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COUNCIL OF THE CITY OF PHILADELPHIA

3

COMMITTEE ON COMMERCE AND ECONOMIC

4

DEVELOPMENT

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Room 400, City Hall
Philadelphia, Pennsylvania
Thursday, September 24, 2009
1:15 p.m.

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10 PRESENT:

COUNCILMAN W. WILSON GOODE, JR., CHAIR
COUNCILWOMAN JANNIE BLACKWELL
COUNCILMAN FRANK DiCICCO
COUNCILMAN BILL GREEN
COUNCILMAN CURTIS JONES, JR.
COUNCILWOMAN MARIA QUINONES-SANCHEZ
COUNCILWOMAN BLONDELL REYNOLDS BROWN

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BILL 090520 - An ordinance amending Chapter
17-1600 of The Philadelphia Code, entitled
"Economic Opportunity Plans," by providing
that Council may be resolution determine that
there are reasonable grounds to believe that a
participant, contractor, project developer, or
applicant for or recipient of financial
assistance has failed to comply with the
provisions of that Chapter...

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COUNCILMAN GOODE: Good

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afternoon. This hearing is called to

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order. This is a public hearing of the

5

Commerce and Economic Development

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Committee on Bill No. 090520. My name is

7

W. Wilson Goode, Jr., Chair of the

8

Committee.

9

I note that a quorum is

10

present. To my left is Councilwoman

11

Maria Quinones-Sanchez. To my immediate

12

left is Councilwoman Blondell Reynolds

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Brown, Vice Chair of the Committee, and

14

to my right is Councilman Curtis Jones.

15

The title of the Bill No.

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090520, amending Chapter 17-1600 of The

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Philadelphia Code, entitled "Economic

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Opportunity Plans," by providing that

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Council may be resolution determine that

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there are reasonable grounds to believe

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that a participant, contractor, project

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developer, or applicant for or recipient

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of financial assistance has failed to

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comply with the provisions of that

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Chapter and should be subject to

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2 debarment, and upon adoption of such a
3 resolution, the Finance Director shall,
4 after notice and hearing, make a final
5 determination as to whether there has
6 been a violation of the Chapter and
7 whether debarment should be imposed, all
8 under certain terms and conditions.

9 Our first witness is A. Bruce
10 Crawley, Millennium 3 Management.

11 (Witness approached witness
12 table.)

13 MR. CRAWLEY: Good afternoon,
14 Mr. Chairman and members of Council.

15 COUNCILMAN GOODE: Good
16 afternoon, Mr. Crawley. Congratulations
17 on your award.

18 MR. CRAWLEY: Thank you. Thank
19 you very much.

20 COUNCILMAN GOODE: Please share
21 with the Committee what award --

22 MR. CRAWLEY: I think I was one
23 of about 40 people. But I appreciate it.

24 COUNCILMAN GOODE: Please
25 proceed with your testimony.

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2 MR. CRAWLEY: Will do.

3 I have come here this afternoon
4 to express my emphatic support for City
5 Council Bill 090520, and for any other
6 bill that is designed to ensure that
7 there will finally be true and meaningful
8 inclusion of certifiable African
9 American, minority and white female firms
10 in the contracts let by the City of
11 Philadelphia.

12 In a more perfect world, our
13 city would not need such an amendment.
14 There is, as you know, language already
15 approved and already a part of
16 Philadelphia law that should be enough
17 now to move us toward being an inclusive
18 economy.

19 That language already
20 stipulates that contractors and
21 developers who do not comply with their
22 Economic Opportunity Plans, which they
23 themselves have submitted as part of a
24 winning City contract, will be subject to
25 several enforcement measures. Among

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2 other things, they can be ineligible for
3 municipal financial assistance. They can
4 be subject to having scheduled payments
5 withheld. They can be subject to having
6 their contracts terminated. They can be
7 subject to being suspended from City bids
8 for up to three years, and they can be
9 liable to pay liquidated damages.

10 You would think ordinarily that
11 the threat of such things happening would
12 already constitute enough of an incentive
13 for prime contractors to do the right
14 thing and to help to expand the economic
15 benefits from municipal contracts.

16 Apparently, however, it has not
17 been the case. There continues to be a
18 glaring disparity between the volume of
19 work done in the public and private
20 sectors by white construction companies
21 and by minority and female-owned
22 companies. In fact, the Mayor's
23 Commission on Construction Industry
24 Diversity found in 2002 the average
25 annual receipts of a white-owned

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2 construction firm in Philadelphia was
3 \$616,723. By comparison, the average
4 annual receipts of a black-owned firm was
5 just \$132,672. The average annual
6 receipts of an Hispanic firm was
7 \$128,396. White female-owned firms, by
8 the way, generated annual gross receipts
9 of \$421,877. So there does seem to be a
10 problem.

11 In addition, there continues to
12 be substantial evidence that contractors
13 with whom our city does business are
14 dragging their feet with regard to the
15 implementation of plans which they've
16 previously submitted that were designed
17 to correct the imbalance.

18 There is also evidence that the
19 concept of the Economic Opportunity Plan,
20 conceived in good faith, for sound
21 economic reasons, has contributed to an
22 even greater propensity by the City's
23 prime contractors and construction
24 management companies to "game" the
25 system. Such gaming regrettably takes

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2 many forms. There is the continuing
3 request for waivers on inclusion, because
4 they say, quote, "No minority firms of
5 the type their contract requires happens
6 to be available in the market."

7 Then there is the continuing
8 practice of primes using minority
9 businesspersons - some who are simply
10 desperate to generate any cash flow from
11 this industry and others who are just as
12 unscrupulous as the primes - as brokers
13 on the contract rather than involving
14 them in the actual work on the
15 construction site.

16 In such cases, the so-called
17 minority is given a small fee for serving
18 as a conduit between the prime and the
19 true source of contract-related materials
20 and supplies. The total value of the
21 purchase, of course, is counted toward
22 achievement of the overall EOP goal, even
23 though the minority "front" or broker
24 actually receives just a minimal
25 percentage of the total purchase price.

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2 This practice unquestionably and
3 dramatically overstates the dollar value
4 of the true compliance with EOP goals.

5 The use of such fronts is
6 designed to accomplish three things. It
7 keeps the actual work and project cash
8 flow well within the old-line firms that
9 have always had exclusive access to City
10 projects. It ensures that true African
11 American, minority and female firms do
12 not have a reasonable opportunity to
13 participate, perform and grow their
14 capacity. And, three, it defrauds the
15 City's contracting process.

16 There are still far too many
17 construction management firms that simply
18 do not believe that the City of
19 Philadelphia has the courage of its own
20 conviction with regard to true minority
21 inclusion. Unless something changes in
22 the area of effective compliance
23 monitoring and true enforcement, these
24 contractors will be no more influenced by
25 the empty threat of debarment than they

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2 have been by the other empty threats that
3 are already on the books.

4 Clearly, the enforcement
5 measures that are already part of the
6 City's laws have not constituted a
7 deterrent. Perhaps the threat of
8 permanent debarment will be enough to
9 finally bring meaningful inclusion to
10 these projects. In my opinion, it will
11 be helpful. It will be one more
12 available tool, but I don't believe that
13 as a stand-alone it will solve the
14 ongoing problem.

15 In order to do so, two steps
16 will be required even beyond the
17 debarment tool, which we support. First,
18 an honest monitoring and compliance
19 mechanism that will finally produce
20 accurate reports that will be respected
21 by prime contractors; and, secondarily,
22 the emergence of the political will
23 within the government at both the
24 executive and legislative levels to
25 actually implement its own enforcement

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2 processes.

3 In these economically
4 precarious times, the people who make and
5 enforce the laws in Philadelphia can no
6 longer afford to sit idly by and allow
7 qualified minority and female firms to
8 continue to be excluded from the work
9 being done in the City.

10 I sincerely believe that there
11 is an easily traced connection between
12 the fact that Philadelphia has the
13 highest poverty rate, at about 25 percent
14 among the ten largest cities in the
15 country, and the fact that more than 60
16 percent of our citizens are black,
17 Hispanic or Asian, the very people who
18 are being excluded from contract and
19 employment opportunities in this
20 industry.

21 It's time for this all to
22 change. Perhaps Bill No. 090520,
23 together with meaningful teeth and a
24 stronger political will, will be the
25 charm.

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2 Thank you very much.

3 COUNCILMAN GOODE: Thank you
4 for your testimony, Mr. Crawley.

5 Let me note for the record that
6 Councilwoman Jannie Blackwell has joined
7 us.

8 I have just a few questions
9 before I turn it over to members of the
10 Committee.

11 While in your testimony you
12 speak about it eloquently, can you just
13 more simplistically give us your general
14 impression of the enforcement efforts of
15 the Office of Economic Opportunity and
16 its predecessor, MBEC.

