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COUNCIL OF THE CITY OF PHILADELPHIA
COMMITTEE ON LAW AND GOVERNMENT

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Room 400, City Hall
Philadelphia, Pennsylvania
Monday, May 22, 2006, 1:20 p.m.

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Bill 060335 - An ordinance authorizing the City
Solicitor to enter into a multi-year contract
with a provider of codification, editing, and
marketing services to produce printed and
electronic versions of the 9th edition of The
Philadelphia Code and periodic supplements.

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I N D E X

3

WITNESS

PAGE

4

BILL NO. 060335

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Evan Meyer, Esquire..... 3
Attorney, Law Department

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BILL NO. 060388/RES. NO. 060408

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John Childress..... 21
Exec. Dir., African American Chamber of Commerce

9

Carolyn Nichols..... 41
MBEC Director and Deputy Finance Director

10

Wendy Staton..... 53
MBEC Deputy Director

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14

Public Meeting..... 94

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1 5/22/06 - LAW AND GOV'T - BILL 060335

2 COUNCILMAN KENNEY: Good
3 afternoon, ladies and gentlemen. This is
4 a public hearing of the Committee on Law
5 and Government. Present today are
6 Councilmembers Goode, Kelly, Nutter, and
7 myself, Chairman Kenney, Vice Chairman.

8 Our first bill is Bill No.
9 060335 authorizing the City Solicitor on
10 behalf of the City to enter into a
11 multi-year contract with a provider of
12 codification, editing, and marketing
13 services to produce printed and
14 electronic versions of the ninth edition
15 of The Philadelphia Code and periodic
16 supplements, all under certain terms and
17 conditions.

18 Please identify yourself for
19 the record and proceed.

20 (Witness comes forward.)

21 MR. MEYER: Good morning,
22 Councilmembers. My name is Evan Meyer,
23 and I'm a senior attorney in the Law
24 Department.

25 For at least the past ten

1 5/22/06 - LAW AND GOV'T - BILL 060335
2 years, one of my responsibilities has
3 been arranging for the publication of the
4 Philadelphia Code of ordinances and the
5 periodic supplements of the Code. I'm
6 here to testify as to the need for Bill
7 No. 060335, which would give Council's
8 approval to a multi-year contract to
9 publish The Philadelphia Code.

10 As you may know, the Home Rule
11 Charter requires that Council approve any
12 service contract that has a term of more
13 than one year. A multi-year contract is
14 needed because it is most efficient to
15 have the same publisher produce the main
16 Code edition as well as the supplements
17 for the following three years.

18 A new edition is produced every
19 four years. In fact, four years ago, I
20 was here testifying to an almost
21 identical bill, Bill No. 010689, which
22 authorized the current contract.

23 Our contract with the current
24 vendor, LexisNexis Matthew Bender,
25 expires September 30, 2006. They have

1 5/22/06 - LAW AND GOV'T - BILL 060335
2 just produced the last of the three
3 printed cumulative supplements, which
4 covers bills passed by this Council
5 through December 31, 2005.

6 Sometime in August or
7 September, they will do an electronic
8 update, which means updating the Code on
9 the Internet and sending the City a new
10 CD for City computers, and that update
11 will include ordinances passed through
12 June 30th.

13 We are in the process of
14 preparing an RFP, requesting proposals
15 for a contract for the next four years,
16 in complying with the requirements of the
17 Council ordinance that mandated certain
18 contract reform measures.

19 The four-year contract will
20 include the next full edition of the Code
21 and periodic supplements, which will
22 probably be published at least twice a
23 year.

24 The City has a good record,
25 since 1998, of publishing the Code and

1 5/22/06 - LAW AND GOV'T - BILL 060335
2 its supplements on a regular predictable
3 schedule, with considerable savings for
4 the City, both in time and money. We
5 would like to continue with this record,
6 and the Bill before Council will help in
7 that effort.

8 The Law Department respectfully
9 requests Council's favorable
10 consideration of this ordinance before
11 the summer recess so that we can make the
12 necessary arrangements to continue to
13 publish the Code on a timely basis.

14 I will be happy to answer any
15 questions.

16 COUNCILMAN KENNEY: Thank you
17 very much.

18 The Law Department solicited
19 this contract itself, and not through
20 Procurement?

21 MR. MEYER: That's correct.

22 COUNCILMAN KENNEY: And is that
23 something that's been done historically?

24 MR. MEYER: Yes.

25 COUNCILMAN KENNEY: Okay. Was

1 5/22/06 - LAW AND GOV'T - BILL 060335
2 there a bidding process, or did firms
3 receive RFPs to respond? And how was the
4 winning bidder determined?

5 MR. MEYER: We're going to
6 comply with the contract reform process
7 mandated by the bill that was effective
8 February 1st. We're still in the process
9 of setting that up. Actually, it
10 requires the City Solicitor's signature,
11 and since he's been out of the country,
12 we haven't obtained that.

13 So once that done, it will be
14 posted on the Internet, and the RFP will
15 be attached. And then applicants,
16 according to mandated process, can apply
17 on line.

18 COUNCILMAN KENNEY: So then
19 Council's not being asked to approve a
20 specific award but the authorization to
21 pursue the award.

22 MR. MEYER: Right. This is
23 just the authorization to permit it to be
24 a multi-year contract since it's more
25 than one year.

1 5/22/06 - LAW AND GOV'T - BILL 060335

2 COUNCILMAN KENNEY: And who
3 will make the final determination? Under
4 what criteria will make the final
5 determination of who wins the bid?

6 MR. MEYER: Um... Well,
7 ultimately, it will be the City
8 Solicitor, but Richie Feder and I will be
9 the primary people making the cuts.

10 COUNCILMAN KENNEY: And is it
11 the lowest responsible, or is it --
12 how -- what is the -- how do you
13 determine who's the most qualified to do
14 it?

15 MR. MEYER: This is not
16 competitive bidding as it would be for a
17 product; it's a service contract.

18 COUNCILMAN KENNEY: Okay.

19 MR. MEYER: So we, you know,
20 will be weighing a number of factors,
21 including previous experience, you know,
22 comments of references, their ability to
23 do the kind of things we want them to do
24 and so forth.

25 COUNCILMAN KENNEY: And

1 5/22/06 - LAW AND GOV'T - BILL 060335
2 traditionally, are there a large number
3 of firms who do this kind of work, or is
4 it pretty much a niche?

5 MR. MEYER: It's pretty much a
6 niche, I think. We tried to identify all
7 of the reasonably possible applicants
8 last time, and I think our list was only
9 six or seven vendors.

10 COUNCILMAN KENNEY: Are they
11 local, regional, national?

12 MR. MEYER: They are both local
13 and national.

14 COUNCILMAN KENNEY: And does
15 local get any type of perhaps not formal
16 preference but some type of -- any type
17 of conversation that they're local?

18 MR. MEYER: Um...

19 COUNCILMAN KENNEY: Or are we
20 permitted to do that?

21 MR. MEYER: We would consider
22 that. We didn't put that in the RFP that
23 we've drafted so far.

24 COUNCILMAN KENNEY: Okay.
25 Councilman Nutter?

1 5/22/06 - LAW AND GOV'T - BILL 060335

2 COUNCILMAN NUTTER: Thank you,
3 Mr. Chairman.

4 You may be aware of another
5 legislative effort that this Council put
6 forward, the local bid preference
7 legislation that does provide for a 5
8 percent bid preference for local firms?

9 MR. MEYER: I'm only vaguely
10 aware of that, Councilman.

11 COUNCILMAN NUTTER: Okay.
12 Well, that's a part of the problem,
13 Mr. Meyer, if you're only vaguely aware
14 of it.

15 I think, you know, clearly
16 there's a need for a better explanation
17 in marketing and promotion that people
18 understand that if you're bidding on work
19 with the City of Philadelphia, if you are
20 a local business and get certified as a
21 local business enterprise, you get a 5
22 percent bid preference. That's to
23 encourage local firms to do business with
24 the City and, you know, keep some of the
25 business here at home.

1 5/22/06 - LAW AND GOV'T - BILL 060335

2 I can, subsequent to this
3 hearing, either point you in the right
4 direction by way of the Code or would
5 encourage you to be in touch with the
6 Procurement Commissioner; and certainly
7 on their website, there's a designation
8 for LBE's.

9 MR. MEYER: Right. This is not
10 competitive bidding, you understand.

11 COUNCILMAN NUTTER: Well, what
12 is it?

13 MR. MEYER: This is a service
14 contract, so this is a -- you know, an
15 RFP process.

16 COUNCILMAN NUTTER: Okay.
17 Okay.

18 And how does any of the other
19 contract reform legislation affect this
20 particular contract, especially in the
21 multi-year context?

22 MR. MEYER: Well, the... the
23 bill that was effective February 1st that
24 amended Chapter 17 to provide for the
25 contract reform measures is one that

1 5/22/06 - LAW AND GOV'T - BILL 060335
2 we're going to follow; we're looking into
3 that right now. It requires that we post
4 it on the Internet.

5 COUNCILMAN NUTTER: Mm-hmm.

6 MR. MEYER: There's a process
7 for responding op Internet. And as I
8 mentioned, we anticipate, as soon as we
9 get the Solicitor's signature, to do that
10 posting, probably this week.

11 COUNCILMAN NUTTER: Will the
12 contract itself come back here?

13 MR. MEYER: Come back to
14 Council for approval?

15 COUNCILMAN NUTTER: Mm-hmm.

16 MR. MEYER: No. We didn't do
17 that four years ago; I didn't anticipate
18 that.

19 COUNCILMAN NUTTER: So as the
20 pointed out, this bill is just to
21 authorize the Solicitor to start a
22 process and sign a contract, but the
23 actual contract does not come here.

24 MR. MEYER: That's correct.

25 COUNCILMAN NUTTER: Okay. And

1 5/22/06 - LAW AND GOV'T - BILL 060335

2 why is that?

3 MR. MEYER: Sorry?

4 COUNCILMAN NUTTER: Why is
5 that?

6 MR. MEYER: Why is the actual
7 contract not coming back to Council?

8 COUNCILMAN NUTTER: Mm-hmm.

9 MR. MEYER: I wasn't aware that
10 that was a requirement. We didn't do
11 that four years ago.

12 COUNCILMAN NUTTER: I'm just
13 asking the question.

14 Okay. Thank you.

15 COUNCILMAN KENNEY: What is the
16 anticipated cost of the contract? What
17 was it four years ago, and what do you
18 anticipate it being this time?

19 MR. MEYER: The maximum amount
20 that we put in the bill was \$40,000; that
21 was what we did four years ago, so we
22 stuck with the same number. In fact, I
23 expect it to be considerably less than
24 that.

