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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
Wednesday, March 5, 2008
11:25 a.m.

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PRESENT:

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COUNCILMAN W. WILSON GOODE, JR., CHAIR

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COUNCILMAN DARRELL L. CLARKE

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COUNCILMAN BILL GREEN

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COUNCILMAN CURTIS JONES, JR.

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COUNCILWOMAN MARIA QUINONES-SANCHEZ

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COUNCILWOMAN BLONDELL REYNOLDS BROWN

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BILL 080023 - An ordinance amending Chapter
17-1500 of The Philadelphia Code, entitled
"Annual Disparity Study and Participation
Goals"...

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RESOLUTION 080052 - Resolution authorizing the
Committee on Commerce and Economic Development
to hold hearings to review the annual City
contract participation...

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V A R A L L O Incorporated

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Litigation Support Services

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Eleven Penn Center

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1835 Market Street, Suite 600

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Philadelphia, Pennsylvania 19103

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215.561.2220 215.567.2670

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COUNCILMAN GOODE: Good

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morning. We're ready to begin. This

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hearing is called to order.

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This is a public hearing of the

6

Commerce and Economic Development

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Committee on Bill No. 080023 and

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Resolution No. 080052. My name is W.

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Wilson Goode, Jr., Chair of the

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Committee.

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I note that a quorum is

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present. To my left is Councilman

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Darrell Clarke, also Councilwoman Maria

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Quinones-Sanchez, and to my right is

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Councilman Bill Green. We expect to be

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joined shortly by Councilman Curtis

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Jones.

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The title of Bill No. 080023,

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amending Chapter 17-1500 of The

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Philadelphia Code, entitled "Annual

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Disparity Study and Participation Goals,"

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by requiring certain additional

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information to be included in the Finance

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Director's required annual report, under

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certain terms and conditions.

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2 The title of Resolution No.
3 080052, authorizing the Committee on
4 Commerce and Economic Development to hold
5 hearings to review the annual City
6 contract participation goals released by
7 the Finance Department pursuant to Title
8 17 of The Philadelphia Code.

9 Our first witness is Rob Dubow,
10 Director of Finance.

11 (Witness approached witness
12 table.)

13 MR. DUBOW: Good morning,
14 Councilman Goode and members of the
15 Committee. My name is Rob Dubow. I am
16 the Director of Finance for the City. I
17 am here to testify today in support of
18 Bill No. 080023 pertaining to the Chapter
19 17-1500 of The Philadelphia Code which
20 details the content of the Annual
21 Disparity Study required by Section 6-109
22 of the Philadelphia Home Rule Charter.

23 The bill amends Section 17-1503
24 by requiring a ranking of City
25 departments and agencies by percentage

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2 levels of DBE utilization. The
3 Administration supports this amendment.

The City's annual participation report currently includes a compilation by department and agency attainment. Ranking by percentage would offer an additional analysis, provided there is a recognition that department-by-department expenditures are not equal and some departments, like the Department of Public Health, expend much of their annual budget with not-for-profits. The City's annual participation report at this point only measures for-profit activity. The City at this point cannot certify non-profits because they're a corporation and, by definition, has no owners. I do believe, however, that ranking would be useful for assessing an individual department's commitment to business diversity and the inclusion of DBEs in their contracts and purchasing.

24 The Committee is also
25 considering Resolution No. 080052, which

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2 authorizes hearings to review the annual
3 City contract participation goals
4 released by the Finance Department
5 pursuant to Title 17 of The Philadelphia
6 Code. At this time, I would like to note
7 for the record that the City retained
8 Econsult Corporation to assist in the
9 preparation of this year's disparity
10 study and to make recommendations for
11 devising FY2009 participation goals.
12 This report should be furnished to my
13 office before the end of May with
14 recommendations for next fiscal year. In
15 addition, at the request of Councilwoman
16 Reynolds Brown, throughout this year's
17 budget hearings as Council begins its
18 department-by-department review,
19 information on each department's
20 contracting participation rates with
21 disadvantaged firms will be part of the
22 testimony and we'll also have it as part
23 of the PowerPoint presentations we're
24 giving this year.
25 Through the budget hearing

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2 process, as Council and the
3 Administration work together to craft the
4 '09 Operating and Capital Budgets, we
5 welcome Council's review of this
6 information and perspective on what the
7 '09 participation goals should be.

8 The Administration has begun a
9 comprehensive review of MBEC and the
10 City's programs to promote minority,
11 women and disability businesses. We
12 believe that a robust program should
13 include several City agencies in addition
14 to Finance, including the Commerce
15 Department, which should provide
16 technical assistance to local businesses,
17 the Office of Procurement, which must
18 ensure that disadvantaged businesses have
19 the opportunity to compete for City
20 contracts, and the Law Department, which
21 will ensure the contractual obligations
22 are met.

23 Concurrently with assessing our
24 current programs, we are investigating
25 the best practices in areas of business

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2 certification, performance goal setting,
3 and compliance evaluation. In this
4 regard, the December 2007 report by
5 Econsult provides some very useful
6 information regarding these procedures in
7 other cities and states. We look forward
8 to working with Council to make our City
9 a national model in creating and
10 nurturing locally based disadvantaged
11 businesses.

12 Thank you for the opportunity
13 to testify. This concludes my testimony,
14 and I'd be happy to answer any questions
15 you may have. And in addition, we have
16 representatives from MBEC and Econsult
17 and the Law Department here today to help
18 in responding to any questions you may
19 have.

20 Thank you.

21 COUNCILMAN GOODE: Thank you
22 for your testimony, Mr. Dubow. We're
23 going to limit questioning at this point
24 strictly to the bill, and then we're
25 probably going to take action on the bill

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2 and then have a broader discussion on the
3 resolution, if that's fine with you.

4 MR. DUBOW: That sounds good.
5 Thank you.

6 COUNCILMAN GOODE: I only have
7 a handful of questions. The first is,
8 how are the overall DBE goals
9 communicated to departments?

10 MR. DUBOW: I'm going to ask
11 Carolyn Nichols to come up and explain
12 that.

13 (Witness approached witness
14 table.)

15 MS. NICHOLS: Good morning,
16 members of Council. My name is Carolyn
17 Nichols. I'm the Acting MBEC Director.

18 The overall goals are
19 communicated in a number of ways. The
20 report is online and published and given
21 to each Commissioner. We also work with
22 each department separately on their
23 departmental goals as well.

24 COUNCILMAN GOODE: In testimony
25 yesterday the Director of the Capital

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2 Program Office was not familiar at all
3 with the City's overall goals. Is there
4 another way that we can make sure that
5 everyone who is responsible for any level
6 of contracting is notified?

7 MS. NICHOLS: Yes, Councilman.
8 I will go back to my office immediately
9 and make sure that, if need be, send out
10 an e-mail blast again to each and every
11 Commissioner, call them personally,
12 whatever it takes.

13 MR. DUBOW: In addition, we now
14 have weekly executive team meetings that
15 include all the Commissioners, and we
16 have management committee meetings once a
17 month where we have Deputy Commissioners,
18 too, and we will make sure that these
19 goals are communicated at those meetings.

20 COUNCILMAN GOODE: Because the
21 point of this bill, while it's a simple
22 bill that simply presents a ranking
23 within an annual report, my belief is
24 that every department should be held
25 accountable and every department should

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2 share its burden of diversification, and
3 essentially if they don't know what the
4 overall goal is, that presents a problem
5 down the line.

6 The next question is, there are
7 goals set by department and does that
8 include every department?

9 MS. NICHOLS: Yes.

10 COUNCILMAN GOODE: Yesterday
11 within testimony as well the Capital
12 Program Office said that there were goals
13 set for professional services contracts,
14 but no goals set for public works
15 contracts. Can you explain why that is?

16 MS. NICHOLS: Well, the way the
17 goals are set, the goals are set MBE,
18 WBE, DSBE, and within that, the
19 professional services and public works.
20 Each department may operate differently
21 within the contract categories. So CPO
22 not setting a goal -- now, we don't tell
23 people don't set a goal within those
24 categories, but, of course, depending on
25 the work of the department, the category,

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2 contract work, will differ, but it's true
3 that they should set a goal in each
4 category.

5 COUNCILMAN GOODE: Mr. Tustin
6 suggested that the goals were given to
7 him and that he was told to have a goal
8 of about 25 percent professional services
9 contracts, but he was not told to have a
10 goal for public works contracts.

11 MS. NICHOLS: Well, if that was
12 the case, there was a miscommunication.
13 What we do is, we work -- according to
14 the Executive Order, each department
15 should set the goal in consultation with
16 MBEC. Some departments feel more
17 comfortable about setting goals than
18 others. But we will certainly review
19 that situation. That sounds like a
20 miscommunication. We don't dictate, you
21 do 25 percent of professional services,
22 you do this, you do that. It has to be
23 an interactive process that makes sense
24 based on the contracts that are
25 available.

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2 MR. DUBOW: It was clear from
3 yesterday that there were communication
4 issues and that we need to work on those
5 to improve them, and we will.