17 MR. CRAWLEY: Well, I think
18 that -- and I had this reinforced
19 recently sitting with the members of the
20 Mayor's Advisory Commission on
21 Construction Industry Diversity. We
22 talked directly to construction
23 management companies, to the principals
24 of those companies, and they said that
25 they don't think anything is ever going

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2 to happen to them. They put the numbers
3 together. They put them on the sheet.
4 They submit them. And, one, they know
5 that they can "game" the numbers by using
6 the fronts and other things related to
7 that. And, two, there's precious little
8 evidence that anything ever actually
9 happens to them, so they just continue to
10 work their show, continue to complete the
11 contract. Even when people are
12 complaining during the process, they
13 continue to do the work, and then finally
14 the contract has ended, nothing has
15 occurred, there's nothing that happens
16 after the contract has concluded. They
17 still have not done what they have set
18 out to do. And if you look at the
19 numbers that they've submitted, there are
20 gaping holes in the logic that says they
21 may even achieve those goals, because,
22 again, they look for the fronts, look for
23 the brokers, who represent a significant
24 percentage of people who were listed as
25 minority contractors on the old MBEC

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2 file. When you looked at those people
3 who were listed as contractors, a lot of
4 them were brokers.

5 COUNCILMAN GOODE: So OEO and
6 MBEC legislatively already have authority
7 in terms of enforcement and penalties.
8 The other entity that has such authority
9 is project oversight committees. Can you
10 tell me for the record what your
11 experience with project oversight
12 committees have been.

13 MR. CRAWLEY: I don't know
14 anything about it. I was on an oversight
15 committee for the Convention Center,
16 which I resigned from, state work, but
17 this is happening just up the street, and
18 I left it because most oversight
19 committees don't really have juice. The
20 oversight committees don't have the
21 authority to do anything. They can look
22 over. They can make comments. But in
23 the case, for example, of the Convention
24 Center contracts, where you'll see people
25 from 332 prominently displayed at the

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2 front door when you go by, don't believe
3 that you have true diversity inside that
4 project.

5 But the issue is that these
6 people don't really have an authority to
7 implement any of their observations. The
8 people at the Convention Center who have
9 the authority to ensure that there's true
10 inclusion are the members of the
11 Convention Center's Board and the people
12 who put them there, period.

13 I mean, the oversight committee
14 can say whatever it wants. If there's a
15 relationship between that prime, between
16 that construction management company, and
17 members of that Board and if they're
18 supported -- if that construction
19 management company is supported by that
20 Board, the oversight committee is just
21 whistling in the dark. And so I quit.

22 So I don't know about the other
23 oversight committees that you talk about,
24 but generally they are unempowered or
25 disempowered and can't really have any

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2 influence on a project.

3 COUNCILMAN GOODE: Thank you.

4 Just, lastly, so you think it's

5 appropriate that City Council have a

6 formal role in terms of enforcement?

7 MR. CRAWLEY: Oh, absolutely.

8 I think that City Council, which has

9 members that are representing the City as

10 a whole and represent specific districts,

11 the members are very close to and

12 accountable to the electorate and I think

13 that there would be a different kind of

14 responsiveness, an additional kind of

15 responsiveness. That is not to say that

16 the executive branch of government should

17 be let off and not be involved in having

18 some say as to oversight and having some

19 say as to compliance monitoring and

20 enforcement, but we ought to have it in

21 both places. We clearly need to have

22 this Council that I think, again, is very

23 close to its voters involved in their

24 process.

25 COUNCILMAN GOODE: Thank you.

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2 Let me note for the record
3 Councilman Frank DiCicco, a member of the
4 Committee, is also present.

5 Councilman Jones.

6 COUNCILMAN DiCICCO: Board
7 member of the Pennsylvania Convention
8 Center.

9 (Laughter.)

10 MR. CRAWLEY: Stop me when I
11 start lying, Councilman.

12 COUNCILMAN GOODE: Councilman
13 Jones.

14 COUNCILMAN JONES: Thank you,
15 Mr. Chairman. I'm sitting here thinking
16 deja vu all over again when it comes to
17 this issue, and I'm not going to talk
18 about the history of 17-500. I think
19 there's someone in the Chambers very
20 capable of doing that in the form of
21 Councilwoman Blackwell, who worked
22 closely with former Councilman Blackwell,
23 who implemented 17-500. So I'm going to
24 leave that if she chooses to talk about
25 some of that history and what was able to

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2 be accomplished, I'll leave that to her.

3 But on to current-day

4 frustrations -- and I guess this is in

5 concert with the Chairman's kind of

6 comment. And I understand that this

7 Administration got hit with an economic

8 tsunami. Instead of kind of planning our

9 way to a better Philadelphia

10 economically, we were putting out fires.

11 We were paying contractors. I get that

12 over the last 24 months, and I applaud

13 this Administration for being able to at

14 least keep the ship from being scuttled.

15 So I get that part.

16 But as we rapidly approach

17 midterm, I need to get some insights as

18 to -- we had such great promise about the

19 OEO and how that was going to work and

20 how -- that actually we would have a game

21 plan as to how you take minority firms,

22 female firms, disadvantaged firms and put

23 them in the mainstream.

24 Now, it does happen in our

25 society in our city and sometimes in

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2 spite of all that goes on to be barriers
3 to inclusion, and some of those people
4 are in the Chambers today that have
5 managed to manage their way through these
6 things, and I'd love to hear how they do
7 it, but my concern is, where do you see
8 us by way of a game plan to include
9 people?

10 MR. CRAWLEY: Well, I think you
11 have two people here from the Commerce
12 Department and from OEO who will be able
13 to talk to you directly about that, but
14 let me say that I don't know that their
15 plan is complete yet. I think they've
16 been working on a plan. I don't think it
17 is there. And I think that the juice
18 that will drive that plan will come from
19 the same political will that I talked
20 about for the department issue. We
21 can't -- and I discussed this with them
22 just last week. I'm not telling things
23 out of confidence, but I had a
24 conversation with these two gentlemen
25 last week about what their plans were,

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2 and they seem to be very willing to get
3 reengaged now that the budget monies look
4 like they're coming and those kinds of
5 things are happening.

6 But the only thing that I told
7 them I'm most concerned about is a
8 feeling -- and I hope this is not the
9 feeling of the Administration -- that
10 with the tightening of budgets, that we
11 don't read that as an excuse for reducing
12 the commitment to minority inclusion in
13 the city. That should not be accepted as
14 an excuse.

15 I mean, if the budget is five
16 percent less than everybody wanted it to
17 be or ten percent less or 20 percent less
18 or 40 percent less, that which is
19 available to be spent will be spent with
20 contractors and people who supply goods
21 and services to the City. And that
22 amount, whatever it is, should have no
23 less commitment for the engagement of
24 people of color and for white females.

25 And so if that is the guiding

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2 principle, I think these guys will be
3 okay. If they think that in tough times
4 you can't think about minority inclusion,
5 then we got a big problem.

6 COUNCILMAN JONES: Thank you,
7 Mr. Chairman.

8 COUNCILMAN GOODE: Councilwoman
9 Brown.

10 COUNCILWOMAN BROWN: Thank you.

11 Good afternoon. Let me first
12 thank you for your testimony. You have
13 been completely consistent in the nine
14 years I've been here for always providing
15 a real clear, precise articulation of
16 what the dilemma is. And I want to
17 commend Councilman Goode, because I
18 myself have wrestled with where do we --
19 there's always been a disconnect in this
20 particular area and I've been at a loss
21 as to how we tighten up this whole
22 monitoring piece, because too often we
23 hear of contractors who call our office
24 because they are sick of another game
25 being played by the primes, and this, I

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2 believe, will add another -- well, it
3 gives us another opportunity to make sure
4 that we're included at the point
5 contractors come here for the zoning
6 piece, at the point that the oversight
7 committees happen, because we've actually
8 had Councilmembers sit on oversight
9 committees, like the stadium, and still
10 there have been gaps that we've missed,
11 because contractors have come back to us
12 saying that the prime is not honoring the
13 agreement.

14 So my hope, given Councilman
15 Goode's thinking over the summer, will be
16 a tighter opportunity to put hard-core
17 enforcement in place. So we thank you
18 for your testimony.

19 MR. CRAWLEY: Thank you very
20 much.

21 COUNCILMAN GOODE: Councilwoman
22 Sanchez.

23 COUNCILWOMAN SANCHEZ: Yes. I
24 want to highlight what you just ended in
25 speaking today. If we as a city are

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2 really committed to minority inclusion,
3 we have to know that we have to pay for
4 it, and we have to pay for it in the
5 sense of we got to provide opportunities
6 for our smaller firms to develop their
7 capacity to compete in the market. And I
8 just wanted to highlight that point,
9 because I recently was involved with the
10 Administration over the contracting of
11 police guards at our homeless shelters
12 and, as a result of that, had a minority
13 vendor, one of the few that we have in
14 the City, walk away from a contract
15 because we chose a loophole to save
16 money, and as a result of that, 35
17 minority men and women are laid off
18 today.

19 And so I just wanted to
20 highlight that point. At the end of the
21 day, good policy written without the
22 proof, the political will to say we have
23 to pay for this -- because these are
24 Philadelphia's men and women, and for me
25 I find it outrageous that we subsidize

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2 stadiums and we subsidize the Eagles and
3 we subsidize all of these folk, and when
4 you have a small firm -- and we're
5 talking about in this particular case
6 maybe a difference of maybe 50, 100
7 thousand dollars, that we're okay with
8 minority vendors walking away from this,
9 and that's not an acceptable practice.