25 The current contract is

1 5/22/06 - LAW AND GOV'T - BILL 060335
2 essentially free. These firms -- in --
3 we give them the ability to market the
4 Code to sell it to other vendors, and
5 that's valuable enough to them so that
6 they are willing to provide the
7 codification and editing services to put
8 the Code into code form essentially for
9 free.

10 In fact, we get royalties under
11 the current contract, which we can take
12 either in the form of money or in the
13 form of Code books.

14 We've been taking it in the
15 form of books, and we've been able to
16 provide City Council with 24 free books
17 over the last four years as a result of
18 those royalties.

19 COUNCILMAN KENNEY: And how
20 much would the royalties amount to; do
21 you have any idea?

22 MR. MEYER: There's a minimum
23 royalty level that we're guaranteed,
24 which, I think, is \$4,000. They have not
25 exceeded that, so evidently, they're

1 5/22/06 - LAW AND GOV'T - BILL 060335

2 not...

3 COUNCILMAN KENNEY: How many
4 volumes of the Code are there, I mean as
5 far as -- when it's finally put in print,
6 how many actual books are there?

7 MR. MEYER: Currently, it's two
8 volumes.

9 COUNCILMAN KENNEY: There's
10 only two, okay.

11 And do you have any idea what
12 they sell for?

13 (No immediate response.)

14 COUNCILMAN KELLY: I may be
15 asking questions that you just don't --

16 MR. MEYER: I --

17 COUNCILMAN KENNEY: Just as an
18 attorney experimentally, I mean, is it
19 expensive?

20 MR. MEYER: I'm pretty sure
21 that the main Code sells for \$150 for the
22 Code, and I think the supplements are
23 \$50.

24 COUNCILMAN KENNEY: Okay.

25 MR. MEYER: But I'm not exactly

1 5/22/06 - LAW AND GOV'T - BILL 060335

2 sure.

3 COUNCILMAN KENNEY: All right,
4 thank you.

5 Any other questions?

6 (No further questions.)

7 COUNCILMAN KENNEY: Thank you
8 very much.

9 MR. MEYER: Thank you,
10 Councilman.

11 COUNCILMAN KENNEY: Anyone else
12 to testify on this bill?

13 (No response.)

14 COUNCILMAN KENNEY: Seeing
15 none, we will now hear testimony on an
16 ordinance and resolution for proposing an
17 amendment to the Philadelphia Home Rule
18 Charter, which is first Bill No. 060388,
19 an ordinance providing for the submission
20 to the qualified electors of the City of
21 Philadelphia the proposal set forth in a
22 resolution approved by Council proposing
23 an amendment to the Philadelphia Home
24 Rule Charter to require the Finance
25 Director to issue an annual report that

1 5/22/06 - LAW AND GOV'T - BILL 060388, RES. 060408
2 analyzes the participation of
3 disadvantaged business enterprises on
4 City contracts and sets participation
5 goals for such businesses, using such
6 categories as Council may define, under
7 certain terms and conditions, and
8 authorizing appropriate officers to
9 publish notice and to make arrangements
10 for the special election.

11 Also a Resolution No. 060408, a
12 resolution proposing an amendment to the
13 Philadelphia Home Rule Charter to require
14 the Finance Director to issue an annual
15 report analyze the participation of
16 disadvantaged business enterprises on
17 City contacts and sets participation
18 goals for such business.

19 Councilmember Goode would like
20 to have an opening comment. And whoever
21 is testifying can please come forward.

22 I'm sorry. We have -- I
23 apologize. The Councilman is requesting
24 that Mr. Childress go first, so he can
25 approach the table while Councilman Goode

1 5/22/06 - LAW AND GOV'T - BILL 060388, RES. 060408

2 makes his comments.

3 COUNCILMAN GOODE: Thank you,
4 Mr. Chairman. I'd like to briefly
5 outline the purpose for the bill and
6 resolution.

7 The resolution would amend
8 the Philadelphia Home Rule Charter
9 related to the powers and duties of the
10 Finance Director. The amendment will
11 require the Finance Director to file with
12 the Mayor a written report on
13 disadvantaged business enterprises at
14 least 30 days before the start of each
15 fiscal year.

16 The report shall include:

17 (1) An up-to-date study
18 analyzing the participation of
19 disadvantaged business enterprises in
20 City contracts for the purchase of goods
21 and services compared to the percentage
22 of qualified disadvantaged business
23 enterprises available to participate in
24 such contracts. The Annual Disparity
25 Study shall be performed either by the

1 5/22/06 - LAW AND GOV'T - BILL 060388, RES. 060408

2 Office of the Director of Finance itself
3 or by contract.

4 And (2), City contract
5 participation goals for disadvantaged
6 business enterprises for the upcoming
7 fiscal year. In devising the Annual
8 Participation Goals, the Finance Director
9 shall consider:

10 * the present availability of
11 qualified disadvantaged business
12 enterprises;

13 * participation of qualified
14 disadvantaged business enterprises on
15 past contracts;

16 * a forecast of eligible
17 contracts to be awarded within the fiscal
18 year; and

19 * the latest Annual Disparity
20 Study.

21 At the same time the report is
22 filed with the Mayor, the Finance
23 Director shall file a copy with the
24 Department of Records and with the
25 President and Chief Clerk of Council and

1 5/22/06 - LAW AND GOV'T - BILL 060388, RES. 060408

2 shall arrange for publication of the
3 report on the City's official website.

4 The resolution also gives City
5 Council the authority to enact further
6 ordinances on this matter. The bill
7 allows for a November ballot question to
8 make this change to the Charter.

9 The purpose of this legislation
10 is to create more diversity in City
11 contracting by employing a data-driven
12 method to determine the underutilization
13 of qualified disadvantaged businesses and
14 requiring annual participation goals
15 based on an up-to-date Disparity
16 Analysis. It should become a
17 Charter-mandated duty at the Cabinet
18 level of the Executive Branch.

19 In the last fiscal year, the
20 City did over \$600 million in for-profit
21 contracting for goods and services with
22 taxpayer dollars. This legislation is a
23 necessary step toward ensuring fairness
24 in that process. This legislation
25 incorporates best practices for the 2003

1 5/22/06 - LAW AND GOV'T - BILL 060388, RES. 060408

2 Ortiz ordinance -- practices that are not
3 found within the current Executive Order
4 or employed by MBEC.

5 City Council and the voters
6 must now empower the right to fair
7 contracting under every administration
8 based on best practices, not whatever
9 practices a given administration wants to
10 employ -- or not employ.

11 Thank you, Mr. Chairman.

12 COUNCILMAN KENNEY: Thank you,
13 Councilmember.

14 Please identify yourself for
15 the record and proceed with your
16 testimony.

17 MR. CHILDRESS: Hi. I'm John
18 Childress, Executive Director of the
19 African-American Chamber of Commerce.
20 Thank you for this opportunity to speak.

21 "Taxation without
22 representation."

23 "Government of the people, for
24 the people, and by the people."

25 These two principles helped

1 5/22/06 - LAW AND GOV'T - BILL 060388, RES. 060408

2 create this country and this very city
3 over 230 years ago.

4 Today, we live and work in a
5 city which is approximately 55 percent of
6 the citizens are non-White; yet a recent
7 disparity study told us less than 2
8 percent of the contracts went to
9 non-White firms.

10 It has been 16 years since
11 Mayoral Executive Order 6-90 was enacted,
12 and we still do not have anything close
13 to a representative share of City
14 contracts awarded to non-White firms. We
15 feel that is not acceptable.

16 We live in a time when over 50
17 percent of the black males in high school
18 do not finish. Of those, nearly 80
19 percent will spend some time in prison
20 before they reach the age of 40. The real
21 unemployment rate of black males ages 18
22 to 40 is over 30 percent, and that's a
23 figure that, many years ago, was called a
24 Depression.

25 Right here before us, with

1 5/22/06 - LAW AND GOV'T - BILL 060388, RES. 060408

2 Councilman Goode's legislation, we have
3 the ability to do something significant
4 about this crisis. Let's show the people
5 of Philadelphia that this City Council
6 will not stand idly by and lose a
7 generation.

8 Every elected leader in this
9 city says they want to do something about
10 this crisis, but the time for just talk
11 is long past. This is clearly time for
12 action.

13 I tell you that the lack of
14 business opportunity for the majority of
15 this city's residents is one of the
16 greatest problems facing this Council.

17 Without opportunity, there is
18 no hope. You will see the dropout,
19 unemployment, and incarceration rates
20 continue at this crisis level.

21 If this is not an issue that
22 deserves a cabinet-level priority, then I
23 don't know what is. That is why we at
24 the Chamber implore City Council to
25 support Councilman Goode's resolution.

1 5/22/06 - LAW AND GOV'T - BILL 060388, RES. 060408

2 We feel that this resolution is a major
3 step forward in addressing the many
4 issues that have hurt the City's efforts
5 to increase participation.

6 Specifically, we would like to
7 see these issues addressed.

8 Number one is minority
9 participation goals for nonprofits. Each
10 year, the City spends hundreds of
11 millions of dollars on contracts for
12 nonprofit firms. Most of the children
13 served by these contracts are children of
14 African-American, Hispanic, and Asian
15 descent. Unfortunately, most of the
16 people on the boards and management teams
17 of these organizations are not.

18 The City used to issue an
19 affidavit to nonprofit organizations
20 based upon three factors: 51 percent of
21 the Board is comprised of minorities and
22 women; the population served is
23 predominantly minority; and the services
24 are delivered in predominantly minority
25 communities.

1 5/22/06 - LAW AND GOV'T - BILL 060388, RES. 060408

2 We urge you to adopt some new
3 form of this affidavit that will give our
4 nonprofit leaders the support they need
5 to increase participation.

6 The second is accurate and
7 detailed numbers. We would like to see
8 the goals set for participation based on
9 the actual contract dollars paid out
10 instead of just the bids.

11 And we would like to see the
12 numbers broken down by race and gender,
13 and done each year to illustrate the
14 trends and also to show the gaps. There
15 is no business that I can think of that
16 does not do a detailed analysis of its
17 success, including market segmentation.

18 The third thing is monitoring
19 and enforcement. Obviously, the best
20 laid plans of City Council and the
21 Mayor's Office are usually only carried
22 out if the plans have teeth. Companies
23 that continually fail to meet the stated
24 participation levels must their lose
25 eligibility for City contracts.

1 5/22/06 - LAW AND GOV'T - BILL 060388, RES. 060408

2 Fourth is goals with the
3 mandate delivered to each department. On
4 any issue, you will find that there's
5 people who get it and those that don't.
6 That won't get the job done. This
7 problem is so serious, we need everyone
8 on board and everyone to get it.