6 MS. NICHOLS: We will remedy
7 those communication issues.

8 COUNCILMAN GOODE: How many
9 departments met their goals last year?

10 MS. NICHOLS: I have the
11 ranking of the departments here. I would
12 probably have to go back and do an
13 analysis, Councilman, to get all of the
14 information exactly who met the goal and
15 who exceeded the goal. We see certain
16 departments -- I see two, Treasurer's
17 Office and Camp William Penn, that had
18 100 percent in W/DSBE goals, but I have
19 to go back and do an analysis to figure
20 out which one met what, which one
21 exceeded. Looking at the list, the top
22 five, the Treasurer, Camp William Penn,
23 Public Property, Law Department and
24 Department of Licenses and Inspections.

25 COUNCILMAN GOODE: This is

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2 actually a list done by my office. I
3 guess my question is, was there a goal
4 set for 100 percent for some people and a
5 goal set for zero percent for others, and
6 does this listing actually reflect goals
7 that were set and how many departments
8 actually met their goals or didn't?

9 MS. NICHOLS: The ranking
10 doesn't reflect the goals that were set.
11 What it reflects is what the
12 participation was. That's what this
13 reflects.

14 COUNCILMAN GOODE: Let me ask
15 this question: The City's overall DBE
16 goal is what?

17 MS. NICHOLS: The City overall
18 DBE goal, 25 MBE, ten WBE, two DSBE.

19 COUNCILMAN GOODE: So it's 37
20 percent?

21 MS. NICHOLS: Yes.

22 COUNCILMAN GOODE: So according
23 to this list, only six departments
24 exceeded that goal and the rest fell
25 short.

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2 MS. NICHOLS: That would be
3 accurate.

4 COUNCILMAN GOODE: According to
5 this list, roughly 20 departments were in
6 single digits. Do we know if their goals
7 were set in single digits?

8 MS. NICHOLS: Most of the
9 goals -- and, again, I'd have to look
10 through each goal in the report -- would
11 not be set in single digits. So we can
12 look at that and see that they probably
13 did not meet the goals. But I would like
14 to go back and do an analysis one on one
15 looking at the departments, but that's
16 what it looks like in looking at it.

17 COUNCILMAN GOODE: If you could
18 just forward that to the Chair and I'll
19 distribute it to the Committee.

20 MS. NICHOLS: Yes, Councilman.

21 COUNCILMAN GOODE: Any
22 questions?

23 Councilman Jones.

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

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2 How many staff do you have
3 within your department?

4 MS. NICHOLS: Nineteen.

5 Actually, 20, because one is actually an
6 Airport employee.

7 COUNCILMAN JONES: And how are
8 they broken out, deployed?

9 MS. NICHOLS: We have six in
10 certification; five in bid range
11 evaluation; five, I believe, clerical;
12 and then that would be -- the final group
13 would be myself and the three deputies.
14 I hope I got everybody. Oh, and also
15 three others that work with compliance
16 enforcement outreach. So that's how it's
17 broken out.

18 COUNCILMAN JONES: Help me to
19 understand. There are how many that look
20 at pre-award bid evaluations?

21 MS. NICHOLS: That's only five.

22 COUNCILMAN JONES: How many
23 people look at post-award monitoring, for
24 lack of a better term?

25 MS. NICHOLS: The same five.

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2 COUNCILMAN JONES: The same
3 five?

4 MS. NICHOLS: Yes. And what
5 we've done to remedy that in response to
6 the Controller's recent special report of
7 2007 and many other inquiries that have
8 come from this body and many others is to
9 work very closely with the Controller's
10 Office with individual compliance issues,
11 because we just don't have, as you've
12 just stated, we don't have the staff or
13 even the training and the background,
14 because you really need the auditing
15 training to really do this effectively.

16 So we've been working with the
17 Controller's Office on individual
18 compliance matters, and also the
19 Controller's Office is helping us develop
20 a compliance model that we can utilize so
21 that each contract needs to be reviewed
22 on a system-wide basis. The way it is
23 now, we don't know what's going on unless
24 a contractor comes to us to complain. So
25 it's all complaint driven. It's

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2 troubleshooting, and that's not effective
3 compliance. There should be a compliance
4 system-wide system that's in place.

5 We're working with the
6 Controller's Office to get some help in
7 that regard, and now with the new
8 Administration, there are other things
9 we're looking at to get the technology
10 that we need, systems like web-based
11 diversity management software like B2G
12 Now. The answers are there. We're
13 trying to put all of that together so
14 that we can effectively manage the
15 compliance and review these contracts,
16 working with Law, all of that.

17 MR. DUBOW: One of the things
18 that's clear to us -- I mean, it was
19 clear to us coming in and clear from
20 looking at these numbers is, the way the
21 system is now isn't working, and that's
22 why we want -- we are doing a thorough
23 review and analysis of how it can be
24 structured to work better.

25 COUNCILMAN JONES: How many

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2 bids are let by the City of Philadelphia
3 every year, roughly, approximately?

4 MS. NICHOLS: Roughly, about
5 500, I believe.

6 COUNCILMAN JONES: Five
7 hundred?

8 MS. NICHOLS: In that
9 neighborhood. That's rough, as I recall.

10 COUNCILMAN JONES: That's in
11 construction only?

12 MS. NICHOLS: Well, it's public
13 works and SS&E. Procurement manages
14 public works and SS&E. Professional
15 services, as you know, is --

16 COUNCILMAN JONES: So total
17 with supplies, services and equipment?

18 MS. NICHOLS: Yes.

19 COUNCILMAN JONES: Total?

20 MS. NICHOLS: That's total, 500
21 total.

22 COUNCILMAN JONES: And what
23 about professional services? Is that --

24 MS. NICHOLS: Professional
25 services is much larger, closer to, I

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2 believe, 1,500, I believe.

3 COUNCILMAN JONES: So there are
4 1,500 contracts issued by professional
5 services?

6 COUNCILMAN GOODE: Councilman,
7 we want to restrict the questioning now
8 to the bill rather than the resolution.

9 COUNCILMAN JONES: All right.

10 COUNCILMAN GOODE: Councilman
11 Green.

12 COUNCILMAN GREEN: I just have
13 a couple of questions. They sort of
14 relate to the chart Councilman Goode put
15 together and your report.

16 The Capital Program Offices,
17 which you mentioned, I see the
18 departmental total there is \$23 million
19 and the M/W/DSBE total is three million
20 seven, 16 percent. Councilman Goode's
21 question was why are the contracts let by
22 the CP0 Office for renovation of
23 buildings, et cetera, all the prime
24 contracts we were discussing at
25 yesterday's hearing, why they're not

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2 given a goal for that. It appears that
3 that's not even being measured, the
4 percentage of those contracts that go
5 to -- I just wanted a clarification. Are
6 we supposed to be measuring that or is
7 that something that's not currently
8 within your jurisdiction?

9 MS. NICHOLS: Well, we're
10 supposed to be measuring participation in
11 all three categories, professional
12 services, public works and SS&E, but as
13 I've stated, each department may or may
14 not work out of all three categories.
15 Capital Program Office by its nature
16 deals primarily with professional
17 services and not public works. Public
18 works goes through the bidded process.

19 MR. DUBOW: And each public
20 works project has ranges set for it.

21 MS. NICHOLS: Correct. Each
22 public works -- as I explained in my
23 answer to Councilman Jones, the Bid
24 Evaluation Unit would handle each public
25 works bid and put ranges on it.

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2 COUNCILMAN GREEN: But what I
3 don't understand is, public works
4 projects look to be only 2.48 million for
5 the entire Fiscal Year 2007. That can't
6 be right.

7 MS. NICHOLS: You're looking
8 under CP0?

9 COUNCILMAN GREEN: Yes.

10 MS. NICHOLS: Well, look on the
11 summary page. Public works is 307
12 million.

13 COUNCILMAN GREEN: Oh, I'm
14 sorry.

15 MS. NICHOLS: That's probably
16 being managed by CP0 if you're looking in
17 the CP0 box. There's a summary page. I
18 believe it's Page 14. See Page 14?
19 That's the summary page. Public works.
20 See 307 million? That's total.

21 COUNCILMAN GREEN: Okay.

22 MS. NICHOLS: What you were
23 reading, you were looking in the
24 departmental box.

25 COUNCILMAN GREEN: So is that

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2 the answer to Councilman Goode's
3 question, that for each public works
4 project or each contract that they're
5 letting with prime contractors, that
6 that's set individually by contract?

7 MS. NICHOLS: Correct.

8 COUNCILMAN GREEN: And that's
9 why they're given no overall percentage?

10 MS. NICHOLS: Correct.

11 COUNCILMAN GREEN: My next
12 question relates to the Board of Pensions
13 and Retirement. A lot of their or some
14 percentage of their -- I don't know what
15 the percentage is, but some percentage of
16 their money managers are minority, women.

17 MS. NICHOLS: Yes.

18 COUNCILMAN GREEN: They have a
19 zero percent in this report and I was
20 just wondering why that is.

21 MS. NICHOLS: Well, we do have
22 investment commission bond consultant
23 fees. That's also on the summary page.

24 COUNCILMAN GREEN: But it's not
25 under their department.

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2 MS. NICHOLS: They may not have
3 had -- let me look in the back.
4 Sometimes we have pensions under a
5 separate --

6 COUNCILMAN GREEN: If you go to
7 Board of Pension and Retirement, it's
8 zero percent.

9 MS. NICHOLS: Look on Page 75.
10 There's a separate -- because the manager
11 fees are a separate entity and they don't
12 go through the procurement or the
13 contract RFP process, what we did was we
14 listed them separately on Page 75.