10 MR. CRAWLEY: Councilwoman, I
11 think that we really do have to be
12 concerned that these contracts are being
13 let with only a fiscal accountability,
14 that people are looking at it, okay, we
15 got a \$500,000 contract and we will let
16 that for \$500,000 or we make sure that
17 that happens.

18 We also have to have the
19 contracts let given the state of our
20 city, 25 percent of the people living
21 below poverty, that every contract
22 dollar, to the best of our ability,
23 should also have an economic development
24 agenda on it also.

25 I mean, if we are spending that

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2 dollar staying within our fiscal
3 constraints and employing people from
4 Tennessee, we've done ourself a
5 disservice. Whereas, if we spend the
6 same money, stay within our fiscal
7 constraints and spend that money in such
8 a way to employ people in the Hispanic
9 community, African American, other
10 communities that have been
11 disenfranchised and underrepresented,
12 then we help the City, because the City
13 will benefit from that. And that
14 argument that we lose money on the
15 contract, sometimes that is not proven.
16 I mean, you ask them, demand that they
17 show you how they can prove that. It's
18 not necessarily true. Because smaller
19 contractors bidding on the piece, the
20 whole economic logic behind having people
21 bid on contracts, multiple bidders, is
22 designed to have prices come down. And
23 so when we say we should have more people
24 bidding, they say, Oh, no, that will make
25 it more expensive. When did that happen?

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2 I mean, the RFP process, the bidding
3 process is designed to bring the price
4 down to the person letting the contract.
5 But we've started to accept the
6 180-degree opposite of that, for no
7 apparent reason. It doesn't make any
8 sense.

9 COUNCILWOMAN SANCHEZ: And I
10 agree. I think the issue is, our
11 justification for the subsidy of these
12 big enterprises is, we collect revenue on
13 wages and everything else, and it seems
14 that we come up with very creative
15 formulas to subsidize the bigger
16 industries and we're unwilling to do it
17 when it comes to the small guys, and the
18 small guys will always stay small because
19 we will not de-bundle these contracts and
20 we really are not willing to pay them
21 what it takes for them to build their
22 capacity, even though their workers are
23 Philly-based workers, and in the case of
24 these other industries, they're not. So
25 thank you.

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2 COUNCILMAN GOODE: Any other
3 questions for this witness?

4 (No response.)

5 COUNCILMAN GOODE: Thank you
6 very much.

7 MR. CRAWLEY: Thank you very
8 much.

9 COUNCILMAN GOODE: Our next
10 witness is Kevin Dow, the Commerce
11 Department.

12 (Witnesses approached witness
13 table.)

14 MR. DOW: Good afternoon. For
15 the record, my name is Kevin Dow. I have
16 with me Curtis Gregory, the Office of
17 Business Services and Interim Director of
18 the Office of Economic Opportunity.

19 Good afternoon, Chairperson
20 Goode and members of the Committee on
21 Commerce and Economic Development. I am
22 Kevin Dow, Acting Chief Operating Officer
23 of the Commerce Department. I am here
24 today to present testimony in support of
25 Bill No. 090520, which amends Chapter

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2 17-1600 of The Philadelphia Code,
3 entitled "Economic Opportunity Plans."

4 This bill provides that Council
5 may, by resolution adopted after a public
6 hearing, recommend that a participant,
7 contractor, project developer or
8 applicant for or recipient of financial
9 assistance from the City of Philadelphia
10 be debarred if there are reasonable
11 grounds to believe that they have failed
12 to comply with the provisions of the
13 Chapter. Upon the adoption of such a
14 resolution, the Finance Director shall,
15 after notice and opportunity for a
16 hearing, make a final determination as to
17 whether there has been a violation of the
18 Chapter and whether debarment should be
19 imposed.

20 Economic inclusion for all
21 Philadelphians is a high priority for the
22 current Administration and opportunities
23 to reinforce this in the City's
24 contracting and procurement processes are
25 most welcomed. It is important that we

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2 fully utilize the tools currently
3 available to the City to communicate our
4 desire to achieve and hold firms
5 accountable for robust participation
6 within our contracts for minorities,
7 women and the disabled.

8 Over the last several months, I
9 have been personally involved with
10 interviews of stakeholders in the
11 community, Mr. Crawley being one of them,
12 and an overriding criticism of past City
13 practices raised by many is the lack of
14 action against firms who do not comply
15 with the City's requirement for minority
16 inclusion. Everyone has firmly stated
17 that we in the Office of Economic
18 Opportunity and all those involved in the
19 contracting and procurement process need
20 to firmly establish that minority
21 inclusion is important and will be
22 monitored and evaluated.

23 Many in the community will tell
24 you, as they have shared with me, that
25 the City needs to establish a different

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2 protocol regarding our desire to enforce
3 minority participation. Knowing that the
4 City is serious about utilizing the
5 current policies and procedures in place
6 for debarment will send a strong message
7 that the City is paying closer attention
8 and is now serious about broadening the
9 economic success to all.

10 Under the penalty provisions of
11 Chapter 17-1600 for Economic Opportunity
12 Plans, there are provisions providing for
13 the termination of a contract, in whole
14 or in part, and suspending a participant,
15 contractor or recipient of financial
16 assistance from bidding and/or
17 participating in future City contracts
18 for up to three years. In light of these
19 provisions and Council's role in the
20 approval of many Economic Opportunity
21 Plans, the language added by Bill No.
22 090520 strengthens the monitoring and
23 oversight regarding EOPs. While Council
24 clearly has a legislative oversight
25 function in general, the provisions of

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2 Bill No. 090520 further solidify and
3 clarify this role as it relates to
4 Economic Opportunity Plans.

5 I also believe this amendment
6 will ultimately foster a better
7 relationship between current and
8 potential contract partners as it creates
9 a greater level of clarity surrounding
10 the City's desire, the City's ability and
11 the City's will to drive economic
12 inclusion.

13 I thank you for the opportunity
14 to provide testimony and I am happy to
15 answer any questions you may have.

16 COUNCILMAN GOODE: Thank you
17 for your testimony, Mr. Dow.

18 Let me mention for the record
19 we've been joined by Councilman Bill
20 Green, a member of the Committee as well.

21 Since the Administration is
22 supporting the bill, I have a few
23 friendly questions.

24 MR. DOW: I appreciate that.

25 COUNCILMAN GOODE: The first

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2 is, how many contractors are on the
3 City's debarment list?

4 MR. DOW: I don't think there's
5 any right now. That have currently been
6 debarred?

7 COUNCILMAN GOODE: I've
8 actually checked several times, including
9 today, and clicked on the debarment list,
10 and it just says none.

11 MR. DOW: Zero.

12 COUNCILMAN GOODE: Does the
13 City require responsibility certification
14 that contractors are not on any other
15 debarment lists?

16 MR. DOW: Does the City require
17 that the --

18 COUNCILMAN GOODE:
19 Responsibility certification, which says
20 that you fill out a form that says that
21 you are not on any other debarment lists
22 in terms of the state or federal
23 government. Does the City require that?

24 MR. DOW: I don't have that
25 specific answer. I don't believe so, but

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2 I can double check that, but I don't know
3 right now. I don't think so. And we
4 would check the status of anybody who is
5 asking for, let's say, reciprocal
6 certification, which is a number of
7 certifications we do, and that would show
8 up in that checking and in that
9 qualification process.

10 COUNCILMAN GOODE: Okay.

11 MR. DOW: We would identify
12 that information.

13 COUNCILMAN GOODE: So are we
14 sure that there aren't contractors doing
15 business in the City of Philadelphia that
16 aren't on other debarment lists?

17 MR. DOW: I can't answer that
18 question at this time.

19 COUNCILMAN GOODE: Okay. Two
20 final questions. Does this bill remove
21 any authority from the Administration?

22 MR. DOW: Does this bill remove
23 any authority? No, it does not.

24 COUNCILMAN GOODE: Just for the
25 record.

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2 And, lastly, will this
3 ordinance, since this is supported by the
4 Administration, I think generally
5 supported by the Committee and may be
6 supported by Council, will this ordinance
7 be legally valid without an amendment to
8 the Home Rule Charter?

9 MR. DOW: To my understanding,
10 the answer is yes.

11 COUNCILMAN GOODE: Is there
12 anyone else who can testify to that from
13 the Administration? Because this is
14 actually a companion bill to a Charter
15 change which we thought might be
16 necessary.

17 MR. DOW: I think --

18 COUNCILMAN GOODE: I am willing
19 to amend this piece of legislation so
20 that it can be effective immediately
21 without a Charter change, which I think
22 is a more effective approach, but I
23 actually need someone to testify on the
24 record that the ordinance will be legally
25 valid without a Charter change, in the

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2 Administration's opinion.

3 MR. DOW: In the
4 Administration's opinion, that answer is
5 yes.

6 COUNCILMAN GOODE: Okay. Thank
7 you.

8 Any questions for this witness?
9 Councilwoman Brown.

10 COUNCILWOMAN BROWN: Could you
11 please give us a status on the
12 reorganization of your department,
13 specifically as it relates to OEO.