9 One way is to have a top-down
10 mandate delivered from the Finance
11 Director that must be obeyed.

12 Number five, very important, is
13 identification of gaps between contracts
14 offered and minority firms bidding on
15 them. We must identify the areas where
16 we have been successful in increasing
17 participation, the areas that have not
18 been successful, and find out why. Is it
19 because there's a lack of qualified
20 firms, or is it because the firms that
21 are qualified did not get a chance to bid
22 or some other factor?

23 And number six is participation
24 in this process by the African-American
25 Chamber of Commerce, the Hispanic Chamber

1 5/22/06 - LAW AND GOV'T - BILL 060388, RES. 060408
2 of Commerce, and the Asian Chamber of
3 Commerce.

4 As you can see from the
5 history, the City has seen many efforts
6 over the years to increase participation;
7 so many, in fact, that the citizens may
8 be skeptical of yet another effort.

9 One possible way to help
10 address this is through the participation
11 of the African-American Chamber of
12 Commerce and other Chambers to help
13 determine the review criteria and
14 process.

15 We at the Chamber stand firm in
16 our commitment to these ideas. We do not
17 accept the notion that all that could be
18 done is being done.

19 In just three years at the
20 School District of Philadelphia Kim
21 Sangster and John Bars were able to
22 increase their minority participation
23 from 9 to 25 percent. How was she able
24 to do this? Because she was committed,
25 and she had the support of CEO Paul

1 5/22/06 - LAW AND GOV'T - BILL 060388, RES. 060408

2 Vallas.

3 This story can, and must, be
4 repeated for City departments. It's a
5 perfect opportunity now that we have an
6 outstanding new director of MBEC.

7 We feel strongly that support
8 of this resolution is the next step. We
9 must also get behind this effort to make
10 it work. This is not just about the
11 division of the City's economic pie, but
12 this is about life, how you can improve
13 life, the quality of life, for thousands
14 of Philadelphians.

15 The African-American Chamber of
16 Commerce stands ready, willing and able
17 to help in any way possible, and we urge
18 your support for this resolution.

19 Thank you.

20 COUNCILMAN KENNEY: Thank you.

21 Councilmember Nutter?

22 COUNCILMAN NUTTER: Thank you,
23 Mr. Chairman.

24 Mr. Childress, thank you very
25 much for your testimony.

1 5/22/06 - LAW AND GOV'T - BILL 060388, RES. 060408

2 I have to leave the chambers
3 now, unfortunately, on other Council
4 business, and when the session moves into
5 the public meeting, Mr. Chairman, I'd
6 like to be recorded a voting aye on any
7 motion to move the bills out of
8 committee.

9 Councilmember Goode, I believe,
10 may have some amendments; I'd like to
11 vote yes on his amendments to either the
12 bill or the resolution.

13 With that, Mr. Chairman, may I
14 be excused?

15 COUNCILMAN KENNEY: Yes, you
16 may. Thank you.

17 COUNCILMAN NUTTER: Thank you.

18 COUNCILMAN KENNEY: Yes,
19 Councilman Goode.

20 COUNCILMAN GOODE: Thank you
21 Mr. Chairman.

22 Mr. Childress, could you please
23 elaborate on what you think is contained
24 within the participation numbers
25 submitted by MBEC to this Council and

1 5/22/06 - LAW AND GOV'T - BILL 060388, RES. 060408

2 what is not contained in those
3 participation numbers?

4 MR. CHILDRESS: Sure. What we
5 have found at the Chamber is that a lot
6 of times some companies will bid on a
7 particular job and will have, say, 20
8 percent minority participation included
9 in that bid, but by the time the job
10 actually happens, they will not use the
11 company which they have put in their bid.

12 And so what will end up
13 happening is that their actual
14 participation in terms of dollars paid
15 out will turn out to be far less than
16 what was originally quoted in the bid.
17 And that is, you know, a really strong
18 issue.

19 We've had companies -- members
20 of the African-American Chamber of
21 Commerce that were surprised to find out
22 that they were on a particular bid. You
23 know, they didn't even know their name
24 was used 'cause they certainly never saw
25 an actual contract or any subcontract

1 5/22/06 - LAW AND GOV'T - BILL 060388, RES. 060408

2 from that. So that is, you know, a major
3 issue.

4 So between that and the fact
5 that there's no mechanism in place today
6 for looking at nonprofits, which
7 represent a huge portion of the contract
8 dollars for the City, it makes it
9 difficult to have a really, good accurate
10 number.

11 COUNCILMAN GOODE: So the
12 participation numbers we see in terms of
13 14 percent by minority business
14 enterprises is probably far less than
15 that.

16 MR. CHILDRESS: We would
17 believe so, yes.

18 COUNCILMAN GOODE: Thank you.

19 Second, your position is in
20 favor of the bill and resolution. Do you
21 believe that Disparity Analysis is
22 something that can be commissioned and
23 conducted on an annual basis? Or do you
24 think that we should conduct them on a
25 less-than-annual basis?

1 5/22/06 - LAW AND GOV'T - BILL 060388, RES. 060408

2 MR. CHILDRESS: Well, we feel
3 that it should be conducted on an annual
4 basis. We also feel that you have --
5 that it is the goal -- it is the job of
6 City Council and for everyone to make
7 sure that they have the resources
8 necessary to conduct those -- to conduct
9 those surveys on an annual basis. That's
10 very important that those resources are
11 made available.

12 But it is a major problem that
13 we do need to look at and be able to
14 measure progress and see year-to-year how
15 things are going.

16 COUNCILMAN GOODE: Lastly, I
17 thank you for your testimony and for your
18 commitment to being a continued part of
19 this process, understanding also that we
20 can't invite you to the process until we
21 actually put ourselves into the process,
22 which, at this point, is to try to change
23 what's necessary to put City Council
24 within this process.

25 But, again, I thank you for

1 5/22/06 - LAW AND GOV'T - BILL 060388, RES. 060408

2 your testimony.

3 MR. CHILDRESS: Thank you.

4 COUNCILMAN KENNEY: Thank you.

5 Councilman Kelly?

6 COUNCILMAN KELLY: Thank you,

7 Mr. Chairman.

8 Mr. Childress, I just want to
9 know, whose responsibility is it to
10 enforce those contractors to live up to
11 their commitment to subcontractors as far
12 as minority participation is concerned?

13 MR. CHILDRESS: That, I
14 believe, would fall under the
15 jurisdiction of MBEC.

16 COUNCILMAN KELLY: MBEC. And
17 MBEC, as far as I know -- I don't know if
18 they have the personnel to do this or
19 not.

20 That's been in previous
21 testimony before this Council. They seem
22 to be -- either they're saying they're
23 not fully staffed to do the required work
24 that's necessary to make sure that these
25 contractors live up to their obligation

1 5/22/06 - LAW AND GOV'T - BILL 060388, RES. 060408

2 to the minority community.

3 And right now, I know there's a
4 lot of companies that they're almost sham
5 companies. They create these companies
6 by putting their wives as officers or
7 putting some of their friends who are
8 minorities into the positions as officers
9 of a corporation, and then they -- they
10 get involved into the contracts
11 themselves.

12 I just think that in my
13 previous experience in working with -- in
14 working with purchasing and whatnot, I
15 found that a lot of companies do this on
16 a regular basis.

17 And as far as I know, MBEC, I
18 don't think, has the personnel to do an
19 effective job into solving that problem.

20 Thank you.

21 MR. CHILDRESS: Thank you.

22 COUNCILMAN KENNEY: You know,
23 this is not necessarily rocket science.
24 I've been on a board of directors at
25 Independence Blue Cross for about 15

1 5/22/06 - LAW AND GOV'T - BILL 060388, RES. 060408

2 years. I serve on the my Minority
3 Business and Contracting and Procurement
4 Committee. We meet quarterly to go over
5 the company's goals that are set in the
6 beginning budget year, how they're
7 meeting those goals quarterly.

8 There are members of the
9 executives in the company from the H.R.
10 senior vice president to the senior
11 contract and compliance officer and
12 higher members of the company who come in
13 before the committee and are grilled
14 basically by the board members, by the
15 committee members when they don't meet
16 their goals or when they are meeting
17 their goals, or when they an opportunity
18 to each out to companies through the
19 institution of job fairs and contractor
20 fairs and other types of outreach that
21 are done regularly at IBC.

22 But the only way that happened
23 is because the late G. Fred DiBona had a
24 commitment to doing it and putting people
25 in positions that were responsible and

1 5/22/06 - LAW AND GOV'T - BILL 060388, RES. 060408

2 responsive at a high live.

3 MR. CHILDRESS: Right.

4 COUNCILMAN KENNEY: Joe Frick,
5 who has taken Fred's place since his
6 passing, has had the same commitment to
7 doing it. And we could do this quarterly
8 in the City of Philadelphia if we had the
9 will to do it and we were getting the
10 direction from the top down.

11 It is not difficult to do. It
12 is difficult sometimes to find specific
13 companies in specific areas because of
14 the technical nature or because of
15 bonding or insurance or other kinds of
16 issues, but it's not impossible.

17 And if you make it a mandate,
18 if you make it a priority, and you hold
19 the high-level people accountable, as
20 they do it at IBC, on salary, bonus and
21 promotion -- if you're not doing your
22 job, you're not moving up -- this is the
23 commitment that's needed.

24 Yearly is -- you know,
25 requiring it yearly is a great start.

1 5/22/06 - LAW AND GOV'T - BILL 060388, RES. 060408

2 Having it as a part of our charter is
3 even a better situation, giving it the
4 imprimatur that it needs.

5 But unless there is a serious
6 commitment to doing this, it's unlikely
7 to happen.

8 And I agree with you that it
9 has to come from the top down, and it's
10 got to be a priority that's set by the
11 Administration -- and not only just
12 mouthed, but actually on a quarterly
13 basis or on a biannual basis, have to
14 measure the results.

15 And if the results are not
16 measured in the proper way or meeting the
17 goals, then there's a price to pay for
18 those executives, and I think the same
19 should be here in the City.

20 MR. CHILDRESS: Yeah, I agree
21 that it really does have to come from a
22 top-down push, and that what was
23 effective in the School District.

24 And then the people have to
25 have the resources that they need in

1 5/22/06 - LAW AND GOV'T - BILL 060388, RES. 060408

2 order to get the job done.

3 You know, I can't speak for
4 MBEC, I can't speak as to, you know, do
5 they have enough resources, do they have
6 the right people? Everyone I've met with
7 there has been more than willing to sit
8 down and talk and say, Hey, we're working
9 on this problem, so I'm sure they can
10 speak to that effect.

11 But my biggest push is for City
12 Council and for the Mayor's Office to
13 give them the tools that they need, and
14 then we can put the plan out there to
15 make sure that it happens, because we
16 need to do a lot better than what we have
17 in the past.

18 COUNCILMAN KENNEY: And the
19 reason that IBC and other companies do
20 this is very selfish: 'Cause it's good
21 for business.