15 COUNCILMAN GREEN: But that
16 department should get credit for them.

17 MS. NICHOLS: Yes, it is. It's
18 reported. It's right here.

19 COUNCILMAN GREEN: Well, not
20 on --

21 MS. NICHOLS: On Page 75.

22 COUNCILMAN GREEN: I see where
23 that is.

24 MS. NICHOLS: Manager funds and
25 consultants. But it looks like this year

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2 they didn't have MBE/WBE participation
3 this time.

4 COUNCILMAN GREEN: There are
5 absolutely --

6 MS. NICHOLS: They didn't have
7 any participation this fiscal year.

8 COUNCILMAN GREEN: Some of
9 their money managers are absolutely
10 minority. It's not zero.

11 MS. NICHOLS: It looks like --

12 MR. DUBOW: You're right. I
13 think there's an error in the report.

14 MS. NICHOLS: It looks like a
15 list of firms, but for whatever the
16 reason, it didn't carry over.

17 COUNCILMAN GREEN: Right. And
18 also each department, in theory, it's
19 easier to look at to get -- I've lost the
20 page you showed me, Councilman, that had
21 that originally.

22 So basically I guess what I'm
23 saying is, it's not clear to me that
24 you're capturing all the participation
25 that exists and that it's probably a

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2 higher percentage for the City as a whole
3 and for many departments than you're
4 leading people to believe with this
5 report, and I'm just wondering --

6 MR. DUBOW: That's clearly
7 correct from this page. This page is
8 clearly understating participation.

9 MS. NICHOLS: Yes. And it's
10 also clear from the disparity study, the
11 DJ Miller report and the most recent
12 Econsult report as well that in the data
13 collection report that I presented to
14 Council -- the new members may not have a
15 copy. I'll make sure that you get it --
16 it talked about --

17 COUNCILMAN GOODE: It's within
18 the packet.

19 MS. NICHOLS: Oh, it's in the
20 packet. Okay.

21 It talked about how the
22 information was gathered. You can see
23 that there are going to be gaps. We're
24 trying to correct that, but it's true
25 that there's probably underreporting of

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2 the City's utilization of M/W/DSBEs. I
3 totally agree with that, and part of what
4 we're trying to adjust is to kind of
5 upgrade the reporting capabilities.
6 Absolutely.

7 COUNCILMAN GOODE:
8 Underreporting and overreporting.

9 MS. NICHOLS: Overreporting,
10 underreporting.

11 MR. DUBOW: Inaccurate
12 reporting.

13 COUNCILMAN GREEN: Inaccurate
14 reporting.

15 COUNCILMAN GOODE: Essentially
16 the reporting now is based upon contract
17 dollars, not necessarily contract dollars
18 received.

19 MS. NICHOLS: It's only at
20 award, at the time of award. As you
21 know, I've totally fessed that up. I'm
22 not trying to hide that fact. All we
23 have is award information. In other
24 words -- I see Councilwoman Blondell
25 Reynolds looking at me -- we're only

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2 reporting what happens at the time of
3 award. So if Carolyn Nichols, MBE, gets
4 a contract in year one, all we're
5 reporting is what happens at award time.
6 What happens if there's an amendment to
7 the contract? What happens at renewal
8 time? Where is Carolyn Nichols in year
9 two, year three? We have no mechanism to
10 report that. Or if Carolyn Nichols is a
11 sub.

12 COUNCILMAN GREEN: Whether or
13 not she's replaced, right.

14 MS. NICHOLS: Or whatever could
15 happen. We don't have that data, and
16 that is just fact. And we know that it's
17 a huge hole, and we're trying to remedy
18 that. That's clearly the fact.

19 COUNCILMAN GREEN: A paperless
20 city government will enable you to track
21 that far more closely.

22 MR. DUBOW: Good point,
23 Councilman.

24 COUNCILWOMAN SANCHEZ: You
25 haven't heard that before, right?

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2 COUNCILMAN GREEN: Just for the
3 record, where is City Council in terms of
4 percentage? I don't see it here.

5 MS. NICHOLS: City Council is
6 not in the report. City Council is an
7 independent legislative body that could
8 do its own -- I mean, we could include
9 City Council in the report.

10 MR. DUBOW: If you'd like to be
11 in the report, we can work with you.

12 COUNCILMAN GREEN: I had heard
13 our participation was zero. Somebody
14 told me that. I thought maybe somebody
15 was tracking it.

16 MS. NICHOLS: You didn't hear
17 that from me.

18 COUNCILMAN GREEN: Okay. Thank
19 you.

20 MS. NICHOLS: Thank you.

21 COUNCILMAN GOODE: Questions
22 from other members of the Committee?

23 (No response.)

24 COUNCILMAN GOODE: Is there
25 anyone else to testify on the bill, which

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2 deals specifically with departmental
3 ranking?

4 COUNCILWOMAN BROWN:
5 Mr. Chairman, if I may, I do have a
6 question. You want me --

7 COUNCILMAN GOODE: On the bill?

8 COUNCILWOMAN BROWN: I'll wait.

9 COUNCILMAN GOODE: Is there
10 anyone to testify on the bill?

11 (No response.)

12 COUNCILMAN GOODE: If not, we
13 will move from our public hearing into a
14 public meeting to consider Bill No.
15 080023.

16 The Chair recognizes
17 Councilwoman Reynolds Brown, Vice-Chair
18 of the Committee, for a motion on Bill
19 No. 080023.

20 COUNCILWOMAN BROWN:
21 Mr. Chairman, I make a motion that we
22 move Bill No. 080023 out of Committee
23 with a favorable recommendation and
24 further move that the rules of Council be
25 suspended so as to permit first reading

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2 at the next scheduled session of
3 Philadelphia City Council.

4 (Duly seconded.)

5 COUNCILMAN GOODE: All in
6 favor?

7 (Aye.)

8 COUNCILMAN GOODE: Those
9 opposed?

10 (No response.)

11 COUNCILMAN GOODE: Bill No.

12 080023 is reported out of Committee with
13 a favorable recommendation and suspension
14 of the rules to allow first reading at
15 the next Council session.

16 We now move back into our
17 hearing on Resolution No. 080052.

18 The Chair recognizes
19 Councilwoman Reynolds Brown.

20 COUNCILWOMAN BROWN: Thank you
21 very much, Mr. Chairman.

22 Given the work that's been
23 presented that speaks to the
24 participation by departments, what would
25 be your perspective, what would be your

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2 take given the numbers reflected here?

3 MS. NICHOLS: A lot of work
4 needs to be done. And I think it goes to
5 exactly what Councilman Goode said. It's
6 about accountability at the departmental
7 level. You heard Councilman Jones ask us
8 about the size of the MBEC organization,
9 at least as it is now. Certainly it is
10 not adequate to marshal and monitor and
11 push the case to get the participation
12 levels to make sure that they're met. It
13 has to be at the department level.
14 That's where the contracts are created,
15 that's where they're developed, that's
16 where they're managed, and that's where
17 it's got to be. It can't just be an
18 MBEC. We're putting a number on pieces
19 of paper and talking about it annually.

20 COUNCILWOMAN BROWN: How long
21 have you been in that leadership post?

22 MS. NICHOLS: Just since May of
23 2006.

24 COUNCILWOMAN BROWN: And given
25 your time there, what one, two or three

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2 recommendations would you offer the new
3 Administration given these numbers?

4 MS. NICHOLS: The first thing
5 to increase the participation was --
6 Mayor Nutter set some very aggressive
7 goals in terms of participation -- is
8 that the question of inclusion has to be
9 at the front of the process, not at the
10 back of the process. The way it is now,
11 MBEC receives a bid to evaluate or to set
12 ranges on RFP. That's literally the last
13 thing before it goes out on the street.
14 So all of the thinking, all of the
15 developing -- if you want to increase
16 inclusion and really meet the 50 percent
17 goal that this Mayor has set, it can only
18 happen if inclusion is at the front of
19 the agenda. Some contracts would do
20 better being set up into smaller pieces
21 for participation to be maximized.
22 Others, strategic sourcing may work.

23 COUNCILWOMAN BROWN: So who
24 makes that type of decision?

25 MS. NICHOLS: That's what I'm

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2 saying. It's at the department level
3 that those kinds of decisions are made.
4 When we get it at MBEC, it's already
5 done. We're just putting ranges on it;
6 that's it.

7 COUNCILWOMAN BROWN: I see.

8 MS. NICHOLS: So the thinking
9 has been thought. And when you're
10 looking at it and you can look at it and
11 see, it's not going to -- you might look
12 at it and see, well, this is the same
13 contract that has been let time after
14 time. You know the participation is
15 going to be low, but the structure is in
16 place. We've got to penetrate the
17 structure of the contracts.

18 MR. DUBOW: Let me just
19 emphasize again, we understand from
20 looking at this information and we knew
21 before that the system the way it is now
22 isn't working and that we have to do a
23 full evaluation of it and to figure out
24 how it can work better, and one of the
25 things we want to do is work with Council

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2 during that process so that we can work
3 collaboratively on improving.