14 MR. DOW: Yes. We have, as you
15 all are aware, we've had some leadership
16 changes over the last 60, 90 days and
17 have asked Curtis Gregory, who is the
18 Director of the Office of Business
19 Services, to serve as the Interim
20 Director of the Office of Economic
21 Opportunity as we begin to finalize and
22 complete the changes that are occurring
23 in that world. We've had conversations
24 with both the Administration,
25 stakeholders in the community as well as

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2 some of the Councilmembers in regards to
3 what changes are about to take place in
4 that world, what we're going to
5 emphasize, where we're reutilizing the
6 current resources in there, financial as
7 well as human, and to determine which is
8 the most appropriate structure for us to
9 have, and that process is ongoing.

10 COUNCILWOMAN BROWN: If you had
11 to identify one, two or three lessons
12 learned from the tenure of the immediate
13 predecessor and the leadership of MBEC,
14 what will be those one, two or three
15 lessons that you want to use as you
16 reconstruct your office?

17 MR. DOW: Certainly we have to
18 look -- everybody who is in the community
19 as stakeholders in this process, whether
20 they're on the right side or the left
21 side, meaning on different sides of the
22 issues, we need to make sure that we
23 engage each and every one equally so that
24 we can get the fullest feedback, the
25 fullest --

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2 COUNCILWOMAN BROWN: Picture.

3 MR. DOW: -- understanding,
4 picture, exactly. I think that's one
5 strong lesson that has been learned.

6 I also believe that we need to
7 look at our internal processes and our
8 internal relationships within. When I
9 say "internal," internal to the City of
10 Philadelphia and the departments that we
11 are working with, much more closely than
12 what we have done in the past.

13 COUNCILWOMAN BROWN: So that's
14 across department heads?

15 MR. DOW: That's exactly right.

16 COUNCILWOMAN BROWN: The one
17 observation made by me and other members
18 of this body during the last budget
19 process is, we would ask the department
20 head very, very specific questions about
21 MBE/WBE participation, often times having
22 the facts right in front of us, and too
23 often the answer was, Well, that's MBEC's
24 responsibility or that OEO's
25 responsibility. And then we had the

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2 opportunity to bring the leadership
3 before us. It was a surprise when they
4 discovered that other department heads
5 were looking to them for the moving of
6 the needle around MBE/WBE participation.

7 So that's why I asked the
8 question are we talking about across
9 department heads, understanding fully
10 what your expectations are going to be
11 when it comes to those commissioners
12 meeting those goals.

13 MR. DOW: Yeah. If I can
14 comment on that. That's absolutely the
15 case, and I would say it's above me as
16 well. So the Mayor has committed and has
17 communicated to me personally and in my
18 presence to commissioners and his
19 deputies and his direct reports that this
20 is critical for them to understand, for
21 them to be able to report out on, and
22 then for them to be able to help us
23 succeed in meeting some of the goals that
24 we are anticipating having. And so the
25 conversations that we would like to have

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2 with the individual departments around
3 consulting them in regards to their
4 minority participation, working with them
5 in the process that would allow us to
6 engage them much early on in the process
7 of procurement or of contracting, so that
8 we can have a better understanding of
9 what they're going to do. They can have
10 a better understanding what possibilities
11 exist for minority participation, and
12 then we can then achieve together better
13 results as the long goal. That's what we
14 want to do.

15 Our goal -- and I witnessed
16 some of those questioning that you're
17 referring to in the last budget process.
18 My goal is that not one of those
19 commissioners would come up here and say
20 that there has never been a conversation
21 with the Office of Economic Opportunity,
22 that they would say that we've had an
23 ongoing partnership with them in order to
24 help them meet their goals and
25 objectives. You will hear some that will

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2 get further along than others --

3 COUNCILWOMAN BROWN: Surely.

4 MR. DOW: -- but the

5 conversation must have taken place. So

6 that when you ask that question again in

7 the next budget process, that the answer

8 is, Yes, we are engaged with the Office

9 of Economic Opportunity around meeting

10 our minority participation goals.

11 COUNCILWOMAN BROWN: Okay.

12 MR. GREGORY: Yes.

13 COUNCILWOMAN BROWN: So

14 that's -- I'm sorry. Please.

15 MR. GREGORY: If I could add,

16 in the short amount of time, in the one

17 month since I've been in the seat, we

18 have spent a lot of energy around

19 listening, not only externally but as

20 well internally, and I think that's

21 something that we've learned from the

22 past, is that we really do need to

23 listen. As I look at the reaction from

24 people like the Bruce Crawleys in the

25 world, their reaction to our strategic

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2 direction seems to indicate that we have
3 been listening and we're heading in the
4 right direction.

5 The other thing that we've been
6 working very hard on externally and
7 internally, even in the environment when
8 I'm reading my own layoff notice, is
9 doing a better job of proactively
10 communicating what we're doing as opposed
11 to reactively.

12 COUNCILWOMAN BROWN: So you've
13 identified two. The internal sharpening,
14 if you will, the internal communications.
15 Might there be a third?

16 MR. DOW: I think that we need
17 to begin to look at it from a more
18 holistic perspective. We have a tendency
19 to just focus on the City of Philadelphia
20 and what resources that we have to let
21 contracts. If we are to be able to truly
22 succeed, overall success, for the growth
23 and participation of everyone in the
24 economic success of Philadelphia, we have
25 to look outside of the City itself. We

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2 have to build -- call it using City
3 government or City contracting as a
4 pathway to entrepreneurship. And I mean
5 that we can contract within individual
6 companies in that manner, but it should
7 be in a way in which while we add with
8 technical assistance, capacity building
9 through our other resources in the
10 Commerce Department, a means for them to
11 go out and achieve success in the private
12 world. That's not only here in
13 Philadelphia, that's nationally, that's
14 globally. That's the dynamic that we
15 need to move forward with. That's where
16 we need to shift it from being insular
17 within the City of Philadelphia to
18 external or widening or broadening to the
19 world, the global leaders that we can be,
20 positioning firms to that. We can't
21 assume that these firms do not have that
22 ability. They do. We have to prepare
23 them to have that.

24 MR. GREGORY: If I could throw
25 in, within the first week that I stepped

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2 in the position, I was given a report
3 about so high that had what I would call
4 a lot of data, but not a lot of
5 information. And I think the strategic
6 move of moving OEO from the Finance
7 Department to the Commerce Department
8 represents a shift in terms of economic
9 impact.

10 So as we coach and manage day
11 by day, we're making a cultural shift
12 away from data collection to how are we
13 getting money on the streets, are we
14 creating an inclusive environment and is
15 capital actually getting in the hands of
16 those minority, women and contractors.

17 COUNCILWOMAN BROWN: I thank
18 you for that vision. Thank you very much
19 for your testimony.

20 MR. DOW: Thank you.

21 COUNCILMAN GOODE: Councilman
22 Jones.

23 COUNCILMAN JONES: Thank you,
24 Mr. Chairman.

25 Good afternoon, gentlemen.

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2 MR. DOW: Good afternoon.

3 MR. GREGORY: Good afternoon.

4 COUNCILMAN JONES: Two things.

5 One, I was given information on
6 debarment, and why that is so important
7 to me is that to not have debarment is to
8 have a dog with no teeth.

9 MR. DOW: Sure.

10 COUNCILMAN JONES: It is, as
11 stated by Mr. Crawley, all bark, no bite.

12 In the case of the Department
13 of Labor, just one department within the
14 Commonwealth of Pennsylvania, just one
15 department, they have 21 debarments, 21
16 firms that for a period of time, three
17 years, cannot participate in the
18 lucrative contracts offered by the
19 Commonwealth of Pennsylvania.

20 Those contractors had a process
21 by which they were found wanting in one
22 area or another. There was an
23 accusation. There was a hearing. There
24 was an appeal. There was a process.

25 Please describe for me what

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2 that process is today.

3 MR. DOW: Well -- and,
4 honestly, I can't. I don't know the
5 exact detail, but I'm going to try to
6 tell you what I know of the process.

7 If a firm has been found
8 through the process that they have
9 violated or have not met the minority
10 inclusion goals that are represented,
11 there's a process by which they would be
12 either presented for review by --

13 COUNCILMAN JONES: To whom?

14 MR. DOW: To the Office of
15 Economic Opportunity. And then the
16 Office of Economic Opportunity would then
17 make a recommendation whether or not that
18 should be proceeded forward. That would
19 go -- and who would be involved would be
20 our law area. That would then go to the
21 Finance Department, and the Finance
22 Director -- that Finance Director -- and
23 hearings would be held all the way
24 through, both on the process of appeal
25 from the organization that was being

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2 proposed for debarment, and then the
3 Finance Director would make a final
4 decision.

5 COUNCILMAN JONES: Has that
6 process ever happened in the last two
7 years?

8 MR. DOW: I do not believe so,
9 no.

10 COUNCILMAN JONES: In the --

11 COUNCILMAN GOODE: There have
12 been debarments. My understanding is,
13 there has never been a debarment for lack
14 of inclusion.