22 MR. CHILDRESS: Mm-hmm. That's
23 true. It's --

24 COUNCILMAN KENNEY: It's not
25 just something that's the right thing to

1 5/22/06 - LAW AND GOV'T - BILL 060388, RES. 060408

2 do; it's the right thing to do for their
3 business.

4 And I think that the City needs
5 in some ways to understand that this
6 effort is good -- not only the good moral
7 thing to do.

8 MR. CHILDRESS: Right.

9 COUNCILMAN KENNEY: But it's
10 the good thing to do for the City, 'cause
11 if you're looking to rebuild
12 neighborhoods --

13 MR. CHILDRESS: Exactly.

14 COUNCILMAN KENNEY: If you're
15 looking to get people back employed, if
16 you want to get kids off the corner
17 shooting each other selling drugs, they
18 need to have an opportunity to go get a
19 job to make a living.

20 And if the money is going
21 outside the region, outside the area, and
22 it's going to majority companies only,
23 you're never going to change it, ever.

24 So I think that -- and I've had
25 this discussion with Councilman Goode

1 5/22/06 - LAW AND GOV'T - BILL 060388, RES. 060408

2 last week that a company like IBC, I'm
3 sure, would love to come in. I'm not
4 speaking for them, but I'm sure that,
5 knowing their past help they've given us
6 with the 9-1-1 Call Center when we had
7 the Eddie Pollack tragedy, they came in
8 and trained our people. I'm sure they
9 would be happy to come in if asked.

10 Or any other company that has a
11 large-scale minority contracting
12 component, committee and commitment to
13 come in and tell us -- show us how to do
14 it, 'cause I think companies like that
15 have really perfected the efforts.

16 So thank you for your
17 testimony.

18 MR. CHILDRESS: Thank you.

19 COUNCILMAN KENNEY: Councilman
20 Goode? Let the record show that
21 Councilman Goode is now in attendance --
22 I'm sorry.

23 (Laughter.)

24 COUNCILMAN KENNEY: I'm looking
25 at him. I'm sorry, I mean Councilman

1 5/22/06 - LAW AND GOV'T - BILL 060388, RES. 060408

2 Rizzo. It was a long weekend, I'm sorry.

3 Goode, Rizzo, it's -- both of them are
4 here.

5 Who else do we have to testify
6 on this bill? Ms. Nichols?

7 (Witness comes forward.)

8 COUNCILMAN KENNEY: Please
9 identify yourself for the record.

10 MS. NICHOLS: Good afternoon.

11 My name is Carolyn Nichols. I'm the MBEC
12 Director and Deputy Finance Director.

13 Good afternoon, members of City Council's
14 Committee on Law and Government.

15 As you know and you've heard
16 discussed at length, MBEC is responsible
17 for implementing and administrating the
18 City of Philadelphia's anti-
19 discrimination policies relating to the
20 inclusion of minority, women and
21 disabled-owned business in City
22 contracts.

23 The bill before us today,
24 060408, proposes an amendment to the
25 Philadelphia Home Rule Charter to require

1 5/22/06 - LAW AND GOV'T - BILL 060388, RES. 060408
2 the Finance Director to issue an annual
3 report that analyzes the participation of
4 disadvantaged business enterprises on
5 city contracts and sets participation
6 goals for such business, using such
7 categories as Council may define, and
8 providing for the submission of the
9 amendments to the electors of
10 Philadelphia.

11 In Bill No. 060408 under
12 Section 6-109(1)(A), the Finance Director
13 is required to file with the Mayor a
14 written report that includes a Disparity
15 Report at least 30 days before the start
16 of the fiscal year.

17 The City would incur a
18 significant cost on an annual basis
19 providing this report, and this is based
20 on actual experience. In 1996 and as
21 amended in 1997, the City contracted with
22 D.J. Miller & Associates to conduct a
23 Disparity Study for approximately \$1.9
24 million. That study was updated to
25 include analysis of The City's

1 5/22/06 - LAW AND GOV'T - BILL 060388, RES. 060408

2 Procurement activity during fiscal years
3 1998 to 2003 at a cost of approximately
4 \$900,000.

5 The Disparity Study Report
6 update was issued on January 27, 2004.
7 That's the report that Mr. Childress was
8 referring to when he cited the numbers.
9 This report included statistical and
10 legal analysis for the City and
11 considered availability, utilization,
12 disparity, and private-sector analysis.

13 Conducting a study of this
14 scope annually could prove to be
15 prohibitively expensive. A study every
16 four years could be -- and we say "could
17 be" more beneficial in scoping costs to
18 the City.

19 And we do understand that,
20 obviously, scope -- the scope of the
21 Disparity Study could be adjusted and may
22 not have to be \$1,900,000, but we're
23 just -- I'm just testifying based on our
24 experience that we've had thus far.

25 To put this recommendation in

1 5/22/06 - LAW AND GOV'T - BILL 060388, RES. 060408
2 context, the City's actuary utilizes four
3 years for the Experience Study that
4 serves as the basis to calculate the
5 yearly Pension Fund contribution. The
6 City utilizes a four-year interval for
7 issuing its Disparity Study, MBEC's
8 reports, as required under this bill and
9 as required currently under Executive
10 Order 02-05, could supplement the interim
11 years as a monitoring comparison.

12 Section B of Bill No. 060408
13 also requires the annual written report
14 to include City contract participation
15 goals for DBEs for the upcoming fiscal
16 year, and that's the annual participating
17 goals.

18 Section B-1 requires the
19 Finance Director to consider the present
20 availability of qualified DBEs.
21 Currently, MBEC maintains the listing of
22 business that are owned and controlled by
23 minorities, women, and persons with
24 disabilities, and this listing is used to
25 set participation ranges per contracts.

1 5/22/06 - LAW AND GOV'T - BILL 060388, RES. 060408

2 In other words, what I'm trying
3 to bring up here is that we do have this
4 information maybe in a different format.
5 We may have to conform it, you know, to
6 the report that you would require.

7 Section B-2 of Bill No. 060408
8 requires the annual written report to
9 consider the participation of qualified
10 DBEs on past contracts awarded to the
11 City.

12 Currently Executive Order 02-05
13 requires MBEC to provide reports to the
14 Mayor and City Council twice a year -- on
15 January 31 and July 31 -- setting forth
16 the dollar value and percentage
17 participation by minority, women, and
18 disabled-owned business in City
19 contracts.

20 During FY 2005, MBEC worked
21 diligently with City departments in order
22 to provide a complete and accurate
23 reporting of participation numbers based
24 upon actual dollars spent.

25 Now that the protracted

1 5/22/06 - LAW AND GOV'T - BILL 060388, RES. 060408

2 reconciliation process has established,
3 we look forward to providing the FY 2006
4 participation report in a more timely
5 fashion.

6 Finally, 6(b)(iii) of Bill No.
7 060408 requires a forecast of the
8 eligible contracts to be awarded within
9 the fiscal year.

10 Currently, Chapter 17-1400 of
11 the Philadelphia Code requires the City
12 to post annually, on June 1st, a written
13 report for each City department, the
14 number of new non-competitively-bid
15 contracts the City agency anticipates
16 awarding in the upcoming fiscal year.
17 The report must include subject matter,
18 term and total dollar amount.

19 Currently, MBEC works with City
20 departments to establish contract by
21 contract participation ranges for
22 contract opportunities to the extent
23 possible. Subsequent changes to the
24 awarding of non-competitively big
25 contracts would be captured in the

1 5/22/06 - LAW AND GOV'T - BILL 060388, RES. 060408

2 End-of-Year Reflected Report the City
3 must produce by September 30th of each
4 year.

5 Furthermore, MBEC meets
6 quarterly with Budget, Procurement, and
7 Law to review the legislatively mandated
8 reports.

9 Additionally, competitively bid
10 contracts for the procurement of
11 supplies, services and equipment are
12 posted on the City's Procurement website.

13 Thank you for allowing me to
14 provide this testimony, and I look
15 forward to working with all of you as
16 MBEC director, and am available for
17 questions.

18 COUNCILMAN KENNEY: Do you
19 really believe that a thorough
20 examination every four years of this
21 issue is appropriate for us to make a
22 difference?

23 I mean, I understand the costs,
24 but when I think about the money we
25 wasted in large public projects, for

1 5/22/06 - LAW AND GOV'T - BILL 060388, RES. 060408

2 example, and in just the way we do
3 business, because it's such a large
4 organization, four years, you could lose
5 a whole generation of companies in four
6 years and never really -- never know what
7 was needed to get them in the loop.

8 I mean, I'm not expecting -- I
9 mean, as I said, at IBC, we do it
10 quarterly, and it's a smaller --
11 obviously, a smaller company than the
12 City of Philadelphia.

13 MS. NICHOLS: Yeah.

14 COUNCILMAN KENNEY: But four
15 years is a whole administration. I mean,
16 it's a whole -- you could change
17 administrations in four years and have
18 companies come in and go out of business
19 and never have the information necessary
20 to try to figure out how to keep them
21 involved.

22 MS. NICHOLS: Right.

23 COUNCILMAN KENNEY: I mean, do
24 you really believe that?

25 MS. NICHOLS: Or we could -- as

1 5/22/06 - LAW AND GOV'T - BILL 060388, RES. 060408

2 I said verbally, not in my testimony, we
3 could adjust the scope of the Disparity
4 Study. I mean, what we did was a big
5 report before, in '96, '97 and the
6 update.

7 COUNCILMAN KENNEY: How do
8 you --

9 MS. NICHOLS: So the scope
10 could be adjusted.

11 COUNCILMAN KENNEY: I'm sure
12 Councilman Goode has something to say
13 about this.

14 MS. NICHOLS: Yeah, I see.

15 COUNCILMAN KENNEY: But part of
16 what my experience is in the
17 private-sector thing is that when we get
18 the numbers quarterly, we go, Whoa, look
19 at that, look at that goal we were trying
20 to reach in printing. What happened?
21 What happened there, Procurement Vice
22 President? Well, this happened and that
23 happened. And we're making this
24 adjustment to do this.

25 Four years.

1 5/22/06 - LAW AND GOV'T - BILL 060388, RES. 060408

2 MS. NICHOLS: Well, remember,
3 we do have --

4 COUNCILMAN KENNEY: I
5 understand, but --

6 MS. NICHOLS: -- the
7 enforcement and compliant units within
8 MBEC. We're not sitting around, waiting
9 four years, but --

10 COUNCILMAN KENNEY: But I'm
11 saying, without conducting the thorough
12 investigation to give you the real
13 numbers that you need to work with and
14 adjust and put resources into various
15 areas where you're falling off, or figure
16 out what you're doing when you're doing
17 great, why you're doing great and how you
18 apply it to the other segments of
19 purchasing and contracting, I don't know
20 how you can't do it every year. You have
21 to do it every year at least.