4 COUNCILWOMAN BROWN: Okay. So
5 that's one recommendation.

6 We've heard from Councilman
7 Green regarding the need to go high tech
8 and you mentioned that --

9 MS. NICHOLS: You know I've
10 been a big advocate of that in front of
11 you. I'm going to beat it to death. But
12 that is the number one way to get
13 certification moving in the way that we
14 all expect. We've set goals of 90 days
15 for new certs, 60 for recerts and one
16 week for reciprocity, which I'm handling
17 personally, by the way. Everybody has to
18 get their fingers in this pie to make
19 this work.

20 The Controller has actually set
21 goals of 60 days for new certs and 30
22 days for recerts. There's no prayer of
23 coming near any of that without the
24 proper technology. We've got to have
25 that in place so people aren't running

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2 around chasing folders with their bare
3 hands. This is the 21st century. We're
4 kidding ourselves if we think we're going
5 to get anywhere with basically a manual
6 system. And we've been in -- Rob has
7 been working closely with us, as the new
8 Administration has been very, very
9 supportive of this, whatever the new
10 structure will be, working with MOIS.

11 We've identified a system. I
12 know I keep saying B2G Now, but that's
13 the system that we would like to take a
14 look at, and it would resolve a lot of
15 the problems. The constituents coming to
16 your office, it would resolve a lot of
17 that. The tracking, letters go out
18 automatically, the tracking, so people
19 aren't tracking things manually in their
20 own Lotus Notes. They're out and then --
21 you can't do business that way. You just
22 can't.

23 COUNCILWOMAN BROWN: Then,
24 finally, you recall we had testimony here
25 led by Chairman Goode with

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2 representatives from other cities. For
3 the benefit of my new colleagues, give us
4 the one or two cities in talking about
5 the part of the country that gets it in
6 terms of best practices.

7 MS. NICHOLS: Well, Houston is
8 my number one, Houston, Texas. Houston
9 is a little bit larger than Philadelphia.
10 I've been contacting -- the Houston
11 Director has been very supportive with
12 me. She's been sharing a lot of
13 intelligence. That's how I found out
14 about the B2G Now system. She dug her
15 certification unit out of a 400 file
16 backlog with that system.

17 So these things are tried and
18 true. She's given me all kinds of other
19 tips in working with compliance. Her
20 office works directly under the Mayor's
21 Office, so she is the perimeter of the
22 Mayor in doing things. She reports
23 directly to the Mayor. And that's
24 another thing. And it's a matter of
25 having the staff. She also has a larger

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2 staff, a staff of 34.

3 COUNCILWOMAN BROWN: Versus?

4 MS. NICHOLS: Versus 20. So

5 you've got to have the people. You've

6 got to have the people, the resources.

7 You've got to have the technology to get

8 the job done. And you've got to have the

9 accountability at the department level.

10 COUNCILMAN GREEN: Point of

11 information.

12 COUNCILMAN GOODE: Councilman

13 Green.

14 COUNCILWOMAN BROWN: Surely.

15 Thank you.

16 COUNCILMAN GREEN: What's the

17 name of the system that they're using in

18 Houston? B2G?

19 MS. NICHOLS: The letter B, the

20 number 2, the letter G and then Now,

21 N-O-W. I'll be glad to send the Chair

22 information about it so that it can be

23 distributed.

24 COUNCILMAN GREEN: Is that an

25 electronic procurement process?

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2 MS. NICHOLS: Yes. It's
3 web-based software. It's called
4 diversity management, because it has
5 modules in every aspect of diversity
6 management and workforce utilization,
7 outreach, contract compliance,
8 certification, everything we're taking
9 about here.

10 COUNCILMAN GREEN: Does it
11 integrate with the procurement system if
12 you were to go to an electronic
13 procurement?

14 MS. NICHOLS: Well, that would
15 have to be worked out individually. I
16 know that the City was looking at a
17 different procurement system for the City
18 here. So there would have to be some
19 kind of integration.

20 COUNCILMAN GREEN: Thank you.

21 MS. NICHOLS: I'm not MOIS. I
22 don't know all those details.

23 COUNCILMAN GOODE: Councilman
24 Jones.

25 COUNCILMAN JONES: Just out of

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2 curiosity, what was the greatest year of
3 participation in the City's history for
4 minorities and female businesses?

5 MS. NICHOLS: I think -- I
6 haven't gone all the way back, but I
7 would think 2005 would have to be,
8 because I think that was close to 22
9 percent. Oh, your year? I'm sorry. Go
10 ahead. See, I didn't go back that far.

11 COUNCILMAN JONES: That's all
12 right. In ancient history, I believe it
13 was 1988 or '87 under the Wilson Goode
14 Administration and there was a young
15 Director of MBE, Curtis Jones. And
16 things have changed radically since then,
17 17-500 lawsuit. I understand that. If I
18 recall, there was a young attorney that
19 was very much involved in that lawsuit.

20 A couple of things, and what I
21 believe was true then and is true now.
22 It is -- when you say Houston is the best
23 example, I would argue that Atlanta is
24 the best example, and the reason, when I
25 went down there to visit them, it is a

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2 matter -- when I asked about what types
3 of contracts, what type of software do
4 you use, the one thing that they told me
5 was, political and administrative will to
6 make inclusion a priority. So when I
7 start to look at what we're talking about
8 now, all of it is well and fine, but as
9 the Administration goes, so will the
10 participation. And I sincerely believe
11 this Administration wants to do that.
12 There's a couple of technical things that
13 need to be involved. One of them is
14 boots on the ground. If you are not
15 inspecting at the point of job site to
16 see if there is participation, there
17 won't be. They will use a shell game
18 to -- oh, that person didn't perform
19 well, I removed him from the job, or that
20 was months ago, we didn't get the
21 paperwork in to you to let you know about
22 it.

23 So at some point, you need to
24 have the inspectors that actually go out
25 and look for other things on jobs to make

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2 sure that the recreation centers are
3 being built correctly also look for being
4 minorities and/or females or
5 disadvantaged business. And I wanted to
6 know if in fact you work with L&I and/or
7 the Public Property folks that actually
8 go out and do that.

9 MS. NICHOLS: We haven't
10 exactly done that, but what we've done
11 is, we've been working with the
12 Controller, who has the ability to audit,
13 do forensic audits and actually see
14 what's going on on the ground. But on
15 the work utilization piece, I know that
16 the City in the past has hired
17 consultants to do that, go and nose count
18 who is actually there and what's going on
19 at the job site, because clearly we don't
20 have the staff to do that. So that may
21 be a contracting that we can do by
22 contracting to get that expertise.

23 COUNCILMAN JONES: Doesn't
24 Labor Standards go out to look for
25 prevailing wage?

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2 MS. NICHOLS: I believe they
3 look for prevailing wage, yes.

4 COUNCILMAN JONES: They could
5 simply be trained, tooled, armed to do
6 that as well.

7 MR. DUBOW: That sounds like a
8 good suggestion, and we'll definitely
9 look into that.

10 COUNCILMAN JONES: How does
11 your office interact with the new, what
12 is it, EO --

13 MS. NICHOLS: EOC

14 COUNCILMAN JONES: EOC. How do
15 you work with that office?

16 MS. NICHOLS: The Economic
17 Opportunity Cabinet.

18 MR. DUBOW: That has not
19 formally started. So it's not there yet.
20 So right now they don't work with them,
21 but they will. It will be very close
22 collaboration.

23 COUNCILMAN JONES: Thank you.

24 COUNCILMAN GOODE: Councilwoman
25 Sanchez.

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2 COUNCILWOMAN SANCHEZ: Yes.

3 Hi. As we outline setting up these
4 goals, are we holding our
5 quasi-governmental agencies that we set
6 up, PIDC, RDA and PAID, to some
7 standards? Do they have goals?

8 MS. NICHOLS: They do have
9 goals. They do have reporting
10 information. PIDC and, I believe, PHA
11 and PHDC have reporting data in the back
12 of the report. We don't set up the goals
13 and ranges on a per contract basis like
14 we do the City departments, but
15 historically at least the participation
16 in the housing agencies has been higher
17 than, at least from the reports, higher
18 than the participation in the City
19 departments, what we've seen. So we have
20 seen that they've been very aggressive.

21 There's a representative here
22 from the housing.

23 (Witness approached witness
24 table.)

25 COUNCILMAN GOODE: Good

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2 afternoon. Please state your name for
3 the record.

4 MR. BELL: My name is Michael
5 Bell. I'm the Compliance Director at the
6 Office of Housing and Community
7 Development. And the numbers that I see
8 here severely underrepresent what the
9 Office of Housing does.

10 I was reorganized to the Office
11 of Housing in December of 2006 and my
12 duties include monitoring projects for
13 the Philadelphia Housing Development
14 Corporation, the Redevelopment Authority.
15 And also, too, through the Office of
16 Housing, we fund PIDC, PCDC and all those
17 other agencies, and we're trying to get
18 information. But we just submitted a
19 report to HUD for Fiscal Year '07 that
20 included over \$123 million in awards, and
21 we were operating at close to 32 percent
22 combined participation. We've been
23 setting goals for PHDC projects at 20
24 percent MBE, ten percent WBE
25 participation and for the Redevelopment

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2 Authority at 20 percent MBE and ten
3 percent WBE, but the numbers are not
4 represented. But we have back-up.

5 We go into the field. We
6 monitor. So we make sure if you're using
7 a contractor, that the contractor is on
8 site. And through the submission of
9 Section 3 reports, we've been monitoring
10 much higher participation.