15 MR. DOW: For lack of?

16 COUNCILMAN GOODE: Inclusion.
17 There's been debarment for other issues.

18 MR. DOW: That's correct.

19 MR. GREGORY: Yeah, for like
20 legal issues or criminal.

21 MR. DOW: Egregious criminal
22 issues, but not for inclusion.

23 COUNCILMAN JONES: The State of
24 New Jersey has 200 debarments, primarily
25 because of comparable wage and issues

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2 involving labor.

3 MR. DOW: Sure.

4 COUNCILMAN JONES: Because they
5 take that seriously, and because the
6 special interest groups have made sure
7 that the government takes it seriously.

8 In comparison, we want the
9 issue of inclusion taken seriously. So
10 for us not to have one debarment says
11 exactly what Mr. Crawley has stated, that
12 no one believes that we take this process
13 seriously and it is a priority.

14 By way of overall plan -- and
15 let me say this: Knowing what you guys
16 are up against, I understand that you are
17 not -- you are just one component of
18 this. There is financing, there is this.
19 There's so many different things, but at
20 some point, we have to roll up our
21 sleeves and do a plan.

22 Now, I understand in our
23 last -- I went back and looked at the
24 DVD, and I was promised a plan within 30
25 days from -- we were sitting at this

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2 committee and we said -- you said that I
3 would have a plan on my desk, or the
4 Chairman would have a plan on his desk
5 and would be distributed to members for
6 that inclusion, that process that
7 included the finance agencies, the
8 Procurement Department, the other
9 private-sector entities that could
10 provide technical assistance, and we are
11 still waiting for that plan, and I wanted
12 to get a report, an update, from you as
13 to where we are in the drafting of that
14 plan.

15 MR. DOW: It is near complete,
16 and I recognize and I do acknowledge that
17 we had a deadline that has passed, and
18 I'm not going to sit up here with the
19 excuses that you're all familiar with.
20 We are at the -- and I will say -- the
21 very final stages of trying to complete
22 and finish the plan, making sure that it
23 meets all of the goals and objectives of
24 the Administration, which is reviewing
25 it, and should have that in short order.

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2 COUNCILMAN JONES: I would ask
3 one final question. We are rapidly
4 approaching the month of October, the
5 first week of October, which is MED week.
6 It's nationally recognized as Minority
7 Enterprise Development Week. This city
8 has had a rich history, dating back to
9 the Wilson Goode Administration, of
10 celebrating MED week and celebrating --
11 and the crown jewel of that celebration
12 is the participation numbers by the City
13 of Philadelphia, leading the way, setting
14 the example for the private sector.

15 Where are we at with that? Are
16 we going to have a MED week celebration
17 and are we going to get numbers as to
18 what our success, what our
19 accomplishments are by way of inclusion
20 of minority businesses and female
21 businesses?

22 MR. GREGORY: Yes, we are
23 definitely moving forward with MED week.
24 I actually had a conversation just
25 yesterday with Barbara Oliver to find out

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2 where we were from a fundraising
3 standpoint, and I know they're doing a
4 lot of work getting ready for some of the
5 workshops that are going to take place
6 the week of.

7 The thing I'm focused on the
8 most was making sure they got the
9 information to the Mayor's Office so the
10 Mayor would have a very strong role in
11 the award ceremony that I believe is
12 October 6th, that Friday night.

13 I feel very confident. I
14 personally sat in on one of the MED week
15 committee meetings in September just to
16 make sure that this didn't sneak up on
17 us. So I feel very confident we're
18 moving forward. It's a little bit of a
19 scaled-back version compared to past
20 years because of --

21 COUNCILMAN JONES: That's fine.
22 Times are tough all over, and if we did
23 it in a gymnasium, it would be okay with
24 me. But the crown jewel of it is the
25 numbers. Will we have participation

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2 numbers at that meeting?

3 MR. DOW: We'll have something
4 for it. We're not exactly sure what
5 we're finalized with, but, yeah, the
6 answer is yes.

7 COUNCILMAN JONES: I anxiously
8 anticipate MED week.

9 Thank you, Mr. Chairman.

10 COUNCILMAN GOODE: Thank you.

11 Councilman Green.

12 COUNCILMAN GREEN: Thank you,
13 Mr. Chairman.

14 I must say I have some concern
15 about taking what should be an
16 administrative process and moving it to a
17 legislative body, and I just would -- I
18 want to go back to Councilman Jones's
19 question and sort of go back to what the
20 current process is today. Is there a
21 current written administrative process
22 for debarment?

23 MR. DOW: Yes.

24 COUNCILMAN GREEN: What is it
25 from beginning to end?

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2 MR. DOW: I don't have that
3 right here in front of me. I can
4 certainly provide that to you. However,
5 Council does have a role, has an ability
6 to call hearings in regards to firms that
7 they believe are not meeting their
8 minority --

9 COUNCILMAN GREEN: I'm asking
10 about your department.

11 COUNCILMAN GOODE: It's in the
12 Code.

13 MR. DOW: It's in the Code.

14 COUNCILMAN GOODE: That's
15 what's in the Code currently.

16 COUNCILMAN GREEN: This is the
17 Code.

18 COUNCILWOMAN SANCHEZ:
19 Enforcement and penalties.

20 COUNCILMAN GREEN: No, I
21 understand what the Code says. The Code
22 is very short. The Code doesn't really
23 provide a detailed process when you seek
24 to debar somebody.

25 Is there a written standard

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2 either that existed at MBEC or exists in
3 the Office of Economic Opportunity or
4 exists somewhere that describes when
5 we're going to seek debarment, what
6 notice the people get who that's going to
7 be, who we're considering to be debarred?
8 In other words, have rules and regs been
9 written with relation to the existing
10 Code that would --

11 MR. GREGORY: Yeah. I would
12 offer up that -- and it's going back a
13 few months now for me. There is a
14 process. There is a code. It's very
15 subjective --

16 COUNCILMAN GREEN: What is the
17 process?

18 MR. GREGORY: I'm sorry?

19 COUNCILMAN GREEN: What is the
20 process?

21 MR. GREGORY: That I'm not real
22 clear about. I know that it's very
23 subjective in nature, because when I read
24 it a while ago --

25 COUNCILMAN GREEN: Isn't this

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2 why nothing has happened, because there's
3 no clearly detailed process of when
4 you're going to go after somebody? If
5 they miss by this much, then we're going
6 to have a hearing, and we're going to
7 have a hearing at OEO and they're going
8 to have the right to bring counsel and
9 they're going to have the right to do
10 this and this is what's going to happen.

11 I mean, it seems to me that
12 this should not become the responsibility
13 of City Council to have hearings, weekly
14 or biweekly, to determine whether or not
15 a corporation is complying with the
16 Economic Opportunity Plan that they
17 agreed with you that they were going to
18 do. I mean, why can't the Administration
19 have an administrative process? I mean,
20 are you just saying you're not capable as
21 an administration of having your own
22 process to go through this and to enforce
23 the debarment rule and that the
24 Administration essentially is saying, We
25 can't do this, so we're going to rely on

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2 City Council to do this, because we as an
3 administration are not capable of writing
4 rules and regulations and doing this
5 within OEO? Is that essentially your
6 testimony?

7 MR. DOW: No.

8 COUNCILMAN GREEN: Well,
9 explain to me what it is your testimony
10 is.

11 MR. DOW: Our testimony is to
12 say that we want to support what is
13 currently available in the regulations
14 and in the Code that allows Council to
15 call hearings, conduct hearings as --

16 COUNCILMAN GREEN: Sure. We
17 can do that without changing this
18 ordinance.

19 MR. DOW: -- as a means to make
20 a recommendation to what is now the
21 Director of Finance, and the Finance
22 Director, who I don't have the detail of
23 right now, who would then have to conduct
24 a process by which it would then --

25 COUNCILMAN GREEN: Kevin, I

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2 understand what the bill says. I'm
3 asking you why the Administration feels
4 you can't do it yourself.

5 MR. DOW: I don't --

6 COUNCILMAN GREEN: Why don't
7 you have -- if we do this, are you going
8 to --

9 COUNCILMAN GOODE: Councilman
10 Green, this bill, when it becomes law,
11 will still involve an administrative
12 process. That process, if Council
13 decides to intervene, would take place
14 after Council takes action.

15 COUNCILMAN GREEN: Councilman,
16 I completely understand what the law
17 does.

18 COUNCILMAN GOODE: This
19 legislation does not allow us to debar.
20 It allows us to bring debarment charges.

21 COUNCILMAN GREEN: I understand
22 what the law does. I'm asking the
23 Administration and the two people in
24 charge of debarment right here for the
25 Administration, who can't tell me exactly

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2 what the current process is because
3 they've never taken anybody through it
4 and so they don't even know.

5 COUNCILMAN GOODE: Which is
6 exactly why I chose to intervene.

7 COUNCILMAN GREEN: I
8 understand. I understand, but
9 essentially their testimony is they're
10 not capable of putting in place a real
11 process and enforcing this law with
12 teeth, and so City Council is now going
13 to have to step in and create the teeth
14 for a law that we have on the books.