22 I mean, just in my opinion and
23 from my experience in dealing with this
24 on the other side, you know, I understand
25 you're not just sitting there for four

1 5/22/06 - LAW AND GOV'T - BILL 060388, RES. 060408

2 years, waiting for the numbers.

3 MS. NICHOLS: Mm-hmm.

4 COUNCILMAN KENNEY: But to me,
5 the Disparity Study on a four-year basis
6 is just not going to get it done.

7 MS. NICHOLS: We will work with
8 you to -- or the Administration would
9 certainly work with you to adjust the
10 appropriate scope so it doesn't turn out
11 to be --

12 COUNCILMAN GOODE: It's already
13 adjusted.

14 MS. NICHOLS: -- prohibitively
15 expensive, but --

16 COUNCILMAN KENNEY: Councilman
17 Goode?

18 COUNCILMAN GOODE: Thank you,
19 Mr. Chairman.

20 The scope is already adjusted.
21 We didn't call for the type of Disparity
22 Analysis that you conducted, the two that
23 you mentioned; we're calling for a very
24 specific Disparity Analysis as defined
25 under this Charter amendment.

1 5/22/06 - LAW AND GOV'T - BILL 060388, RES. 060408

2 But let me run through a few
3 questions before I get back to that.

4 First, when was the last
5 Disparity Analysis commissioned by the
6 City?

7 MS. NICHOLS: That would have
8 been, let's see, '96-'97, and it was
9 updated in '99.

10 COUNCILMAN GOODE: When was the
11 last one commissioned by the City?

12 MS. NICHOLS: That was in 1999?
13 Yeah. Yeah, the last Disparity Study,
14 according to my testimony, was completed
15 during the years '98 to 2003. And the
16 report --

17 COUNCILMAN GOODE: The question
18 was: When was the last one commissioned?
19 When did you commission the last
20 Disparity Study?

21 MS. NICHOLS: That would have
22 been in '97.

23 COUNCILMAN GOODE: I don't
24 think that's correct.

25 MS. NICHOLS: Because it's '96

1 5/22/06 - LAW AND GOV'T - BILL 060388, RES. 060408

2 to '97, and looked at the years '98 to
3 2003.

4 COUNCILMAN GOODE: (Addressing
5 a new witness.) Could you approach the
6 witness table.

7 (Witness comes forward.)

8 COUNCILMAN KENNEY: Please
9 identify yourself for the record.

10 MS. STATON: Wendy Staton,
11 Deputy Director at MBEC.

12 COUNCILMAN KENNEY: Thank you.

13 COUNCILMAN GOODE: Miss Staton,
14 when was the last Disparity Analysis
15 commissioned?

16 MS. STATON: That would have
17 been the last Disparity Study conducted
18 by the City of Philadelphia that
19 Miss Nichols testified to.

20 COUNCILMAN GOODE: Okay. I
21 will take that as your answer. So when
22 was the last Disparity Study
23 commissioned?

24 MS. STATON: 1997.

25 COUNCILMAN GOODE: 1997. And

1 5/22/06 - LAW AND GOV'T - BILL 060388, RES. 060408

2 it covered what years?

3 MS. STATON: Covered from...

4 MS. NICHOLS: What was it, '98
5 to 2003.

6 COUNCILMAN GOODE: You
7 commissioned it in 1997 and it covered
8 '98 to 2003? That doesn't make a whole
9 lot of sense.

10 MS. NICHOLS: Well, wait a
11 minute. Originally -- well, originally,
12 the City contracted with D.J. Miller in
13 '96, and then the scope was amended in
14 '97, and the report ended up being
15 between the years '98 to 2003 --

16 COUNCILMAN GOODE: You can't
17 commission a study of the future.

18 MS. NICHOLS: Well, what
19 happened --

20 COUNCILMAN GOODE: So the study
21 you commissioned in 1997 covered what
22 years?

23 MS. NICHOLS: We'll have to get
24 that specific information to you.

25 COUNCILMAN GOODE: You don't

1 5/22/06 - LAW AND GOV'T - BILL 060388, RES. 060408

2 even know what years the Disparity Study
3 covered?

4 MS. NICHOLS: This is all that
5 I have in my records, Councilman. I can
6 go back and try to look further --

7 COUNCILMAN GOODE: That would
8 probably explain the cost of it.

9 MS. NICHOLS: Yes, yes, it
10 would. I'm not arguing with you, but I
11 searched the records and -

12 COUNCILMAN GOODE: But you
13 testified to the cost of the Disparity
14 Study.

15 MS. NICHOLS: Right.

16 COUNCILMAN GOODE: That
17 Disparity Study covered probably a ten-,
18 twelve-year period as opposed to being an
19 Annual Disparity Study.

20 MS. NICHOLS: Correct.

21 COUNCILMAN GOODE: So you, in
22 fact, tried to mislead and misinform the
23 Committee because the figure you have in
24 terms of the Disparity Study is not for
25 an annual Disparity Study. In fact, you

1 5/22/06 - LAW AND GOV'T - BILL 060388, RES. 060408

2 never conducted an Annual Disparity
3 Study, have you?

4 MS. NICHOLS: That's correct.

5 I'm not trying to mislead you on this;
6 I'm just showing you the records that we
7 have.

8 COUNCILMAN GOODE: So you don't
9 have a cost of an Annual Disparity Study
10 because you never conducted an Annual
11 Disparity Study.

12 MS. NICHOLS: That's correct.

13 I didn't represent that it was the cost
14 of an Annual --

15 COUNCILMAN GOODE: So you have
16 no idea what an Annual Disparity Study
17 would cost.

18 MS. NICHOLS: Not at this time,
19 correct.

20 COUNCILMAN GOODE: Okay.

21 MS. NICHOLS: The only reason
22 for me presenting me this was not to
23 represent what an Annual Disparity Study
24 would cost; I'm just representing what
25 we've done in the past.

1 5/22/06 - LAW AND GOV'T - BILL 060388, RES. 060408

2 COUNCILMAN GOODE: You have no
3 idea what an Annual Disparity Study would
4 cost; is that correct?

5 MS. NICHOLS: Say that again.

6 COUNCILMAN GOODE: You have no
7 idea what an Annual Disparity Study would
8 cost; is that correct?

9 MS. NICHOLS: Correct.

10 (Indiscernible; parties talking
11 over each other.)

12 COUNCILMAN GOODE: How many
13 Annual Disparity Studies have been
14 commissioned by the City?

15 MS. NICHOLS: None have been
16 commissioned by the City. No Annual
17 Disparity Study --

18 COUNCILMAN GOODE: How many
19 Disparity Studies have been commissioned
20 by the City? Not Annual Disparity
21 Studies.

22 MS. NICHOLS: Just the one,
23 according to my knowledge, that are
24 reported.

25 COUNCILMAN GOODE: Okay.

1 5/22/06 - LAW AND GOV'T - BILL 060388, RES. 060408

2 MS. NICHOLS: The City
3 originally contracted in '96, amended it
4 in --

5 (Indiscernible; parties talking
6 over each other.)

7 COUNCILMAN GOODE: Miss
8 Nichols, as the new MBEC Director, how do
9 you plan to measure disparity in the City
10 contracting?

11 MS. NICHOLS: To measure the
12 disparity --

13 COUNCILMAN GOODE: As the new
14 MBEC Director, how do you plan to measure
15 disparity in City contracting?

16 (No immediate response.)

17 COUNCILMAN KENNEY: How are you
18 going to find out where we are and where
19 we need to be?

20 MS. NICHOLS: The only
21 information that we have available is
22 this report.

23 COUNCILMAN GOODE: I asked, how
24 are you going to do it in your tenure?
25 How were you planning on doing it before

1 5/22/06 - LAW AND GOV'T - BILL 060388, RES. 060408

2 I introduced this legislation?

3 MS. NICHOLS: What we've been
4 doing is what we've been doing, is
5 meeting with departments, trying to
6 increase the participation levels based
7 on --

8 COUNCILMAN GOODE: How do you
9 plan on measuring the disparity?

10 MS. NICHOLS: To measure the
11 disparity?

12 COUNCILMAN GOODE: How do you
13 plan on measuring disparity under your
14 tenure? What did you plan to do? You
15 didn't know I was going to introduce this
16 legislation, so how did you plan on
17 measuring disparity?

18 The City's only commissioned
19 one study that covered over a decade.

20 MS. NICHOLS: Right.

21 COUNCILMAN GOODE: Not to
22 mention the study was faulty, so you got
23 taken for your money. But how did you
24 plan on doing it?

25 MS. NICHOLS: There would have

1 5/22/06 - LAW AND GOV'T - BILL 060388, RES. 060408

2 to be a new study. We were planning on
3 recommending a new study because the
4 study had not been done since this period
5 of time.

6 COUNCILMAN GOODE: So you were
7 planning on doing what specifically?

8 MS. NICHOLS: Specifically with
9 the information that I have, what I
10 planned on doing was with the present
11 eligible contractors that we have, we
12 planned on increasing the participation
13 levels in City contracts based on the
14 information that we have.

15 But you're correct, we do need
16 an updated Disparity Study, and that
17 would be one of my recommendations.

18 I was not in favor of an Annual
19 Disparity Study, but I am aware that we
20 need an updated Disparity Study because
21 we're Looking at numbers from a period of
22 time of '98 to 2003.

23 COUNCILMAN GOODE: Under your
24 tenure, how did you plan to address the
25 underutilization of qualified

1 5/22/06 - LAW AND GOV'T - BILL 060388, RES. 060408

2 disadvantaged business in City
3 contracting?

4 MS. NICHOLS: The
5 underutilization question goes to
6 capacity of the minority, women, and
7 disabled businesses.

8 COUNCILMAN GOODE: How did you
9 plan on addressing that?

10 MS. NICHOLS: That's what I'm
11 trying to finish.

12 Everyone's talked about a lot
13 about MBEC's limited resources, so not
14 using that as an excuse, but what we plan
15 on doing is partnering with
16 majority-owned firms with Chambers to up
17 the ante to help match --

18 COUNCILMAN GOODE: You're still
19 talking participation.

20 MS. NICHOLS: Mm-hmm.

21 COUNCILMAN GOODE: I'm talking
22 underutilization, which means that you
23 have to know how many qualified
24 disadvantaged businesses are being
25 underutilized. How did you plan on

1 5/22/06 - LAW AND GOV'T - BILL 060388, RES. 060408

2 addressing the underutilization?

3 MS. NICHOLS: The only

4 information I have --

5 COUNCILMAN GOODE: I'm asking

6 about the future.

7 MS. NICHOLS: -- in terms of --

8 (Indiscernible; parties talking
9 over each other.)