11 We've been sending our reports
12 to MBEC on a regular basis. So I don't
13 know why the information is not reported.
14 But for Fiscal Year '07 between the
15 various quasi-agencies, we monitor over
16 \$120 million in projects.

17 COUNCILWOMAN SANCHEZ: Thank
18 you.

19 Is that the same for PIDC and
20 PAID?

21 MR. BELL: Right. PIDC is more
22 just like a finance agency, so PIDC is
23 not going to fight the fights that we
24 would. PIDC would set up the financing
25 and then -- for instance, in the Eastwick

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2 area, there were a number of projects,
3 like Bentley Trucking. You would have
4 other projects --

5 COUNCILWOMAN SANCHEZ: They're
6 managing a redevelopment of a naval city,
7 and there is a lot of work.

8 MR. BELL: Right.

9 COUNCILWOMAN SANCHEZ: I toured
10 the facility. There was a lot of
11 construction on the ground.

12 MR. BELL: Right. We did the
13 Airport Business Plaza out there. There
14 were a number of projects in the Eastwick
15 area where PIDC would do the funding, but
16 the RDA at the time was doing the
17 monitoring for minority participation.
18 And, like I said, we do enforcement. We
19 go into the field. We enforce through
20 the collection of contracts, and also,
21 too, we can hold up you getting clear
22 title at the end of a project, meaning
23 the developer, if the goals are not met.
24 But we do the monitoring while the
25 projects are going on.

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2 COUNCILWOMAN SANCHEZ: I'd love
3 to see that data if you share it with the
4 Chair.

5 COUNCILMAN GREEN: Point of
6 information.

7 COUNCILMAN GOODE: Councilman
8 Green.

9 COUNCILMAN GREEN: With respect
10 to PIDC and PAID, they do have a lot of
11 professional service contracts in terms
12 of lawyers and other people representing
13 them and the financings that they're
14 doing. Is that something that is
15 currently monitored?

16 MR. BELL: No. I don't monitor
17 the professional services awards, because
18 by the time we see a project, I'm dealing
19 with a developer. The project is already
20 financed, but we don't get the
21 information for the professional services
22 awards.

23 COUNCILMAN GREEN: Thank you.

24 MR. DUBOW: Carolyn Nichols has
25 some information on PIDC.

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2 COUNCILMAN GREEN: If he didn't
3 have the information, while he was there,
4 I wanted to ask the question.

5 MR. BELL: I'm more in the
6 construction numbers. And we make sure
7 also that community residents are hired
8 on the projects also. But the
9 construction numbers we need to resubmit,
10 because \$65,000 doesn't even cover a
11 basic system repair award, and on basic
12 system repair weatherization, PHDC is
13 doing approximately 43 percent minority
14 participation direct awards to certified
15 minority firms.

16 COUNCILMAN GREEN: Thank you.

17 Thank you, Councilwoman
18 Sanchez. Excuse me.

19 COUNCILWOMAN SANCHEZ: The
20 other issue, Councilman Jones brought up
21 the issue of political will. Is this
22 Administration willing to also have
23 additional costs related to de-bundling
24 some of these contracts to meet some of
25 these goals? Because as Ms. Nichols was

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2 mentioning, a lot of these contracts are
3 awarded large. I guess this is a
4 question for Mr. Dubow. Are we going to
5 be willing to absorb that to meet our
6 goals?

7 MR. DUBOW: That's an issue, I
8 mean, we haven't had much conversation
9 about, but we're looking at the whole
10 array of issues for how we can improve
11 participation, and we'll look at the
12 trade-off, and if we think it's worth it,
13 then we'll be willing to do it.

14 COUNCILWOMAN SANCHEZ: Do we
15 have an idea where MBEC is going to end
16 up? I know you're talking about
17 restructuring. Will that happen before
18 the end of our budget process?

19 MR. DUBOW: Yes, it will. It
20 will.

21 COUNCILWOMAN SANCHEZ: Okay.
22 In terms of disadvantaged businesses, how
23 many disadvantaged businesses are taking
24 advantage of the preference points of a
25 bill sponsored by our Mayor, Mayor

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2 Nutter, the five points City
3 disadvantaged businesses?

4 MS. NICHOLS: Five points?

5 COUNCILWOMAN SANCHEZ: Isn't
6 there some legislation --

7 MR. DUBOW: We'll have to get
8 back to you on that with that number.

9 COUNCILWOMAN SANCHEZ: I'd like
10 to know. I know it's a recent bill, but
11 I'd like to know if that is being
12 applied, how it's been applied and has
13 that helped in increasing the
14 participation.

15 MS. NICHOLS: I believe it's
16 managed by Procurement, the LBE process,
17 but we'll --

18 MR. DUBOW: We'll get back to
19 you with the information.

20 MS. NICHOLS: We'll find it.

21 COUNCILWOMAN SANCHEZ: Thank
22 you.

23 COUNCILMAN GOODE: Is there a
24 representative here from Econsult?

25 COUNCILWOMAN BROWN: I have a

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2 follow-up question, please.

3 COUNCILMAN GOODE: Councilwoman
4 Brown.

5 COUNCILWOMAN BROWN: Mr. Bell,
6 if I could trouble you to come back to
7 the witness table.

8 And, Ms. Nichols, you may be
9 able to provide an answer as well.

10 Where is the disconnect between
11 the work that you are doing and the
12 success you've had in meeting the numbers
13 and MBEC not being able to reflect that
14 in the numbers we see here?

15 MR. BELL: I don't know. We've
16 sent the reports to MBEC every six
17 months, as required by a City Council
18 regulation. We've documented. I've been
19 back and forth. So I don't know why the
20 information is not here.

21 But just going back, I was at
22 the Redevelopment Authority for nine
23 years. We consistently met the goal at
24 the Redevelopment Authority and exceeded
25 the goal on projects from -- housing

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2 projects, which we're working on one now,
3 Hunter School, to larger commercial
4 projects like Avenue North, and we got
5 the support of the Board at that level
6 and even from OHCD. Like I said, our
7 biggest threat was to stop payments if
8 goals weren't being met.

9 So I don't know why the
10 information is not reflected in the
11 report, but it does not reflect well on
12 the City, if you look at OHCD and only
13 \$60,000 are there in awards and we're
14 tracking over \$120 million in projects.

15 MS. NICHOLS: We'll find out
16 what happened with that.

17 COUNCILWOMAN BROWN: That's
18 extremely important.

19 MS. NICHOLS: Yeah.

20 COUNCILWOMAN BROWN: And it's a
21 revelation for me sitting on this side to
22 hear. That's a huge disconnect.

23 MS. NICHOLS: Generally we just
24 include the reports as received from
25 OHCD, but I'll have to find out what

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2 happened in this specific case, why it
3 wasn't -- there could be a mistake there.

4 COUNCILWOMAN BROWN: So then it
5 begs the question, is this an exception
6 that we've discovered --

7 MS. NICHOLS: It's an
8 exception.

9 COUNCILWOMAN BROWN: -- or is
10 it a fundamental misfit in the system?

11 MS. NICHOLS: Well, I think
12 this was an exception, because you looked
13 at the report last year. The numbers
14 were very, very high for the housing
15 agencies. So somehow -- let's put it
16 this way: This report was done on very
17 pressing time constraints and it's very
18 possible that errors were made or things
19 were slipped, and I fully admit that.

20 COUNCILWOMAN BROWN: So I'm
21 going to ask you, as a former manager,
22 would you accept that from one of your
23 staff people?

24 MS. NICHOLS: Well, I take the
25 responsibility, because I was putting

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2 this together under extreme duress to get
3 it, and that's the kind of thing that can
4 happen. But it's my responsibility and
5 no one else. So we'll get to it.

6 COUNCILWOMAN BROWN: Okay.

7 Thank you.

8 Mr. Bell, share with us, if you
9 would, how -- you mention that you've
10 successfully been able to ensure that
11 neighbors in the close area of that
12 project get work. How do you do that?

13 MR. BELL: We actually have the
14 developers when they're signing off on a
15 project that they have to hire -- right
16 now one of our major challenges is going
17 to be a project called Union Hill in the
18 Mantua area. The developers and the
19 contractors agreed, and then once
20 construction started, they said you have
21 to be union to be on the project. So we
22 threatened to hold up the first two
23 vouchers until that was taken off of the
24 language, because it's a prevailing wage
25 project. So we received approximately 40

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2 resumes. We're going through, obtaining
3 the skill levels of these individuals,
4 and at the next meeting next week, we're
5 going to present a list of individuals
6 that need to be considered to be hired to
7 meet the Section 3 hiring requirements,
8 the neighborhood benefits strategy hiring
9 requirements. And we don't give them a
10 choice. It's not a favor that we're
11 asking the developers or the contractors,
12 because when they --

13 COUNCILWOMAN BROWN: Especially
14 if they're receiving subsidy.

15 MR. BELL: They're getting the
16 funding. They're getting CDBG funding
17 either in the form of HOME, McKinney in
18 that situation, and we don't give them
19 wiggle room in terms of hiring people.
20 But you also have to have skills, because
21 with the Section 3 hiring requirements,
22 it doesn't require you to train
23 individuals, but if someone either has
24 union affiliation, they have electrical
25 skills, then it's not a favor. You have

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2 to hire this person. They live in the
3 zip code or we're not going to process
4 the next voucher.