15 MR. DOW: No, I disagree. I
16 would not say that that's our testimony
17 today. Our testimony today is that we're
18 in support of this particular bill, which
19 does add teeth to what is currently
20 available and in place, and that also is
21 we have not as -- it's on the record that
22 there have been no debarment proceedings
23 for a very long time, particularly within
24 the -- there have been none in the
25 minority inclusion aspect of this. And

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2 so we personally have not had any
3 experience with that. However, that
4 should not be construed to think that we
5 do not have a process in place. I just
6 don't have those intimate details.

7 COUNCILMAN GREEN: You just
8 don't know what the process is. Did you
9 know what this hearing was going to be
10 about today? Are you not embarrassed
11 that you come before City Council and
12 don't know the process that would cause
13 someone to be debarred such that we
14 actually have to take the extraordinary
15 measure of stepping in and essentially
16 creating our own process that will,
17 through force, shame and humiliation,
18 require that you actually do something in
19 your office that we've authorized you to
20 do a long time ago?

21 This is probably the most
22 embarrassing thing I have seen in the 20
23 months I've been on City Council, is to
24 have a City department -- and we all know
25 that a lot of stuff is not working, but

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2 to see a City department come before us
3 and say, We're not capable of fixing this
4 ourselves, so we support you stepping in
5 and shaming us into doing our job.

6 That's your testimony, and it's really,
7 really embarrassing.

8 Thank you, Mr. Chairman.

9 COUNCILMAN GOODE: No problem,
10 Councilman.

11 Mr. Dow, if I can respond on
12 your behalf. The Administration cannot
13 tax people without City Council. The
14 Administration cannot approve a budget
15 without City Council. The Administration
16 cannot appropriate money to Class 200
17 without City Council. There probably
18 should not be a process without City
19 Council, and so I actually welcome this
20 opportunity. I do believe it's based
21 upon past failures, but across the board,
22 as long as we tax businesses, tax
23 property owners, tax wages and take that
24 money and actually appropriate hundreds
25 of millions of dollars, if not billions

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2 of dollars, toward contracts, we should
3 never step out of the process.

4 Are there any other questions?

5 Councilman Jones.

6 COUNCILMAN JONES:

7 Mr. Chairman, thank you.

8 Listen, this is not for me a
9 vote of non-confidence. It's not that.
10 It is a vote of frustration saying that
11 we need results, that we believe that you
12 had to deal with a recession, we
13 understand that, get it. But as we meet
14 the halfway mark, we have to show -- we
15 have to have more ribbon cuttings and we
16 have to have more firms grown through
17 that process that can go back and
18 employ -- I have two guys sitting in the
19 front of my office today that were in a
20 bad place. They could go either way, and
21 I won't even go into the details of what
22 those choices were, but they said to me,
23 Councilman, is there a job for me?
24 Councilman, is there a project I could be
25 on or something and use my hands so that

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2 I don't do some of the things that I do?

3 And that's no excuse for them. Not at

4 all. But we do have to have these

5 economic opportunities in neighborhoods.

6 I have too often watched

7 contractors with New Jersey plates come

8 and move guys off of the corner of North

9 Philly to do the concrete work and then

10 say, When it dries, you can stand back

11 unemployed on that corner.

12 If we don't do this, if you

13 don't do this -- I told you when you

14 first came on, this is the hardest job in

15 the City of Philadelphia, including the

16 Mayor's Office.

17 So this is not a vote of

18 non-confidence. This is a vote of let's

19 get it done. And so welcome to our

20 world. We support working with you. I

21 think that's what the Chairman's piece

22 is. But trust me when I tell you, I'm

23 not going to listen to another budget

24 hearing where Councilwoman Blondell

25 Reynolds Brown asks a department head

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2 what is their EEO goal and they look at
3 them with a state of bewilderment, like
4 what goal? At least those departments
5 better know what the expectation is,
6 because if the Administration has one,
7 please believe City Council has one.

8 Thank you, Mr. Chairman.

9 COUNCILMAN GREEN:

10 Mr. Chairman?

11 COUNCILMAN GOODE: Councilman
12 Green.

13 COUNCILMAN GREEN: Thank you,
14 Mr. Chairman.

15 So I have a couple of questions
16 about -- since we're going to become
17 involved in the front end of this
18 process, I have a couple of questions
19 about how that's going to work.

20 The investigation that Council
21 is going to do, should we essentially
22 appropriate money from OEO so that we can
23 conduct investigations that we've given
24 you a budget for? And with respect to
25 the Inspector General, who assists in

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2 your investigations, I assume the
3 Administration is happy with us tasking
4 the Inspector General to help us with the
5 investigations on our behalf, or we can
6 appropriate money from the Inspector
7 General's budget to hire our own people
8 to do the investigations that we're going
9 to do. Because we're essentially taking
10 over an administrative task for the
11 Administration and we're going to become
12 involved in the front end of the process,
13 and we've appropriated you money for that
14 to enforce the laws.

15 So how do you propose that we
16 pay for it? Should we appropriate money
17 back from your department since you're
18 not involved in the front end of this
19 process?

20 MR. DOW: The honest answer, I
21 want more and more money to do more and
22 more things. And as you appropriate more
23 money for us to do it, we'll do a better
24 job.

25 COUNCILMAN GREEN: Well, you

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2 can't do this one thing.

3 MR. DOW: It's not my -- I am
4 unable to address the transitioning or
5 the transfers or the movement of budgets
6 from one thing to the other. That's not
7 my role and my accountability. So that
8 answer -- that question I'm not
9 comfortable in answering.

10 COUNCILMAN GREEN: Well, I got
11 to -- once again, I find it extremely
12 embarrassing that we have to step in to
13 take this process.

14 And for me, Councilman Jones,
15 this will be a vote of no confidence. I
16 know that there was an economic crisis,
17 but, frankly, the Administration has to
18 be able to walk and chew gum at the same
19 time. They have to enforce the laws on
20 the books.

21 So thank you, Mr. Chairman.

22 COUNCILMAN GOODE: Councilman
23 Jones.

24 COUNCILMAN JONES: Yes. Have
25 you looked at the SugarHouse Casino/OEO

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2 plan and are you satisfied with it?

3 MR. DOW: We have looked at it.

4 We are involved with it as an oversight

5 committee there. We are -- are we happy

6 with it? We are pleased that it's moving

7 in the right direction.

8 COUNCILMAN JONES: What is the

9 participation levels of minority and

10 females?

11 MR. GREGORY: It's only about

12 15 percent into the project. We haven't

13 started the construction phase yet right

14 now. Those numbers are falling short

15 right now, but we've had a couple of

16 meetings that I've personally chaired and

17 I think we're moving in the right

18 direction. In other words, the trend is,

19 the numbers are getting better.

20 COUNCILMAN JONES: Are you at

21 liberty to name some of the companies

22 that have participated?

23 MR. DOW: Not at this time.

24 Not that we're not at liberty. We just

25 don't know at this time.

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2 COUNCILMAN JONES: Will you
3 provide the Chair with that?

4 MR. DOW: We sure can.

5 COUNCILMAN JONES: Can we use
6 that as a litmus test here on how we move
7 forward and get the kind of participation
8 we need?

9 MR. DOW: Sure. We're as the
10 oversight committee there.

11 There was a conversation in
12 previous testimony about the benefits or
13 the pros and cons of oversights. I do
14 think there is a benefit there. I think
15 when you have an oversight committee on
16 projects like that, then there's an
17 opportunity to put everybody at the table
18 to have the conversation, to force the
19 dialogue around minority participation.
20 It enforces those who are project owners
21 in there to sit down and demonstrate what
22 they have and have not done and
23 demonstrate. We can celebrate success,
24 but, more importantly, we can analyze why
25 we are not meeting goals that we need to

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2 meet, and then there's a dialogue among
3 all the stakeholders at that table. And
4 Council is included in the SugarHouse
5 Oversight Committee and they have the
6 opportunity to hear and understand how we
7 are achieving -- or not "we," but they
8 are achieving goals and objectives and
9 then be able to input into what needs to
10 be done to change them and move in the
11 right direction.

12 COUNCILMAN JONES: It's only
13 every now and then -- when I say "every
14 now and then," particularly with
15 casinos -- that we get an opportunity to
16 bite at that apple. So we need to make
17 the most of it.

18 MR. DOW: There's Council
19 participation on the oversight committee
20 for the SugarHouse Casino.

21 COUNCILWOMAN BROWN: Point of
22 information, Mr. Chairman.

23 COUNCILMAN GOODE: Councilwoman
24 Brown.

25 COUNCILWOMAN BROWN: Can you

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2 please define what that means, "there's
3 Council participation"?

4 MR. DOW: Councilman Clarke has
5 representation there.

6 COUNCILWOMAN BROWN: All right.

7 MR. DOW: A member of -- Will
8 is a member of the oversight committee.

9 COUNCILWOMAN BROWN: Thank you.

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

12 COUNCILMAN GOODE: Councilman
13 Green.

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

16 I just have a final point and a
17 request for some information for the
18 Chair.

19 You mentioned that there is,
20 other than what's in the ordinance, a
21 written process for taking someone
22 through the debarment within your
23 organization; is that correct?