10 COUNCILMAN GOODE: What do you

11 plan on doing during your tenure?

12 MS. NICHOLS: The

13 underutilization number is a number that

14 we don't have. The only number that we

15 have are the --

16 COUNCILMAN GOODE: I'm asking,

17 would you -- what were you planning to do

18 if you recognized that businesses may

19 be -- disadvantaged businesses may be

20 underutilized, how do you plan on

21 attacking that under your tenure?

22 MS. NICHOLS: I'm trying to

23 answer, but you keep interrupting me.

24 COUNCILMAN GOODE: You're being

25 non-responsive.

1 5/22/06 - LAW AND GOV'T - BILL 060388, RES. 060408

2 MS. NICHOLS: I'm trying to
3 answer you.

4 The businesses that are
5 underutilized are businesses that a lot
6 of times have not been brought to our
7 attention. I can't work with businesses
8 that we're not aware of.

9 The only businesses that we can
10 work with are MBEC-certified businesses
11 that are listed in our directory. Those
12 are the businesses that we're working
13 with to get the participation levels and
14 contracts.

15 The only way I can develop
16 capacity or utilization is to work with
17 the business community at-large. You
18 know, because if you're saying companies
19 are underutilized and there are minority
20 businesses that are out there -- in other
21 words, they're not registered with us as
22 MBEC, so probably I'm not aware of that
23 business that's being underutilized.

24 So the only way to reach out to
25 those underutilized businesses is to do

1 5/22/06 - LAW AND GOV'T - BILL 060388, RES. 060408

2 outreach to reach those businesses, get
3 them certified in MBEC, and get them
4 working on developing their capacity so
5 that they can participate in City
6 contracts. That's the only way I know of
7 to do it.

8 COUNCILMAN GOODE: To become
9 aware of them because you're not aware of
10 them right now.

11 MS. NICHOLS: Aware of...?

12 COUNCILMAN GOODE: Businesses
13 that are qualified but not being
14 utilized.

15 MS. NICHOLS: I'm aware that
16 that problem exists, yes. But am I aware
17 of the specific businesses that are not
18 being utilized --

19 COUNCILMAN GOODE: That's
20 correct.

21 MS. NICHOLS: -- by the City?
22 No.

23 COUNCILMAN GOODE: Okay.

24 MS. NICHOLS: I wouldn't have a
25 way of being aware of that until we

1 5/22/06 - LAW AND GOV'T - BILL 060388, RES. 060408

2 outreach to those companies and get them
3 involved with the City.

4 COUNCILMAN GOODE: How did you
5 plan on setting participation goals if
6 not based on an up-to-date Disparity
7 Analysis?

8 MS. NICHOLS: Well, I just
9 said, I agree that we need updated
10 Disparity Analysis. What I don't agree
11 with is an Annual Disparity Study.
12 That's all I'm saying.

13 COUNCILMAN GOODE: How long is
14 that analysis going to take?

15 MS. NICHOLS: How long is the
16 analysis going the to take?

17 COUNCILMAN GOODE: Yes, the
18 Disparity Analysis.

19 MS. NICHOLS: Well, we would
20 have to contract just as we did before.

21 COUNCILMAN GOODE: So how would
22 you plan on setting participation goals
23 without that up-to-date Disparity
24 Analysis?

25 MS. NICHOLS: The participation

1 5/22/06 - LAW AND GOV'T - BILL 060388, RES. 060408

2 goals are not based on the disparity;
3 they're based on the what we have in our
4 present directory. That's what the
5 participation goals are based on.

6 COUNCILMAN GOODE: The
7 participation goals should be based on
8 the underutilization as determined by a
9 Disparity Study.

10 So how do you set new
11 participation goals if you don't have any
12 businesses that are being underutilized
13 that are actually qualified?

14 MS. NICHOLS: All I'm saying is
15 the participation goals are not based on
16 what's underutilized and what we're not
17 aware of. The participation goals are
18 what we have in the listing.

19 COUNCILMAN KENNEY: But in all
20 fairness, shouldn't -- I mean, I'll say
21 this another way. Shouldn't --

22 MS. NICHOLS: And I'm not
23 disagreeing that utilization needs to be
24 better done; I'm just telling you how
25 it's done right now.

1 5/22/06 - LAW AND GOV'T - BILL 060388, RES. 060408

2 COUNCILMAN KENNEY: But in
3 order to get a picture of where we are
4 today, the Disparity Study would give us
5 that. And in order for us to determine
6 which segments of the contracting
7 available, which segments of business are
8 available to various firms -- minority
9 and majority -- how do we determine where
10 we need to put our emphasis we know we're
11 off?

12 MR. MEYER: Well, you --

13 COUNCILMAN KENNEY: Now, the
14 only way we know where we're off is by
15 doing the study, having that analysis and
16 that quantifiable information, and then
17 say where, look at our gaps, we're really
18 falling short in, I don't know, in
19 shorts. Or we're really falling short in
20 accounting. Or we're really falling
21 short in buying staplers. Or at any
22 level.

23 And the only way you can figure
24 out where you're falling short and where
25 you need to develop strategies to improve

1 5/22/06 - LAW AND GOV'T - BILL 060388, RES. 060408

2 those areas is by knowing where we are
3 today.

4 MS. NICHOLS: Yeah, that's
5 correct. I'm not disagreeing with you.

6 COUNCILMAN KENNEY: Disparity
7 studies for me would go further in trying
8 to identify firms that are not in our
9 system that may happen to be women-owned,
10 minority, or disadvantaged.

11 MS. NICHOLS: Absolutely, and
12 I'm not disagreeing with you.

13 COUNCILMAN KENNEY: And then
14 figure out how to go out and get them in
15 the system.

16 MS. NICHOLS: And then our next
17 step is to go out and get them, but I
18 can't --

19 COUNCILMAN KENNEY: 'Cause I
20 think what we're doing is, if we're just
21 working with the universe that we have
22 right now, obviously, we're not getting
23 it done.

24 And there are firms -- and I'm
25 sure there are firms, many firms, out

1 5/22/06 - LAW AND GOV'T - BILL 060388, RES. 060408

2 there in the City and in the region that
3 are not certified but are eligible to be
4 certified.

5 MS. NICHOLS: Correct.

6 COUNCILMAN KENNEY: So you
7 can't set the goal -- my opinion is --
8 two things: You can't set the goals
9 without the study.

10 And, number two, you need to do
11 it more -- you need to do it at least
12 every year in order to get a benchmark
13 for where you are in that year.

14 MS. NICHOLS: Right. And the
15 Disparity Study would show where we need
16 to do the outreach. We do the outreach,
17 we bring them in, and then we could
18 set -- because once the companies become
19 part of our listing, then we could go to
20 the City departments and say we have X,
21 Y, Z. And then we can --

22 COUNCILMAN KENNEY: But it
23 needs to be done minimally --

24 (Indiscernible; parties talking
25 over each other.)

1 5/22/06 - LAW AND GOV'T - BILL 060388, RES. 060408

2 MS. NICHOLS: I'm not
3 disagreeing that we need to do the
4 Disparity Study --

5 COUNCILMAN KENNEY: What you
6 said earlier was the goals -- you did say
7 something and maybe I misunderstood you.
8 That the goals are different than the
9 Disparity Study.

10 MS. NICHOLS: Well, what I said
11 was, the participation goals are not
12 based on companies that are
13 underutilized. What the participation
14 goals are based on -- to use your
15 language -- the presently eligible
16 companies that we already have.

17 COUNCILMAN KENNEY: I don't
18 know how that's going to be successful.

19 MS. NICHOLS: And that's what
20 it's based on. That's all I'm saying.

21 COUNCILMAN KENNEY: That's just
22 my opinion. I don't know how it's going to be
23 successful, and I don't know how you can
24 not quantify your results less than every
25 year.

1 5/22/06 - LAW AND GOV'T - BILL 060388, RES. 060408

2 MS. NICHOLS: That's fine.

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

5 MS. NICHOLS: That's all I'm
6 saying.

7 COUNCILMAN GOODE: When was the
8 MBEC ordinance first enacted, Miss
9 Nichols?

10 MS. NICHOLS: In 1982.

11 COUNCILMAN GOODE: And how has
12 the capacity of disadvantaged business
13 enterprises changed since then?

14 MS. NICHOLS: I do know that
15 since I've taken over that the Compliance
16 Enforcement Unit is new, and a lot of the
17 issues, for example, raised by
18 Mr. Childress --

19 COUNCILMAN GOODE: My question
20 is: In terms of qualified disadvantaged
21 businesses, next year will be the silver
22 anniversary, the 25th anniversary of the
23 MBEC ordinance. How has the level of
24 capacity of minority, women-owned, and
25 other disadvantaged businesses grown over

1 5/22/06 - LAW AND GOV'T - BILL 060388, RES. 060408

2 the last quarter of a century?

3 MS. NICHOLS: With the City?

4 Doing business with the City?

5 COUNCILMAN GOODE: That is

6 correct.

7 MS. NICHOLS: I don't have all

8 of the historical analysis from 1982

9 forward.

10 COUNCILMAN GOODE: You can give

11 it to me anecdotally.

12 MS. NICHOLS: But what I do

13 know is that the City has done a better

14 job, at least in the last report, which

15 is one reason it took so long and --

16 COUNCILMAN GOODE: Has done a

17 better job in 1982 than in 1988?

18 MS. NICHOLS: From 2004

19 forward, I'll say, the latest report.

20 COUNCILMAN GOODE: I asked the

21 question in the context of the last

22 quarter of a century. The MBEC ordinance

23 was enacted in 1982.

24 MS. NICHOLS: Correct.

25 COUNCILMAN GOODE: Next year

1 5/22/06 - LAW AND GOV'T - BILL 060388, RES. 060408

2 marks the 25th anniversary.

3 MS. NICHOLS: Mm-hmm.

4 COUNCILMAN GOODE: How has the
5 capacity of disadvantaged businesses to
6 participate in City contracting grown in
7 the last 25 years?

8 MS. NICHOLS: The capacity of
9 companies has grown because we've done a
10 better job of going out and outreaching
11 those companies, including those
12 companies and in evening the playing
13 field during that period of time.

14 During that period of time I
15 know legally there were set-aside
16 ordinances that were knocked out by the
17 Supreme Court, and we had to find another
18 way to set participation levels and
19 goals.

20 COUNCILMAN GOODE: So --

21 MS. NICHOLS: The City had to
22 increase --

23 COUNCILMAN GOODE: So has the
24 capacity doubled?

25 MS. NICHOLS: Councilman, I

1 5/22/06 - LAW AND GOV'T - BILL 060388, RES. 060408

2 don't have a specific number over the 25
3 years. Whether it's doubled --

4 COUNCILMAN GOODE: Let's deal
5 with some specific underutilization
6 issues. In terms of public works
7 contracts, do you believe that the
8 capacity to qualified minority business
9 enterprises exceeds 10.6 percent?