5 COUNCILWOMAN BROWN: So in
6 effect, your office, your agency, did the
7 legwork to recruit, identify and get
8 those young individuals in the pipeline?

9 MR. BELL: Yeah. We visit the
10 job sites on a regular basis also.

11 COUNCILWOMAN BROWN: Okay. And
12 then to Councilman Jones' observation
13 that once they're on paper, you want to
14 make sure that they are live bodies at
15 the site.

16 MR. BELL: Right. It starts
17 with the contractor. So we get an
18 affirmative action plan that's submitted
19 to us by a developer on the Redevelopment
20 Authority side, because on the
21 Redevelopment Authority side, the
22 contract is with the developer, whereas
23 with PHDC, PHDC hires contractors
24 directly. So with the developer, they
25 take the risk, because they put the

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2 financing together, and when they sign on
3 their redevelopment agreement, if they're
4 going to meet the goals, that's where our
5 hammer is in terms of making sure that
6 the goals are met. And we had some
7 problems recently on a project called
8 Park West in the West Philadelphia area.
9 A lot of the contractors are using union
10 affiliation as a reason not to hire
11 people. And I won't mention any trade
12 specifically, but our ammunition is going
13 to be the next time we see those specific
14 contractors, if they don't have people to
15 meet the minority hiring goals, we're not
16 going to let them work on the projects
17 until they can give us a plan as to how
18 they're going to increase participation.

19 COUNCILWOMAN BROWN: Thank you
20 very, very much.

21 MR. BELL: You're welcome.

22 COUNCILWOMAN BROWN: Important
23 testimony.

24 COUNCILMAN GOODE: Councilman
25 Green.

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2 COUNCILMAN GREEN: Just a quick
3 question. It was mentioned yesterday by
4 the CPO that the Separations Act costs us
5 a lot of money in contracting. It's
6 specifically a law that requires us
7 anything over 4,000, you have to have a
8 prime. Does that Act have any negative
9 impact on meeting inclusionary goals?

10 MS. NICHOLS: I don't know
11 specifically if it has. I think in the
12 public works area, the most challenging
13 thing is the bonding requirements more
14 than that. Now, I see Councilman Jones
15 may know more about that.

16 COUNCILMAN GOODE: Councilman
17 Jones.

18 COUNCILMAN JONES: I don't have
19 anything on that specifically.

20 COUNCILMAN GREEN: If you would
21 look into that and just report that to
22 the Chair.

23 MS. NICHOLS: Separations Act.

24 COUNCILMAN GREEN: Thank you.

25 MS. NICHOLS: Thank you.

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2 COUNCILMAN GOODE: Councilman
3 Jones.

4 COUNCILMAN JONES: To what
5 degree do you employ joint ventures, in
6 developing joint venture relationships
7 between primes and subs?

8 MS. NICHOLS: That's one thing
9 we need to do more of. I think we need
10 to develop a formal mentor/mentee
11 program. MBEC may have even had one in
12 the distant past. We can model the
13 federal program, because the federal
14 program has a mentor/mentee program, and
15 the matchmaking -- going back to Houston,
16 my model, they've been very successful
17 with that, because the matchmaking is
18 really how you can help develop subs into
19 primes so that minority and women
20 businesses can really maximize their
21 participation, even outgrow the need for
22 the program. But the matchmaking has to
23 happen, and we need to do more of that.
24 We've done some of that, setting up
25 opportunities for subs to meet with

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2 primes. Like Turner Construction is one
3 I can think of. Organize an activity
4 around matchmaking so that -- because
5 business is built on relationship, and
6 the more these companies are not known,
7 they're not going to be used. It's
8 mythology if we think that a prime is
9 just going to look in a directory and
10 just pick the name out of an MBE or WBE
11 or DSBE just blindly, not knowing
12 anything about who it is, what they can
13 do, how they operate and that kind of
14 thing. So to take the mystery out of it,
15 we have to get these companies known so
16 people know the capacity of these firms
17 so that they can be utilized. As long as
18 they're just names in a book, nothing is
19 going to happen. Because what happens,
20 primes will bring minorities or women
21 contractors that they know and bring them
22 to us and say, Yeah, I want you to
23 certify them. But that's not helping
24 people that are in the directory to get
25 those opportunities. So the matchmaking

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2 is really the key, the mentoring. The
3 joint ventures is really key.

4 COUNCILMAN JONES: This will be
5 my last comment, Mr. Chairman.

6 We need to holistically as a
7 government -- that's us, that's you,
8 that's the Administration -- work
9 together. Let's look at some models.
10 The 8(a) program at the federal level has
11 worked for a long time to grow firms to
12 capacity so that they're self-sufficient,
13 taking subs to primes. We need to look
14 at that.

15 The second thing in our
16 internal operation is the relationship
17 between the Philadelphia Commercial
18 Development Corporation, your office,
19 MBEC, the new EOC and also PIDC, and try
20 to take a firm or several firms, match
21 them with employment goals, contracting
22 goals and opportunities to access
23 government and then graduate them over a
24 period of time.

25 We need to look at some of the

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2 contracts that the City lets.

3 We let a lunch program every
4 year, 1.5 million. It goes to a firm in
5 New York. There's a Philadelphia firm
6 that probably could do that.

7 We cut our grass every 14 days
8 rotation in Fairmount Park, every 17 days
9 with Recreation. We can find -- that
10 contract currently goes to a company in
11 King of Prussia. Now, I know we don't
12 want to get into a match of my contract,
13 your contract with the counties, but from
14 an economic development platform, from a
15 procurement participation platform, from
16 an employment-based platform for
17 neighborhoods, we need to put together a
18 model that works.

19 MS. NICHOLS: Absolutely.

20 COUNCILMAN GOODE: Thank you,
21 Councilman.

22 Is there a representative from
23 Econsult here?

24 (Witness approached witness
25 table.)

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2 COUNCILMAN GOODE: Can you
3 briefly explain the methodology used in
4 the disparity study?

5 MR. HUANG: Sure. My name is
6 Lee Huang, H-U-A-N-G, from Econsult
7 Corporation.

8 The way that a disparity study
9 works is, disparity is a fraction with
10 utilization on the top and availability
11 on the bottom. Each of those is itself a
12 fraction, utilization being the
13 percentage of contracts that go to a
14 particular DBE category and availability
15 being the percentage of firms that are
16 ready to bid on that universe of
17 contracts that are themselves DBEs. So
18 in conducting a disparity study, we take
19 MBEC's data and we do the math and we
20 come up with the disparity ratios.

21 COUNCILMAN GOODE: That was
22 almost totally correct. The disparity
23 study that was conducted last year used
24 City or regional data?

25 MR. HUANG: The denominators

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2 for availability used metro data.

3 COUNCILMAN GOODE: Why?

4 MR. HUANG: I'll give four
5 reasons. One, we conducted a literature
6 review of what other disparity studies
7 do; in particular, the DJ Miller one,
8 which was for 1998-2003 for the City of
9 Philadelphia. They used the metro area.

10 Secondly, the data that is
11 available for counting businesses is at a
12 metro and not municipal level.

13 COUNCILMAN GOODE: That's not
14 true.

15 MR. HUANG: Well, I should say
16 there is more data available at the metro
17 area than at the City.

18 COUNCILMAN GOODE: Just to
19 prove my point before we go any further,
20 what percentage of businesses in the
21 region are owned by African-Americans?

22 MR. HUANG: Out of six
23 different ways of answering your
24 question, we felt that the best way to
25 answer it was the number of firms that

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2 employ more than one person.

3 COUNCILMAN GOODE: That wasn't
4 my question. My question was, what
5 percentage of businesses in the region
6 are owned by African-Americans?

7 MR. HUANG: The number of firms
8 total that are owned by African-Americans
9 in the region is -- there are 24,486
10 African-American-owned firms in the
11 region out of 416,000, for a percentage
12 of six percent.

13 COUNCILMAN GOODE: What
14 percentage of businesses are owned by
15 African-Americans within the City?

16 MR. HUANG: I don't have that
17 information.

18 COUNCILMAN GOODE: Sixteen
19 percent. My question is, why don't you
20 have that information?

21 MR. HUANG: Well, again, as I
22 was describing, there are four reasons
23 why we chose in our methodology to use
24 the metro area rather than the municipal
25 area. First is that other disparity

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2 studies do. Second is that --

3 COUNCILMAN GOODE: That's not a
4 good reason, but move on.

5 MR. HUANG: Okay. Second is
6 that there is more data available for all
7 of the different categories that we were
8 looking at at the metro level than the
9 municipal level. Third is that --

10 COUNCILMAN GOODE: That's also
11 not a good reason to me, but I'll get
12 into that further. Go ahead.

13 MR. HUANG: Third is that when
14 we're looking at availability, we're
15 looking at businesses that are ready,
16 willing and able to bid for City
17 contracts. It could be a City firm, it
18 could be a metro firm, it could be a firm
19 on the other side of the country. So we
20 have to decide from a geographic
21 standpoint how to size the denominator,
22 and we chose metro as a good in-between
23 between the City universe and the
24 national universe.

25 COUNCILMAN GOODE: What

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2 percentage of businesses are owned by
3 African-Americans within the nation?