24 MR. DOW: I would imagine there
25 is. I mean, there's --

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2 COUNCILMAN GREEN: You would
3 imagine there is, but you don't know if
4 there is?

5 MR. DOW: I have not personally
6 been involved in the debarment procedure.

7 COUNCILMAN GREEN: So would you
8 please provide the Chair with whatever
9 existing written rules and regulations
10 with respect to administrative procedures
11 that would result ultimately in a
12 debarment, or let him know that there
13 aren't any existing.

14 MR. DOW: Will do.

15 COUNCILMAN GREEN: And if there
16 are not, can you undertake to write rules
17 and regulations that would allow you to
18 actually have an administrative process
19 to enforce this within the next 30 days?

20 MR. DOW: We'll make every
21 attempt to meet that deadline.

22 COUNCILMAN GREEN: Okay. And I
23 think you said we're going to investigate
24 why we haven't been meeting our goals,
25 and I think we heard at this hearing why

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2 you're not meeting your goals. Because
3 you don't actually enforce the law. You
4 haven't even gone through debarment once.
5 It's obvious why you don't need to
6 investigate that. This hearing has
7 uncovered that fact.

8 Thank you.

9 COUNCILMAN GOODE: Thank you,
10 Councilman.

11 Councilwoman Brown.

12 COUNCILWOMAN BROWN: One final
13 question. Share with us the composition
14 of your department and speak to
15 professionals you have on board who have
16 that duty, who have the responsibility of
17 enforcement.

18 MR. DOW: We have in the Office
19 of Economic Opportunity, we have several
20 departments, Certification, Compliance
21 and Monitoring. And in that Compliance
22 and Monitoring section, there is that
23 ability to oversee, administer and
24 conduct the administrative process for
25 this particular process.

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2 COUNCILWOMAN BROWN: And you
3 have how many professionals there that
4 make that happen for you?

5 MR. DOW: There's 12 total.

6 COUNCILWOMAN BROWN: Twelve out
7 of a total of a department of?

8 MR. DOW: Commerce.

9 COUNCILWOMAN BROWN: Right.

10 MR. DOW: Are in our economic
11 opportunity world.

12 COUNCILWOMAN BROWN: All right,
13 then. Thank you.

14 MR. DOW: You're welcome.

15 COUNCILMAN GOODE: Councilwoman
16 Sanchez.

17 COUNCILWOMAN SANCHEZ: Since
18 we're going to be more active in this
19 process, I have a question. Bruce
20 Crawley mentioned several different roles
21 that happen in this process. He talked
22 about these minority fronts. Are you
23 aware of those minority fronts?

24 MR. DOW: Not specifically, but
25 I'm aware of the dynamic for sure.

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2 COUNCILWOMAN SANCHEZ: Of the
3 minority front. So we are aware that
4 potentially there are folks that are
5 doing that, are providing these fronts.
6 How does your office monitor the
7 participation of the fronts?

8 MR. DOW: I mean, we do it a
9 number of ways. We do it through the
10 certification process, so that we do an
11 analysis of the firms to determine
12 whether or not they are indeed owned by a
13 minority or woman or those who are
14 disabled. In that process, hopefully
15 we'll uncover whether or not this is a
16 front or not.

17 COUNCILWOMAN SANCHEZ: Can you
18 explain that process? Are we looking at
19 dollar exchange? Are we looking at how
20 much money in activities the firms are
21 participating as part of the umbrella
22 contract?

23 MR. DOW: We're looking at
24 ownership, the certification process and
25 control. And so what does -- it could be

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2 everything from how often -- who pays
3 what salaries for the particular
4 ownership, meaning that if it's a front,
5 let's say it's a front for one individual
6 for another individual and they're both
7 there as officers and one individual,
8 let's say a woman, is owner of the
9 company and let's say her husband is also
10 an officer of the company and that
11 husband is in some way, shape or fashion
12 getting the majority of the salary in
13 some cases, that for us is a red flag for
14 that.

15 Now, what I would say is that
16 that's the risk of the business that we
17 are in in terms of economic development
18 and the participation of minority firms.
19 What we need to do is to make -- because
20 that certification, if you talk to some
21 of the stakeholders in the community
22 about certification that we go through,
23 is very onerous. It's very tedious. It
24 is a roadblock in the system that needs
25 to be corrected. And some of that --

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2 COUNCILWOMAN SANCHEZ: In that
3 regard, do we yet have reciprocity with
4 the state? I know we talked about this.

5 MR. DOW: Yes.

6 COUNCILWOMAN SANCHEZ: So we do
7 have full reciprocity --

8 MR. DOW: Yes.

9 COUNCILWOMAN SANCHEZ: -- with
10 the Department of General Services?

11 MR. DOW: Yes.

12 COUNCILWOMAN SANCHEZ: Let me
13 ask you a little bit, because this is the
14 story that I hear quite often. Do we
15 look at payrolls around participation
16 when folks are supposed to have minority
17 participation?

18 MR. DOW: Payrolls in the sense
19 of?

20 COUNCILWOMAN SANCHEZ:
21 Contractors.

22 MR. DOW: Yeah, we do.

23 COUNCILWOMAN SANCHEZ: We look
24 at payrolls. And do we have a mechanism
25 of flagging the minority name versus

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2 their participation?

3 MR. DOW: So are you looking at
4 minority workforce inclusion?

5 COUNCILWOMAN SANCHEZ: Yes.

6 MR. DOW: So for workforce
7 inclusion, yes. So we look at certified
8 payrolls and all of that process to
9 determine whether or not an individual
10 who is being listed as minority inclusion
11 on a report from a workforce perspective
12 is indeed a minority. There's a process
13 for that.

14 COUNCILWOMAN SANCHEZ: And
15 working. Do we look at are they actually
16 participating?

17 MR. DOW: Yeah, absolutely.
18 There's a -- so we do it a number of
19 different ways. We will hire some -- so
20 like the cultural and commercial corridor
21 bond program that you all previously put
22 EOP requirements on there both for
23 contracting and workforce. So we have a
24 relationship with a third-party vendor
25 that will go out on site and review all

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2 of the payroll, all of the people on
3 there. They count one, two, three, four
4 who is on there versus --

5 COUNCILWOMAN SANCHEZ: How many
6 people do we have doing that?

7 MR. DOW: We subbed that out,
8 quote/unquote. We believe that there are
9 third-party providers that do it better
10 than what we do. It is a tedious
11 process. It's a human resource focus.
12 And so one way in which we believe we can
13 create efficiencies for the City of
14 Philadelphia is to farm that out to folks
15 who have the ability to do that. So as
16 an example, that is the biggest example
17 that I can provide, is the bond program.

18 COUNCILWOMAN SANCHEZ: So out
19 of the commercial corridor bond money
20 that we've put out there, what percentage
21 of the money are we targeted towards
22 ensuring participation?

23 MR. DOW: Well, you guys put --
24 Council. Excuse me. You guys. Council
25 put in some very, very aggressive goals

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2 there, with the intent that in order to
3 drive participation, we put some
4 extremely aggressive, like 60 percent
5 aggressive. That's really aggressive and
6 I would say today not going to be able to
7 be achieved. However, what that does is
8 forced us to make sure that we are paying
9 attention to this.

10 So we're about --

11 COUNCILWOMAN SANCHEZ: But what
12 are we --

13 MR. DOW: -- 20 percent 18, 19
14 percent in regards to participation on
15 the cultural and commercial corridor
16 bond.

17 COUNCILWOMAN SANCHEZ: But what
18 are we investing? So, for instance, what
19 I want to know is, going back to
20 Councilman Green's point around your
21 ability to do this, if we have 100
22 contracts out in the street, what
23 percentage of that are we investing to
24 ensure the enforcement aspect of this?

25 MR. DOW: So it depends on what

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2 type of contracts there are. What would
3 be on monitoring contracts from workforce
4 inclusion, my thought is that we go out
5 and we hire a third party to do that,
6 because that's where we don't have the
7 resources, we don't have the expertise.
8 We're doing that on the Youth Study
9 Center project. We've done it on --

10 COUNCILWOMAN SANCHEZ: So how
11 much money are we investing in
12 enforcement for the --

13 MR. DOW: It depends on the
14 project. So that's a project-by-project
15 basis.

16 COUNCILWOMAN SANCHEZ: Give me
17 an example.

18 MR. DOW: Two-hundred-odd
19 thousand dollars on the bond program.
20 There's another 200-odd thousand on the
21 Youth Study Center program. Again, it
22 depends on the scale of the project, the
23 scope of what we are looking to do, is it
24 a scope that includes contracting and
25 workforce monitoring or is it just

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2 workforce. The big deal with us is
3 workforce. That's the huge thing. So if
4 you look at the reports from the MACCID
5 report, the Mayor's Advisory Commission
6 on Construction Industry Diversity, that
7 is one of the biggest areas of
8 recommendations for us, is to continue
9 that monitoring process such that we get
10 the information. It's the information
11 gathering. Then we can hold accountable
12 the firms that are participating.