10 MS. NICHOLS: Do I believe that
11 it exceeds 10.6 percent? I do not. I
12 think --

13 COUNCILMAN GOODE: Do you
14 believe that minority business
15 enterprises are only qualified to receive
16 10.6 percent of public works contracts?

17 MS. NICHOLS: Not that they're
18 qualified. It's the capacity to do prime
19 and joint venture and be able to function
20 as a joint venture.

21 Because the public works
22 contracts are generally very large, there
23 again you have the capacity issues and, I
24 will concede, the utilization issues. So
25 this --

1 5/22/06 - LAW AND GOV'T - BILL 060388, RES. 060408

2 COUNCILMAN GOODE: I'm asking
3 you whether 10 percent of minority
4 business participation in public works
5 contacting is at full capacity?

6 MS. NICHOLS: No, it's not at
7 full capacity.

8 COUNCILMAN GOODE: Okay. What
9 is full capacity?

10 MS. NICHOLS: I couldn't tell
11 you off the top of my head, Councilman.
12 We work contract by contract. It's not
13 like an overall --

14 COUNCILMAN GOODE: It's
15 supposed to be overall; that's what we're
16 trying to do here.

17 MS. NICHOLS: Well, the ranges
18 are set contract by contract in public
19 works contracts.

20 For example, if you have a
21 \$30 million contract, you know, are there
22 minority companies that can step up and
23 be primes? Probably not.

24 COUNCILMAN GOODE: So you have
25 no idea whatsoever what the capacity of

1 5/22/06 - LAW AND GOV'T - BILL 060388, RES. 060408

2 minority business enterprises that
3 actually participate in public works
4 contracts?

5 (Witness confers with
6 Miss Staton.)

7 MS. NICHOLS: I don't know what
8 you mean by no idea whether the capacity
9 for -- you're asking for the general
10 capacity of --

11 COUNCILMAN GOODE: I'm asking
12 what --

13 (Indiscernible; parties talking
14 over each other.)

15 COUNCILMAN GOODE: I'm asking
16 what percentage of public works contracts
17 should be going to minority business
18 enterprises?

19 (No immediate response.)

20 COUNCILMAN GOODE: In the last
21 fiscal year, it was 10.68 percent. What
22 should it have been? What's the full
23 potential of minority businesses to
24 participate in those public works
25 contracts?

1 5/22/06 - LAW AND GOV'T - BILL 060388, RES. 060408

2 MS. NICHOLS: And, again, we go
3 back to utilization.

4 To answer your question, are
5 there companies -- are there minority
6 companies out there that could have
7 participated in public works contracts
8 that didn't participate in public works
9 contracts? Probably so.

10 COUNCILMAN GOODE: I'm asking
11 whether there's a whole lot of them.

12 (Indiscernible; parties talking
13 over each other.)

14 COUNCILMAN GOODE: I'm asking
15 whether you know what percentage of
16 minority business enterprises could have
17 received --

18 MS. NICHOLS: I understand your
19 question. In other words, the report
20 showed 10 percent. You're saying, is
21 that full capacity or not? is what you're
22 saying.

23 COUNCILMAN GOODE: Yeah.

24 MS. NICHOLS: Could we have
25 done better? Yes. Do I know the precise

1 5/22/06 - LAW AND GOV'T - BILL 060388, RES. 060408

2 number? No, I do not.

3 COUNCILMAN GOODE: Okay. Let's
4 move on to supplies, service, and
5 equipment. It's 8.44 percent for
6 minority business enterprises full
7 capacity in terms of qualified minority
8 business enterprises.

9 Is it even possible that
10 qualified minority business enterprises
11 should only be receiving 8.44 percent?

12 (No immediate response.)

13 COUNCILMAN GOODE: This
14 question is: Is it possible?

15 MS. NICHOLS: It is possible.
16 I would answer that for SSE, I would
17 answer that for public works, I would
18 answer that for personal and professional
19 services.

20 Have we reached maximum
21 capacity for the minority, women, and
22 disabled-owned businesses in the
23 Philadelphia region to participate in
24 City contracts? No. That's where
25 outreach, that's where that comes in.

1 5/22/06 - LAW AND GOV'T - BILL 060388, RES. 060408

2 Do I know what the full number
3 would be? No, I do not.

4 COUNCILMAN GOODE: In terms of
5 women business enterprises, is it
6 possible that the qualified women
7 business enterprises should only be
8 receiving 6 percent for supplies, service
9 and equipment?

10 MS. NICHOLS: Well, I would
11 provide the same answers: That yes, it's
12 possible that there are women companies
13 that could have participated that did not
14 participate.

15 COUNCILMAN GOODE: Okay. Let's
16 move on to miscellaneous order purchases.
17 Do you know what the numbers of
18 participation were last fiscal year for
19 minority business enterprises and women
20 business enterprises?

21 MS. NICHOLS: I don't have the
22 reports with me, Councilman. I could get
23 that, but I don't have it in front of me.
24 It's in the Participation Report.

25 COUNCILMAN GOODE: The numbers

1 5/22/06 - LAW AND GOV'T - BILL 060388, RES. 060408

2 are 4.6 percent for minority business
3 enterprises and 9.53 percent for women
4 enterprises, which is interesting.

5 Is there a reason why the women
6 business enterprise number is at roughly
7 10 percent but the minority business
8 enterprise number is less than 5 percent?
9 Do you think that reflects actual
10 capacity?

11 I'm not saying that it could
12 not. This is not an is-it-possible
13 question, but this is a -- could those
14 numbers possibly reflect capacity?

15 MS. NICHOLS: No. There's
16 always -- do I know what the actual
17 number capacity should be? No, I don't.

18 COUNCILMAN GOODE: Okay. Has
19 the Mayor's Executive Order been
20 effective?

21 MS. NICHOLS: Well, it's just
22 the beginning, Councilman. It's just the
23 beginning.

24 COUNCILMAN GOODE: No.
25 Actually, we are about 14 months into an

1 5/22/06 - LAW AND GOV'T - BILL 060388, RES. 060408

2 18-month Executive Order, so it's not the
3 beginning of the Executive Order; we're
4 toward the end of the Executive Order.

5 MS. NICHOLS: Well, it -- it-
6 there have been gaps. The nonprofit
7 sector, for example, is addressed in the
8 Executive Order, and we're just beginning
9 to address that. So there are specific
10 areas that should have been addressed and
11 not be.

12 COUNCILMAN GOODE: The
13 Executive Order expires in September.

14 MS. NICHOLS: Right.

15 COUNCILMAN GOODE: It has been
16 in place for over 14 months.

17 MS. NICHOLS: Correct.

18 COUNCILMAN GOODE: We're not at
19 the beginning of it; we're at the end of
20 it. So has it been effective?

21 (Ms. Nichols confers with
22 Ms. Staton.)

23 MS. NICHOLS: Our numbers did
24 go up. Could it be more effective? Yes.

25 COUNCILMAN GOODE: Why is there

1 5/22/06 - LAW AND GOV'T - BILL 060388, RES. 060408

2 only one report on participation by the
3 Executive Order?

4 MS. NICHOLS: Instead of the
5 two reports that were required? During
6 2005, MBEC kind of embarked in a new way
7 of preparing the participation reports.
8 In years past, the reports were nothing
9 but a draw-down from the computer systems
10 with no analysis. This year, in 2005, in
11 order to --

12 COUNCILMAN GOODE: The
13 Executive Order called for --

14 MS. NICHOLS: January and --

15 COUNCILMAN GOODE: -- reports
16 twice a year.

17 MS. NICHOLS: Correct, and I'm
18 not arguing with you, Councilman.

19 COUNCILMAN GOODE: Did the
20 Mayor, or whoever crafted the Executive
21 Order, make a mistake by calling for it
22 for twice a year?

23 MS. NICHOLS: No. We didn't
24 get it done, and we got caught up in
25 reconciling the report, reconciling the

1 5/22/06 - LAW AND GOV'T - BILL 060388, RES. 060408

2 numbers with the departments.

3 COUNCILMAN GOODE: Why was
4 there no Disparity Analysis done under
5 the period of the Executive Order?

6 MS. NICHOLS: The Executive
7 Order was based on the Disparity Study
8 that I cited earlier. It had been done
9 for the years between 1998 and 2003.
10 That was the basis of the Executive
11 Order.

12 COUNCILMAN GOODE: Okay. Was
13 reporting every six months too ambitious?

14 MS. NICHOLS: Yes, it was. Do
15 you want to speak to the specifics of --

16 COUNCILMAN GOODE: You said
17 that the Mayor, or whoever crafted the
18 Executive Order, did make a mistake by
19 calling for a report twice a year. A
20 change of twice a year to six months --
21 I'm not sure I changed the question that
22 much.

23 MS. NICHOLS: What happened
24 during that period of time -- and I
25 understand what you're getting at. I

1 5/22/06 - LAW AND GOV'T - BILL 060388, RES. 060408

2 think what happened was, the Mayor
3 crafted the Executive Order, and then we
4 went to implement the Executive Order in
5 completing the report; that's when the
6 kind of logistics of gathering this
7 information and verifying its accuracy
8 kind of impacted the ability to submit
9 the report within the appropriate time
10 frame.

11 I don't think that's a
12 reflection on the Mayor; I think it's a
13 reflection on trying to carry it out.

14 COUNCILMAN GOODE: How often
15 should reporting occur?

16 MS. STATON: Each department
17 reports to MBEC on a quarterly basis that
18 Councilman Kenney was referring to.

19 This year, in order to obviate
20 one of the issues that was brought up by
21 Mr. Childress in terms of basing it on
22 contract dollars that may not have
23 actually hit minority or women
24 contractors, this year we actually tried
25 to change it to make sure it was based on

1 5/22/06 - LAW AND GOV'T - BILL 060388, RES. 060408

2 actual --

3 COUNCILMAN GOODE: I'm asking
4 you, going into the future, how often
5 should it occur?

6 MS. STATON: We are hoping that
7 the new system that we have in place,
8 called "Impact," which will track
9 payments that go to subcontractors, we've
10 never had that before.

11 COUNCILMAN GOODE: How often
12 should it occur?

13 MS. NICHOLS: Annually?

14 COUNCILMAN GOODE: Okay. This
15 is my last question. According to the
16 City Charter, when is City Council
17 required to pass an operating budget?

18 MS. NICHOLS: I believe it's
19 June 30th?

20 COUNCILMAN GOODE: No.

21 MS. NICHOLS: At the end of the
22 fiscal year?

23 COUNCILMAN GOODE: No. City
24 Council is required to pass the operating
25 budget 30 years before the end of the

1 5/22/06 - LAW AND GOV'T - BILL 060388, RES. 060408

2 fiscal year. So why wouldn't a DBE
3 report be ready by that time?