4 MR. HUANG: I don't have that
5 information on me.

6 COUNCILMAN GOODE: It's about
7 six percent.

8 MR. HUANG: Okay.

9 COUNCILMAN GOODE: So that's
10 not a blend of six and 16. And I can
11 tell you the amount of businesses owned
12 by African-Americans within the state is
13 about three percent.

14 MR. HUANG: Okay.

15 COUNCILMAN GOODE: But the
16 amount of businesses owned by
17 African-Americans in Philadelphia is 16
18 percent.

19 So my question I'm leading to
20 is, by using regional data, are you not
21 lowering the goals by lowering the
22 availability rate?

23 MR. HUANG: The lower
24 availability rate would lead to
25 artificially high disparity ratio

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2 results, that is correct, because --

3 COUNCILMAN GOODE: So by using
4 regional data, you are actually lowering
5 the goals by lowering the availability
6 rate?

7 MR. HUANG: Well, we don't set
8 the goals. We just report the results.
9 So I guess if they use our results to
10 formulate goals, then the answer to that
11 question would be yes.

12 COUNCILMAN GOODE: Does MBEC's
13 certification problem lower the goals by
14 lowering the availability rate?

15 MR. HUANG: We felt that it
16 did, because we found -- we know
17 anecdotally that there are instances of
18 minority and women-owned businesses that
19 are not certified as minority and
20 women-owned businesses and, therefore,
21 they don't show up in the utilization
22 ratio.

23 COUNCILMAN GOODE: Ms. Nichols
24 or Mr. Dubow, whoever else here wants to
25 answer the question, the issue I'm

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2 raising is, one, by using regional data
3 rather than City data, I believe it skews
4 the availability rate, and, two, by using
5 only MBEC-certified firms and having a
6 certification problem that had to be
7 dealt with lowers the availability rate,
8 which lowers the goal in the end, and how
9 are we going to address that?

10 MR. DUBOW: I understand your
11 issues, and on their face, they make
12 sense. It's new to me, so I'll have to
13 look into it to understand better why
14 some other procedure was used, and then
15 if it makes sense to go to the
16 methodology you're talking about in
17 future disparity studies, that's what
18 we'll go with.

19 COUNCILMAN GOODE: At the end
20 of the day, Ms. Nichols -- I think we've
21 been through this before, so I won't go
22 through it too extensively -- there are
23 roughly 10,000 African-American-owned
24 businesses within Philadelphia?

25 MS. NICHOLS: Yes. About

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2 9,500, correct.

3 COUNCILMAN GOODE: And it is,
4 of course, understood that all of them
5 are not offering goods and services that
6 pertain to City contracts, nor do all of
7 them necessarily want to do City
8 business, but roughly out of that 10,000
9 still, how many are certified in terms of
10 African-American businesses?

11 MS. NICHOLS: Just
12 African-American businesses, out of our
13 1,269, I believe 600 are
14 African-American-owned businesses. So
15 there's a big gap there, and I will grant
16 you that.

17 COUNCILMAN GOODE: So there are
18 10,000 African-American-owned businesses
19 in Philadelphia. Six hundred are
20 certified to do business in the City of
21 Philadelphia?

22 MS. NICHOLS: Correct.
23 Absolutely. That's correct. And that's
24 why we wanted to utilize some of the
25 strategies that Econsult did recommend

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2 and I think this Council has encouraged
3 us to do as well, is to look at people
4 who, for lack of a better term, are
5 certifiable. They're minority, women or
6 disabled-owned firms. They may not go
7 through the certification process, but
8 they are being utilized by the City of
9 Philadelphia in contracts.

10 It's possible -- and other
11 jurisdictions do this -- to count that,
12 not mix it in with the certified firms,
13 but to count that as a separate column or
14 category, and you could capture more
15 accurately the utilization. So we
16 totally agree with that.

17 COUNCILMAN GOODE: So, clearly,
18 I'm very pleased with the fact that we
19 amended the City Charter to require this
20 report as part of the responsibility of
21 the Finance Director. Clearly, I'm
22 pleased that we are now conducting annual
23 disparity studies and setting annual
24 participation goals and, in its inaugural
25 effort, believe that it provided more

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2 information than we probably have ever
3 had, but it actually at the end of the
4 day provided more questions and concerns
5 than I think has been alleviated.

6 So I'll just ask the question
7 this way: Are we comfortable where we're
8 at in terms of the annual disparity study
9 and the setting of participation goals,
10 and if not, how will we change that for a
11 report that is due 30 days before the end
12 of the fiscal year?

13 MS. NICHOLS: And we will meet
14 that deadline.

15 MR. DUBOW: My answer would be
16 that at this point, we're reviewing
17 everything. So for us to say we're
18 comfortable with any of it would not be
19 accurate. And we also understand that in
20 terms of the disparity study, we have to
21 move quickly, because there's only a few
22 months to get it done. So we'll make
23 this a priority.

24 COUNCILMAN GOODE: My final
25 question is a simple question. I don't

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2 know if I have asked it already.

3 We have a disparity study. We
4 have annual goals. Whether we totally
5 agree with the study or the goals, is the
6 City actually meeting those goals for
7 Fiscal Year '08?

8 MS. NICHOLS: So far -- I have
9 data from July 1, 2007 through February
10 29, 2008, and we're actually at 15.38
11 percent. So we're probably a little
12 higher --

13 COUNCILMAN GOODE: We're at?

14 MS. NICHOLS: 15.38 percent,
15 and for FY07 --

16 COUNCILMAN GOODE: For?

17 MS. NICHOLS: From July 1, 2007
18 through February 29, 2008, FY08.

19 COUNCILMAN GOODE: 15.38
20 percent for what?

21 MS. NICHOLS: That's across all
22 categories.

23 COUNCILMAN GOODE: That's total
24 DBE participation?

25 MS. NICHOLS: Yes. For those

2 quarters, yes.

5 MS. NICHOLS: Twenty-five, ten
6 and two. So there's a lot of work to do.

9 MS. NICHOLS: Yes. So there's
10 work to do, clearly.

21 MR. DUBOW: Yes.

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2 37 percent and right now we're achieving
3 18 percent, and even as we begin to
4 decide how we're going to move forward on
5 this issue, we've seen so many holes here
6 in terms of reporting and methodology and
7 studies and whether department heads
8 actually know what the goals are and
9 whether they actually have goals for
10 every area of contracting, there is
11 clearly a lot of work to be done, but
12 we're willing to work with this
13 Administration and we look forward to it.

14 That's all I have.

15 Are there questions from other
16 members of the Committee?

17 (No response.)

18 COUNCILMAN GOODE: Is there
19 anyone else to testify on this
20 resolution?

21 Mr. Jones.

22 Thank you.

23 MS. NICHOLS: Thank you.

24 MR. JONES: Mr. Chairman,
25 Committee members, thank you very much.

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2 other things to keep that facility
3 operating, are also supposed to have an M
4 and WBE requirement, and nobody is
5 tracking it.

6 Kvaerner Shipyard has changed
7 hands five times, four times, three
8 times. At least three times. The last
9 time I thought they was trying not to put
10 the word "Philadelphia" on the shipyard
11 sign up there off of 95.

12 So I would respectfully request
13 that you all add the ongoing operations
14 and maintenance requirements.

15 Comcast, the cable TV building,
16 for example, that's ongoing. We're
17 supposed to have opportunities in there.
18 Also when you have federally funded,
19 state funded, City funded projects. When
20 we had that big tower at 30th Street
21 built by one of the developers out there
22 in Montgomery County, that money came
23 from the state, through Commerce, through
24 PIDC and then, of course, the developer
25 had some of his monies. We had a black

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2 joint venture with George Pittman Real
3 Estate, with U.S. equities managing 30th
4 Street Station. And when the invite went
5 out to national real estate developers,
6 Mr. Pittman wasn't included, and he was
7 the joint venture signature partner.
8 Now, the lawyer for Amtrak, formerly from
9 the City of Philadelphia, worked under
10 Mayor Goode, didn't send him an invite,
11 and he was a joint venture signature.

12 When the Councilwoman asked
13 about loopholes, there are loopholes that
14 are by accident and there are loopholes
15 that are not by accident. Loopholes not
16 by accident are easy to stop, and, that
17 is, be vigilant, constant and, like
18 myself, stay on it. Never let it go.

19 The other week this honorable
20 Council and members here sat and heard
21 this privatization of four golf courses
22 and the Fox Chase Cancer Center, and I
23 don't remember hearing too many MBE
24 questions. Fox Chase is going to be
25 building two billion, with a B, dollars

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2 worth of work. The design has already
3 been gone.

4 COUNCILMAN GOODE: Fox Chase
5 does have an Economic Opportunity Plan.

6 MR. JONES: Pardon me?

7 COUNCILMAN GOODE: Fox Chase
8 does have an Economic Opportunity Plan.

9 MR. JONES: Yeah, but I'm
10 saying.

11 COUNCILWOMAN BROWN: Point of
12 information, Mr. Chairman.

13 COUNCILMAN GOODE: Councilwoman
14 Reynolds Brown.

15 COUNCILWOMAN BROWN: I'd be
16 happy to add that. That bill was
17 actually held until we not only had a
18 chance to have it, but a chance to read
19 it, review the numbers, an opportunity to
20 get back to the law firm representing Fox
21 Chase wherein it met the satisfaction of
22 a number of Councilmembers. So I offer
23 that to you to reassure you that members
24 of this Council are as serious about this
25 issue as you are and pay close attention

2 to that one item when major developments
3 come before us. Can we be held
4 responsible for that which we do not
5 know? Absolutely. But for those
6 projects that come to our attention at
7 this table, we pay attention to the EOP
8 plan.