13 When we have ownership of
14 projects, it's doable. When we don't
15 have ownership of projects, then it's a
16 negotiation.

17 COUNCILWOMAN SANCHEZ: So if
18 you could submit to the Chair what you
19 believe to be a comprehensive report that
20 shows us the process of monitoring and
21 enforcement.

22 MR. DOW: Not a problem.

23 COUNCILWOMAN SANCHEZ: Can you
24 submit something to the Chair? I'd like
25 to see that.

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2 Thank you very much.

3 COUNCILMAN GOODE: Councilman
4 Jones.

5 COUNCILMAN JONES: Currently,
6 how many -- thank you, Mr. Chairman.

7 Currently, how many staff
8 people are dedicated to this process of
9 inclusion?

10 MR. DOW: Twelve.

11 COUNCILMAN JONES: And --

12 MR. DOW: That's the Office of
13 Economic Opportunity. That's the staff
14 that are directly responsible for it.
15 Everybody in the Commerce Department are
16 accountable, including myself, all the
17 way up to Alan Greenberger.

18 COUNCILMAN JONES: In the
19 history of that department and its many
20 name changes, that's down from, I
21 believe, twenty --

22 MR. GREGORY: I think 36 at one
23 point was the number I heard.

24 MR. DOW: And that 36 were
25 years ago.

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2 COUNCILMAN JONES: I got that
3 part, but with 36 people it was a
4 difficult task. How are they doing it
5 with 18? I mean, are there field audits?

6 MR. DOW: Field audits? Again,
7 are we talking about -- because we got
8 two processes. We got contracting and
9 monitoring of contracts. So it's
10 spending of the City's money. That's
11 where we're focused at. Then we have the
12 workforce monitoring, which we are now
13 beginning to get into, which is a new
14 direction for the Office of Economic
15 Opportunity.

16 Field audits are conducted by
17 third parties. That's what we're looking
18 to do in terms of -- if we have Youth
19 Study Center, we hired a third party to
20 do those field audits to look at that.
21 If we have the cultural and commercial
22 corridor bond projects, there's over 100
23 projects there. We have somebody doing
24 that for us. That's not what we want the
25 Office of Economic Opportunity --

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2 COUNCILMAN JONES: When you say
3 "somebody," what body?

4 MR. DOW: GPUAC does it for the
5 commercial and cultural bond and the
6 Temple Group does it for the Youth Study
7 Center.

8 COUNCILMAN JONES: And do you
9 have results of those --

10 MR. DOW: Yes.

11 COUNCILMAN JONES: So could you
12 also provide -- does that mean 100
13 percent of the contracts? Does that mean
14 a sampling of the contracts, and, if so,
15 a sampling, what percentage of the total
16 contracts are being monitored with field
17 audits?

18 MR. DOW: It depends on --
19 because we have to be efficient, but if
20 there is a \$50,000 contract versus a
21 \$250,000 contract, we make a difference
22 there. So we would be able to show you
23 what the differences are there. So it's
24 not 100 percent.

25 COUNCILMAN JONES: So what I

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2 need provided to the Chairman -- and you
3 don't have to do it now, but I want to
4 know, with those 18 people, if there's a
5 total universe of contracts of 5,000
6 contracts a year that are let by the City
7 of Philadelphia, what percentage of those
8 contracts actually get field tested,
9 meaning did this person hire the group
10 that actually went out there, and, if so,
11 what were their findings out of -- if
12 there were 5,000 total contracts and
13 there were 50 that were sampled, of that
14 50 what were the findings.

15 MR. DOW: Sure.

16 COUNCILMAN JONES: Thank you,
17 Mr. Chairman.

18 COUNCILMAN GOODE: Councilman
19 Green.

20 COUNCILMAN GREEN: Thank you,
21 Mr. Chairman.

22 I just wanted to make -- I just
23 want everybody to understand, and I think
24 we all do, but for the record, what the
25 Administration's inability to do this and

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2 have processes in place will mean. What
3 it will mean is Council, without -- I
4 don't know how we're going to get the
5 data to make a determination about
6 companies or whoever, people we contract
7 with who have agreed to certain goals,
8 but essentially we're going to have
9 hearings here, and those companies are
10 going to have to come in, and it's going
11 to be embarrassing. Some people we call
12 in probably are doing what they're
13 supposed to do. Some people may not be
14 doing what they're supposed to do, but
15 we're now going to have a very
16 contentious public hearing process for
17 this instead of having this handled
18 administratively by the Administration,
19 and I think it's a shame that this
20 Administration -- and the Administration
21 is saying that they are in favor of that.
22 So go figure.

23 Thank you, Mr. Chairman.

24 COUNCILMAN GOODE: Thank you,
25 Councilman.

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2 Are there any other questions
3 for this witness?

4 (No response.)

5 COUNCILMAN GOODE: Thank you.

6 MR. DOW: Thank you, sir.

7 MR. GREGORY: Thank you.

8 COUNCILMAN GOODE: Is there
9 anyone else to testify on this bill?

10 (No response.)

11 COUNCILMAN GOODE: If there's
12 no one else to testify on this bill,
13 first let me state for the record,
14 Mr. Dow, before you submit the debarment
15 procedure through the Chair to the
16 Committee, I'm going to give you a
17 heads-up. I actually did show Councilman
18 Green a copy of the debarment procedure
19 for the City of Los Angeles. It's about
20 36 pages thick. So there are actually
21 processes and procedures out there for
22 debarment that work. And there's a
23 number of different things that I
24 researched in preparation for the
25 hearing, in preparation for dealing with

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2 this legislation that I will submit to
3 the Committee after this hearing, but
4 this is actually just the beginning of a
5 process. We thank you for support of it,
6 but we actually look forward to those
7 hearings. I'm going to actually look
8 forward to them being contentious, and
9 the question of how we will get the
10 information is, I intend to subpoena
11 people. I've done that as Committee
12 Chair before and inspected information.
13 And I think that eventually I think
14 Councilman Green is exactly right, that
15 as we move forward, this should be almost
16 purely an administrative process, but the
17 role that we will have to play in this, I
18 think a number of us welcome, and we
19 thank you for your support and we look
20 forward to working with you on it.

21 MR. DOW: Thank you,
22 Councilman.

23 COUNCILMAN GOODE: For the
24 record, also I will be offering an
25 amendment or have an amendment offered

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2 where we will strike Section 2 of this
3 bill that reads, "This ordinance shall
4 take effect upon approval by the voters
5 of the amendment to the Philadelphia Home
6 Rule Charter proposed in Resolution No.
7 090529."

8 Essentially the purpose of that
9 is because, as you've testified, this
10 does not necessarily require an amendment
11 to the Home Rule Charter, and just to put
12 it on the record, in the context of
13 Councilman Green's questions, part of the
14 reason that the Administration is
15 supportive of this is because they
16 realize that a Charter change is
17 something they could not be supportive
18 of, because a Charter change would
19 actually allow us to take over and a
20 Charter change would allow us to continue
21 to legislate on this issue. This instead
22 allows us to intervene as opposed to take
23 over. And so I'm willing to not go
24 through with the Charter change at this
25 point, but just move forward with the

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2 bill.

3 So if there's no one else to
4 testify, we will move from our public
5 hearing into a public meeting to consider
6 Bill No. 090520, and the Chair recognizes
7 Councilwoman Brown on the amendment to
8 Bill No. 090520.

9 COUNCILWOMAN BROWN: Thank you,
10 Mr. Chairman. I move that Bill No.
11 090520 be amended.

12 (Duly seconded.)

13 COUNCILMAN GOODE: All in
14 favor?

15 (Aye.)

16 COUNCILMAN GOODE: Those
17 opposed?

18 (No response.)

19 COUNCILMAN GOODE: Bill No.
20 090520 is amended.

21 The Chair now recognizes
22 Councilwoman Brown for a motion on Bill
23 No. 090520, as amended.

24 COUNCILWOMAN BROWN: I move
25 that Bill No. 090520, as amended, be

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2 moved out of Committee with a favorable
3 recommendation and further move that the
4 rules of Council be suspended so as to
5 permit first reading at the next
6 scheduled session of City Council.

7 (Duly seconded.)

8 COUNCILMAN GOODE: All in
9 favor?

10 (Aye.)

11 COUNCILMAN GOODE: Those
12 opposed?

13 (No response.)

14 COUNCILMAN GOODE: Bill No.
15 090520, as amended, is reported out of
16 Committee with a favorable recommendation
17 and suspension of rules to allow the
18 first reading at our next Council
19 session.

20 This concludes our public
21 meeting. Thank you very much.

22 (Committee on Commerce and
23 Economic Development concluded at 2:30
24 p.m.)

25 - - -

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2

CERTIFICATE

3

I HEREBY CERTIFY that the

4

proceedings, evidence and objections are

5

contained fully and accurately in the

6

stenographic notes taken by me upon the

7

foregoing matter on September 24, 2009, and

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that this is a true and correct transcript of

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same.

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MICHELE L. MURPHY

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RPR-Notary Public

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