements, but I would also like to say that a lot of the reasons why MBEC at this point is behind and they are not producing what they may or could produce is because of the fact, one, they are not following certification regulations; two, they are involving themselves in areas that they don't necessarily belong in or are authorized. And an example is, the documents -- the Mayor's document, Executive Order 02-05, and all of MBEC's literature, all through the literature, you will find where it says that MBEC's duty and sole responsibility and primary reason for its existence is for two reasons: One, to make sure that the person is in fact the owner and is in control of the operations of the business; and, two, that they are disabled, in the case of disabled

business owners.

MBEC is not supposed to involve themselves in matters of whether the disabled or disadvantaged business enterprise is capable of performing a contract. That is up to the individual agencies. Every individual Philadelphia agency that grants contracts or gives out contracts, at that point that agency will make the determination whether the business owner is qualified to perform the contract and has the technical abilities and financial abilities to do so.

What's happening now -- and I've been subjected to the scrutiny -- is that MBEC is involving itself in areas, asking questions as how much money do you have, how much capital do you have, who are you going to use, what are you going to use, and they went so far as to tell me that, Well, you cannot use subcontracts, when I told them, Well, I'll be using subcontractors in my

business and I'll be doing things in certain areas.

They said, No, you cannot do that. You must be able to do the work yourself.

I says, Well, I don't understand that, because I'm a disabled business owner and there are a lot of disabled people behind me waiting to get certified, and most of them -- a lot of them in wheelchairs and are subject to devices that their mobility is almost nil. I said, What you're telling me is let's assume a gentleman who is a master plumber, he was injured and now he's in a wheelchair, but he's still a master plumber, he's opening up a business and he wants to bid on contracts for the City. You're telling me that you will not consider him for certification because he cannot do the work?

They said, Yes.

Well, I was shocked. I said, You're telling me that this gentleman or

young lady -- they said, Well, we have to know that your business -- and, quote, this is what they told me -- that if someone or an employee in your business doesn't show up on the job, that you must be able to do the work for them.

So that's when I posed the question, Well, then let's assume the plumbers didn't show up that day. You expect the gentleman or the young lady in the wheelchair to get out of the wheelchair and go in a ten-foot ditch and install 15-inch cast iron pipe?

They said, Yeah. They said, If they can't perform the work themselves, they can't be certified.

Well, that's a small part, but the biggest part is, they need not involve themselves in those areas. MBEC should concentrate on what their regulations and what the Mayor's Order dictates, and, that is, your job, first of all and foremost, is to make sure that the individual owns the business and that

the individual, in the case of disabled people, is in fact disabled.

So what's happening here is, one, they're involving themselves in areas that are not necessary. So they're wasting time. We're going back and forth with paperwork.

Another situation is, they have what they call certification affidavit. In that affidavit they state what they require from an applicant. Unfortunately, a lot of the items that are on that affidavit, in my case, I supplied, and I supplied to the letter of the application. Unfortunately, what happens is, MBEC has come back many times and asked for things that are not on that certification affidavit, meaning that they ask you in the first instance you want to supply this paperwork to have a complete application. Thereafter I've gotten letters, notices, phone calls, e-mails, et cetera, asking for things that are not related whatsoever to a

certification application.

So my thought to MBEC is, you either go with what you have on that certification affidavit or you amend that certification affidavit and put the language in there that you desire to have from an applicant in the first instance, and, therefore, you will not have to waste months and months and days and days, weeks and weeks, so forth and so on, going back and forth asking for now which I consider arbitrary information. They're making things up as they go along.

So I have run into that trouble many times with MBEC, and I still as of this day have not resolved certain issues in that respect. But the bottom line -- and not to belabor things and take up Council's time -- is that MBEC in my case -- I can't speak for other people or other cases, but in my case -- have violated the certification regulations not once but twice. Now, someone can

violate something or forget or say this was a mistake, but when it's brought to your attention, it's put on the record, there's notification, there's e-mail, there's correspondence, to do it a second time is beyond my comprehension. I don't know how that could be.

And last, but not least, to supply an application to a government agency in the City of Philadelphia and after 13 months still not have a reply is incomprehensible. I cannot understand how that could be.

Now, I've heard about they need technology. I heard about they need employees, so forth and so on. And, again, I would not challenge that in any way. There's merit in their statements. But what I'm saying, in my particular case it wasn't that I was under the radar or I was obscure. I was right up front. I was talking with them. I was pointing out things to them. And I did debate with them the issues that why are you

asking me for information that is not indicated in your certification affidavit and penalizing me by sending me a notice to say, Your application is incomplete, Mr. Migliarese, because we need this paperwork. Well, in my opinion, that's not the truth, because I gave them a complete application, as stated on their certification affidavit. Every piece of paper they asked me for on that affidavit was submitted to them.

One instance they came back to me and said, We can't proceed on your application. It's incomplete because you didn't sign the copies of your tax returns.

I says, Well, if I knew I had to sign, quote, "copies" of my tax return, I would have done it, but your application said just submit copies of your tax return, which I did.

They stopped the process, sent me a notification, said, We can't proceed any further unless we have signed

applications -- I mean signed tax returns.

I says, Well, for further reference, I may suggest that you put that on your certification, that an applicant is to give you signed copies of their tax returns. Copies of tax returns is just what it says, a copy. It doesn't necessarily have to be signed.