4 MS. STATON: On the previous
5 contracts or on the upcoming?

6 COUNCILMAN GOODE: We pass a
7 budget for the next year.

8 MS. STATON: Which report?

9 MS. NICHOLS: You mean there's
10 a forecast for the upcoming --

11 COUNCILMAN GOODE: Yeah. We
12 pass a budget 30 days before --

13 MS. STATON: Right. There will
14 be a report June 1st under the new
15 contracting legislation as of February of
16 all the upcoming contracts by June 1st.
17 It will be posted online.

18 MS. NICHOLS: Right. And then
19 a reflective report on the 30th
20 reflecting the subsequent activity.

21 COUNCILMAN GOODE: I'm
22 finished. Thank you, Mr. Chairman.

23 COUNCILMAN KENNEY: Just two
24 questions. When you get the information
25 from the departments quarterly, who

1 5/22/06 - LAW AND GOV'T - BILL 060388, RES. 060408

2 handles them? What happens to those
3 reports?

4 MS. STATON: We see the -- the
5 Enforcement and Compliance Unit looks at
6 them and then meets on a quarterly basis
7 with that department. This year, for the
8 first time, those meetings are also in
9 conjunction with the quarterly budget
10 meetings.

11 COUNCILMAN KENNEY: How many
12 people are involved in that enforcement
13 unit?

14 MS. STATON: There are only
15 three of us.

16 COUNCILMAN KENNEY: Wouldn't it
17 make sense in some way to look at the
18 possibility of contracting with an
19 accounting firm or an auditing firm that
20 could be MBEC's internal auditor to
21 actually do this analysis?

22 I'm sure the people at MBEC are
23 very dedicated and qualified, but I know
24 myself, I've been in government for 28
25 years and I'm not qualified to do an

1 5/22/06 - LAW AND GOV'T - BILL 060388, RES. 060408

2 audited analysis of these reports.

3 Wouldn't it make sense to just
4 kind of spend the -- get a contract and
5 hire a big-eight accounting firm to come
6 in and figure out what is going on and to
7 give you some direction on you're
8 executive people and enforcement your
9 people on what questions are asked and
10 where things are falling down?

11 MS. NICHOLS: It very well
12 could.

13 COUNCILMAN KENNEY: Well, maybe
14 if it's a good idea you could pursue it.
15 I imagine it would be relatively
16 expensive, but certainly the return on
17 that investment would be important and
18 productive because we would have some
19 really strong, verifiable, identifiable
20 numbers to work with.

21 So I would make that
22 suggestion. I mean, there's a large
23 number of very qualified firms within the
24 City, both majority and even minority,
25 who can do that and, I'm sure, would be

1 5/22/06 - LAW AND GOV'T - BILL 060388, RES. 060408

2 happy to be involved in that.

3 Secondly, have we ever done an
4 audit of the existing companies that have
5 been certified by MBEC to determine
6 whether or not they are actually minority
7 companies or they're simply, as
8 Councilmember Kelly, alluded to kind of
9 setups for majority white men who want to
10 tap into minority opportunities?

11 I know we've had an indictment
12 or something that was involved with a
13 majority owner of the firm who set up
14 what appeared to be a women-owned
15 business, but it was actually his wife.
16 And have we done --

17 MS. STATON: It was in the
18 paper?

19 COUNCILMAN KENNEY: Right.

20 MS. STATON: That one was not
21 MBEC-certified.

22 MS. NICHOLS: Thank goodness.

23 COUNCILMAN KENNEY: What were
24 they certified for?

25 MS. STATON: They weren't

1 5/22/06 - LAW AND GOV'T - BILL 060388, RES. 060408

2 certified by MBEC, so --

3 COUNCILMAN KENNEY: They
4 advertised themselves as a WBE.

5 MS. STATON: Yeah. There are a
6 lot of people that certify WBE. There
7 are even private entities that do that.

8 COUNCILMAN KENNEY: Have we
9 been able to determine through some type
10 of an internal audit just who the real
11 people are and who are the people we need
12 to weed out?

13 MS. NICHOLS: Yeah. At the
14 beginning of the process, which is what I
15 was trying to say, the companies that are
16 listed by MBEC as qualified minority,
17 women, and disabled owned business,
18 there's an investigative process before
19 that MBEC certification is granted.

20 COUNCILMAN KENNEY: Correct.

21 MS. NICHOLS: And during that
22 time, there's granting of the MBEC
23 certification or a denial based on those
24 kind of factors. So that should be
25 caught in the beginning of the process.

1 5/22/06 - LAW AND GOV'T - BILL 060388, RES. 060408

2 COUNCILMAN KENNEY: That's
3 going in. Now, once it happens, once the
4 certification is given, do we randomly or
5 do we annually or do we figure out -- do
6 we go back and look if there are
7 companies that have been in business
8 four, five, six years, whether or not the
9 certifications still applies or whether
10 or not --

11 MS. STATON: The certification
12 only last five years. Within that time
13 each year, they're supposed to submit on
14 affidavit of no change.

15 COUNCILMAN KENNEY: Right.

16 MS. STATON: If there has been
17 a complaint -- and we can't randomly
18 audit. As you already mentioned, we
19 don't have the staff to randomly audit
20 that.

21 COUNCILMAN KENNEY: Right.

22 MS. STATON: But if there are
23 complaints, which we have had, we have
24 now established a new integrity process
25 with the IG to pass those complaints on

1 5/22/06 - LAW AND GOV'T - BILL 060388, RES. 060408

2 to the IG's office that actually has much
3 better capacity to do those types of
4 investigations.

5 COUNCILMAN KENNEY: Right. I
6 really think that MBEC needs an internal
7 auditor that's hired from outside of the
8 government, independent of the
9 government, to really determine the needs
10 and analyze the facts and give you some
11 direction from an internal standpoint. I
12 really do think it would be important.

13 MS. NICHOLS: Okay. Thank you

14 COUNCILMAN KENNEY: And you
15 know what? Let me give you just a word
16 of advice from my perspective.

17 MS. NICHOLS: Mm-hmm.

18 COUNCILMAN KENNEY: In this
19 particular area, you need to be a pain in
20 our necks. You need to be a pain in the
21 neck of every business, of every contract
22 of every administration, of every
23 Councilmember, so that we know you're
24 there like a bulldog. Like giving us a
25 hard time all the time and giving us your

1 5/22/06 - LAW AND GOV'T - BILL 060388, RES. 060408

2 needs all the time.

3 I'm telling you, the only way
4 that this gets done is if somebody has
5 got a mission that they're on, and
6 they're not going to stop on the mission
7 until it's done.

8 And it's not just saying it's a
9 good thing, it's not just saying it's
10 something we really should do, and
11 wouldn't it be wonderful. It's something
12 to hold people's feet to the fire at
13 every level of government and expose it.
14 We need to expose it when it's not being
15 done.

16 I mean, I just think in this
17 particular area, it's the only way that
18 this gets accomplished.

19 MS. NICHOLS: Okay. Thank you.

20 COUNCILMAN KENNEY: Any other
21 questions?

22 (No further questions.)

23 COUNCILMAN KENNEY: Anyone else
24 to testify?

25 MS. NICHOLS: Thank you.

1 5/22/06 - LAW AND GOV'T PUBLIC MEETING

2 COUNCILMAN KENNEY: Thank you.

3 That will conclude our public
4 hearing.

5 * * *

6 COUNCILMAN KENNEY: We will now
7 convene a public meeting.

8 The Chair recognizes
9 Councilmember Kelly for a motion on Bill
10 060335, with a rules suspension request.

11 COUNCILMAN KELLY: Right.
12 Mr. Chairman, I move that Bill No. 060335
13 be reported out of this committee with a
14 favorable recommendation and also a
15 request for a suspension of the rules in
16 order that this bill may be heard at the
17 next session of Council.

18 (Motion seconded.)

19 COUNCILMAN KENNEY: It's been
20 moved and seconded. All in favor?

21 There are none opposed. Bill
22 No. 060335 is reported out of this
23 committee favorably, and a request will
24 be made for a rules suspension to allow
25 for a first reading at our next Council

1 5/22/06 - LAW AND GOV'T PUBLIC MEETING
2 session.

3 The Chair recognizes
4 Councilmember Goode on a motion to
5 approve the amendment to Bill No. 060388.

6 COUNCILMAN GOODE: Thank you,
7 Mr. Chairman. I move that the amendment
8 to Bill No. 060388 be approved?

9 (Motion seconded.)

10 COUNCILMAN KENNEY: It's been
11 moved seconded.

12 All in favor, aye?

13 There are none opposed.

14 The amendments to Bill No.
15 060388 are approved.

16 The Chair recognizes
17 Councilmember Goode for a motion on the
18 amended bill.

19 COUNCILMAN GOODE: Thank you,
20 Mr. Chairman. I move that Bill 060388,
21 as amended, be reported out of committee
22 with a favorable recommendation and that
23 the rules of Council be suspended so as
24 to permit first reading at our next
25 Council session.

1 5/22/06 - LAW AND GOV'T PUBLIC MEETING

2 (Motion seconded.)

3 COUNCILMAN KENNEY: It's been
4 moved and seconded.

5 All in favor, aye?

6 There are none opposed.

7 Bill No. 060388 is amended and
8 will be reported out of this committee
9 favorably and a request will be made for
10 rules suspension to allow for first
11 reading at our next Council session.

12 The Chair recognizes
13 Councilmember Goode for a motion on
14 Resolution No. 060408.

15 COUNCILMAN GOODE: Thank you,
16 Mr. Chairman. I have an amendment to
17 Resolution No. 060408 also, and I move
18 that it be approved.

19 (Motion seconded.)

20 COUNCILMAN KENNEY: Moved and
21 seconded.

22 All in favor, aye?

23 There are none opposed.

24 The amendment to Resolution No.
25 060408 is approved.

1 5/22/06 - LAW AND GOV'T PUBLIC MEETING

2 The Chair recognizes

3 Councilmember Goode.

4 COUNCILMAN GOODE: Thank you,
5 Mr. Chairman. I move that Resolution No.
6 060498, as amended, be approved.

7 (Motion seconded.)

8 COUNCILMAN KENNEY: It's been
9 moved and seconded.

10 All in favor, aye?

11 There are none opposed.

12 Resolution 060408, as amended,
13 is reported out of this committee
14 favorably.

15 That concludes the business of
16 the Law and Government Committee. Thank
17 you very much.

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C E R T I F I C A T E

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 May 22, 2006, and
that this is a true and correct statement of
same.

JOSEPHINE CARDILLO
RPR-Notary Public

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