10 COUNCILMAN JONES: Point of
11 information.

14 MR. JONES: In concluding, I
15 will note that the study in the future
16 would also do disparities of the majority
17 people who have 98 percent of all the
18 contracts to see where they are. Because
19 if I'm competing against a contractor
20 that's got 400 trucks and I got four and
21 it takes 50 to work the job, how am I
22 going to beat him?

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2 competing against. Because we have no
3 asphalt/concrete plant operators that are
4 minority owned, it's going to be very
5 hard to win the next paving contract.

6 So we've got to really start
7 looking at what is our competition in the
8 M/WBE community.

9 Finally, I would hope that your
10 report breaks out by Council districts,
11 by zip codes, who these vendors are.
12 There's only one contract any government
13 agency gives out, and that's the prime
14 contract. These dollars that are
15 represented on all these reports, 98
16 percent of them are subcontract dollars,
17 which means we, the City of Philadelphia,
18 are not giving these vendors a check.
19 The people who have always had the work
20 are giving them a check. So what has
21 changed? Yeah, they're getting a check
22 finally, but we, the City, haven't given
23 them a check, "them" being the M/WBE, to
24 say what clients still are not getting
25 checks directly from the City of

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2 Philadelphia.

3 Mr. Jones, when he was the
4 Director -- and I will conclude --
5 allowed me to work out a Memorandum of
6 Understanding between his office and, of
7 course, the City of Philadelphia, the
8 Federal Bureau of Prisons and the Small
9 Business Administration, and in that
10 Memorandum of Understanding, we were able
11 to get the prime construction management
12 contract, \$4-some million, for the
13 Federal Detention Center, Temple Group,
14 and we were able all the way out
15 Allenwood, Pennsylvania, we were able to
16 get two Philadelphia-based 8(a) firms
17 painting contracts in general
18 construction in Allenwood, Pennsylvania.

19 So there's no such thing as
20 can't be done, impossible. You got to
21 think out the box. Don't create the
22 barriers. Find the solutions to the
23 barriers, and they can be done.

24 I'm not currently working. I
25 think this government needs a Minority

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2 Business Advocate Office to help them.

3 When things are too politically
4 sensitive, that Business Advocate could
5 tread through that quagmire of political
6 sensitivity and still get the job
7 achieved.

8 Thank you very much for the
9 time allowing me to speak.

10 COUNCILMAN GOODE: Thank you,
11 Mr. Jones.

12 Councilman Jones.

13 COUNCILMAN JONES: Every time
14 when we look at opportunities, whether
15 it's a concession or a participation in
16 expansion of a convention center, I know
17 clearly that there's an advocacy group
18 out there that holds us to a standard to
19 make sure that we ask the tough
20 questions. We do that almost to a
21 repeated beat of the drum that sometimes
22 annoys people, but we do it because we
23 understand at the end of the day somebody
24 gets hired in a neighborhood that can
25 benefit from this economic development

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2 opportunity.

3 On your point of the golf
4 courses, those weren't the first times
5 that they were privatized. These are
6 concessions that annually come up, but
7 the questions that the Chairperson asked
8 were to make sure that, A, there was a
9 minority; B, that these jobs weren't just
10 the janitor jobs, that they were greening
11 jobs; C, that they adopt a high school to
12 create a sports opportunity for them.

13 So beyond even the contracting
14 opportunities, we're looking at every way
15 that this City can empower communities,
16 employ people and create greater tax
17 revenues for its residents. So we're
18 fighting for that. And I understand your
19 passion, and I want you to know that we
20 share it as well.

21 COUNCILMAN GOODE: Thank you.

22 Are there any other questions
23 for this witness?

24 (No response.)

25 COUNCILMAN GOODE: Thank you,

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2 Mr. Jones.

3 Is there anyone else to testify
4 on this resolution?

5 Please approach the witness
6 table.

7 (Witness approached witness
8 table.)

9 COUNCILMAN GOODE: Please state
10 your name for the record and proceed with
11 your testimony.

12 MR. JACKSON: My name is E.
13 Craig Jackson.

14 I've listened to a lot of
15 things going on today, and if you have
16 one minute, I'd like to introduce you to
17 a story.

18 COUNCILMAN GOODE: Absolutely.

19 MR. JACKSON: July 25, 2003 my
20 son was shot to death here in
21 Philadelphia. He worked three part-time
22 jobs. He was in the youth ministry. He
23 didn't drink, drug, carry guns or hang
24 out in gangs. A couple of his friends
25 asked me about 30 days later to -- they

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2 wanted me to be their dad.

3 I've taken some time out to do
4 some research and found out that there
5 are a large group of at-risk males here
6 in Philadelphia that needed to have them
7 addressed. What I've done was, I put
8 together a project for 18- to 26-year-old
9 at-risk males to renovate houses here in
10 Philadelphia, paying them the equivalent
11 of \$25 an hour, 16 hours a day, 364 days
12 a year for the first three years. They
13 get education, training, counseling over
14 that period of time. They'll be
15 renovating houses for senior citizens,
16 first-time home buyers and HIV/AIDS
17 consumers.

18 When I went to the union here
19 in Philadelphia and told them about this
20 project, they said there's no way that
21 you would be able to do this here in this
22 area. And so I told them that they would
23 get education, training and counseling.
24 And after I had spoken to them, there was
25 a storm that happened down in the New

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2 Orleans area. We'll be going down there
3 for about a year and renovate houses down
4 there as well. Then we're going over to
5 Africa and build a water refinery in
6 Sudan the third year. Once they return,
7 they'll be independent contractors for
8 real estate redevelopment of skyscrapers.

9 They'll have their
10 certifications. They'll have everything
11 that they need, and the only requirement
12 of them at that time is that they find 50
13 others in this City or any other city or
14 town across the country and teach them
15 everything they've learned and
16 experienced over that period of time.

17 I would like to have the City
18 of Philadelphia help to make this a
19 reality. I've been working on this
20 project now for over -- well, for over
21 almost four years, and I've done
22 interviews of over 150 participants,
23 males here in this area, and I've talked
24 to over 4,800 here and I asked them all
25 one specific question, and the statistics

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2 was outrageously off the charts. But I
3 asked them, I said, Where was your dad
4 when you were growing up? And they said,
5 My dad is either dead, incarcerated or
6 abandoned us when we were young.

7 There's a young man that works
8 right here in Councilwoman Blondell's
9 office. When he was 18 months old, his
10 grandmother told me that they found him
11 on the floor in the basement of the
12 abandoned house. He also wants to be a
13 part of this project, and he's
14 volunteered his time here at City Hall.

15 I've interviewed these young
16 men. They're ready to go and do this.
17 We need funds of about \$30 million. We
18 are under the 501(c)(3). We just had it
19 approved January 25th of this year. And
20 I'd like the City of Philadelphia to
21 support this project. It would be to the
22 advantage of the City, because if we can
23 take a group of people that may be
24 eligible for the new jails that are being
25 discussed and take them from the

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2 mentality of where they're at now and get
3 them into a mentality of being
4 independent contractors or entrepreneurs,
5 it would be -- it would make your City
6 look delightful.

7 My son went to Philadelphia,
8 from Philadelphia to DC. I was in DC in
9 1994 to year 2003. And he went to school
10 here at Mansion and he also went to
11 school at Shaw and Dunbar in DC, and he
12 went back and forth. He was able to see
13 the difference here as well as there.

14 And I say that to say this:
15 Just by him having that exposure and
16 being able to leave this City and go into
17 other areas of the country, he was able
18 to come back here, go to Leslie Pitney
19 Elementary School and take all the
20 different sneakers that they had in the
21 house, dipped them in bleach and make
22 designs on jeans with different sneaker
23 prints and sold those designs to young
24 people in school for \$20. He did not
25 sell drugs. He did these things because

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2 he learned at a young age how to, and he
3 demonstrated it here.

4 I would like y'all to take a
5 look at the proposal, which I did not
6 bring to you today.

7 COUNCILMAN GOODE: Sir, we
8 thank you for your testimony and you can
9 continue briefly, if you'd like. I
10 really would like to see a copy of that
11 proposal and I will be willing to share
12 it with members of the Committee.

13 MR. JACKSON: Thank you.

14 COUNCILMAN GOODE: Thank you.

15 MR. JACKSON: Have a good day.

16 COUNCILMAN GOODE: Any
17 questions for this witness?

18 (No response.)

19 COUNCILMAN GOODE: Thank you.

20 Is there anyone else to testify
21 on this resolution?

22 (No response.)

23 COUNCILMAN GOODE: Seeing none,
24 the hearing on Resolution No. 080052 is
25 recessed to the call of the Chair.

1 3/5/08 - COMMERCE - BILL 080023

2 Thank you all very much.

3 (Committee on Commerce and

4 Economic Development adjourned at 12:40

5 p.m.)

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CERTIFICATE

I HEREBY CERTIFY that the
proceedings, evidence and objections are
contained fully and accurately in the
stenographic notes taken by me upon the
foregoing matter on March 5, 2008, and that
this is a true and correct transcript of same.

MICHELE L. MURPHY
RPR-Notary Public

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