In any event, in the end, I had to swear the truth, that I'm telling them the truth. I had to swear that all the documents I presented were true and correct and I wasn't fraudulent in any way. I had to be notarized. With all that, you're holding my application up on the premise that I didn't sign a copy of a document. But they did it.

And another instance they stopped the application because they said, Well, we need an updated resume.

I says, When I submitted my application, I gave you my resume and on the top of it it said "to the present,"

what's going on with me to the present. Now, first of all, that should suffice, because nothing has changed. Second of all, second of all, why would you need an updated resume? And above all, you're the one that exceeded 134 days. So if you think or believe that within the 134 days that my situation changed as far as my resume is concerned, I said, That, I think, would be your burden, not mine, because I'm not the one that exceeded the time limit in accordance with the rules and regulations. You were.

In any event, they disregarded that, but they did hold my application up and render it incomplete, because they wanted an updated resume.

So what's happening here is, they're actually putting a burden on themselves too by asking for duplication and redundant items that they need not do. If a person submits to you an application, make a determination on what's submitted. If you don't think

that their resume is good, if you don't think the qualifications are good, if you don't think this person is the owner of the business, you don't think this person is truly disabled, tell that person, deny them. There's a process. If they were to deny me, I had a process, I had a remedy. I'd go the next level and appeal to the Director. I've been precluded from that opportunity for 13 months. And I can tell you now today, I still have no idea when I may expect results as far as my application is concerned.

Now, if they come back to me at this particular point in time, after they exceeded the 120-day period for a second time, and say to me that they need some other additional information and my application is complete, I don't know what to say at that point.

But to end it and to come to a conclusion and in closing, I would say that MBEC should pay attention and confine themselves to the certification

rules and regulations as stated, as incorporated on their website, so forth and so on, and stay within that parameter. Stay within the parameters, that their duty above all and in accordance with the Mayor's Executive Order is to determine whether the people own the business and they are truly disabled or they are truly who and what they say they are. That is the actual essence of MBEC, not to dwell on little areas whether I paid for my business privilege tax. That's like, you know, spent time where you don't have to spend it. It's a waste. If I have a license, obviously I paid for it. I don't think I would have got that document without paying for it. That's number one. Common sense.

And, number two, if you think that that's the case, deny my application and say, We don't think you have a proper business license. But do something. You don't exceed your time period. Work in

accordance with the rules and regulations. And if you need the extra 30 days, send the applicant a notice, We need an extra 30 days. And in no case, and what it says here, in no case shall the process exceed 120 days. In my case, twice it exceeded 120 days.

COUNCILMAN GOODE: Mr. Migliarese --

MR. MIGLIARESE: Thank you.

COUNCILMAN GOODE: -- thank you for your testimony.

Is there anyone else to testify on this resolution?

Mr. Ali.

Good afternoon.

MR. ALI: How are you doing, Councilman?

COUNCILMAN GOODE: Good. Please state your name for the record and proceed with your testimony.

MR. ALI: My name is Jihad Ali and I'm a contractor/developer, but I wanted to come down to -- I left my job

to come down here to put something on the record. And one of the first things I wanted to acknowledge was one of the former staff of City Council, Howard Rye. Howard Rye worked tirelessly on this issue. And I was shocked, as well as everybody, when he passed, but one of the things that he did, he went beyond a public servant just doing his job. He was really committed to this issue. And I really felt bad, like all deaths, that when things happen, but there's a lot of people that aren't aware of the effort that he put forth on this inclusion thing.

And one of the last things we spoke about was some of these City agencies that spend billions of dollars that actually -- like PAID or PIDC, since their existence, they've spent or have dealt out in loans almost $7 billion. If you look at the Redevelopment Authority, almost 700 million. Just those two agencies, they put regulations in place

that sometimes MBEC -- sometimes the RDA is a part of something that MBEC might have and MBEC has oversight, but that RDA is really in the driver's seat. Then if you have some conflicts with somebody that might be union and there's some people affiliated with the Board that may be union, that goes absolutely nowhere.

So I wanted to commend you and other Councilpeople that are on this Committee. You're on the right course. And also I wanted to have you take an opportunity to go back to read the Bechtel decision. I don't know if those notes of testimony are available, but what's really missing, there's a lot of people that have passed, there's a lot of people that are no longer in business that were affected by this agency over the course of almost 20 years. So if you can go back, read that decision, read some of the notes of testimony, some of the people that testified about some of the things that they went through 20

years ago. Here we are today, I think that -- I think eventually we'll get where we're trying to get, but it's going to take the leadership that you're exhibiting.

So I wanted to thank you. I really wanted to acknowledge Mr. Rye and I wanted to just put that on the record.

Thank you.

COUNCILMAN GOODE: Thank you.

Is there anyone else to testify on this resolution?

(No response.)

COUNCILMAN GOODE: Seeing none, this concludes the hearing on this resolution.

Thank you very much for coming.

(Committee on Commerce and Economic Development adjourned at 3:20 p.m.)

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CERTIFICATE

I HEREBY CERTIFY that the proceedings, evidence and objections are contained fully and accurately in the stenographic notes taken by me upon the foregoing matter on November 15, 2007, and that this is a true and correct transcript of same.

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MICHELE L. MURPHY

RPR-Notary Public

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