

Public Hearing

of

THE SUBCOMMITTEE ON COMMUNITY AFFAIRS,
CONSUMER AFFAIRS, AND COMMERCE

of

THE NEW JERSEY LEGISLATIVE BLACK CAUCUS

“Testimony concerning the State’s Weatherization Assistance Program”

LOCATION: The Centre, Inc.
Newark, New Jersey

DATE: December 29, 2010
11:00 a.m.

MEMBERS OF SUBCOMMITTEE PRESENT:

Assemblywoman Cleopatra G. Tucker, Chair
Senator Ronald L. Rice
Assemblywoman Mila M. Jasey

ALSO PRESENT:

Renee Tyler
Representing Assemblyman Jerry Green

Raul Medina
Representing Assemblywoman L. Grace Spencer

Rufus I. Johnson
Essex County Freeholder-At-Large



Hearing Recorded and Transcribed by
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SENATOR RICE: As soon as the Chairlady is ready.

I know that the weather's been bad statewide, and I know that some people still may be traveling to the hearing. Some may feel that it was off, even though we were on the phone in my office yesterday contacting agencies -- some were closed; we faxed people; we did the best we could to remind people this hearing was still going on.

I want to thank the media that did come out, and I will tell you who I am in a moment.

We have people who are testifying. If you haven't signed up to testify and you want to, make sure you sign a form over here so we'll know who you are and who you represent.

I also want to say that we want to thank those of you who took the time to come to the City of Newark for this hearing. I also want to thank The Centre Director and his board members for this great center -- nonprofit organization here -- for allowing us to have a place to call home, to have these types of meetings.

My name is Ronald L. Rice, and I am the New Jersey State Senator representing the 28th Legislative District. But I'm also the Chairman of the New Jersey Legislative Black Caucus. We are 15 members in the Legislature -- four in the Senate and 11 in the Assembly. We're very much concerned about the Weatherization Program, primarily because it's a good program. Number two, it impacts on low- and moderate-income families throughout the state of all ethnic backgrounds. It impacts on our senior homeowners and others in some of these apartments, etc.

It also creates job opportunities for those of us in these communities by working with the agencies -- the nonprofits and others.

The thing that concerns me -- and you're here doing the testimony -- concern our members; is the fact that many of these agencies have been providing this work for the last 15 or 20 years or so -- whenever the program started -- in terms of weatherization. And it's very interesting that during this period of time, there were no concerns; in fact, most of the agencies, from what I can tell from some of these reports, got good reviews about the work they were doing. Some received awards. And all of a sudden, we have a new government, new Commissioner, and we have additional dollars in the program -- I think it's about \$119 million now; I think at one time it was only about \$30 million in the program -- with the mandate from the Obama Administration to expedite production.

Well, you're going to hear testimony this morning; and based on my experience, to expedite production it's not you just start today and tomorrow it's done. There's a process known as mobilization and pulling things together that need to be done -- you need trained workers.

The other concern we have -- and I've said it to the agency providers who are here, and those who are not here -- I'll raise this issue with them: The New Jersey Legislature, under the leadership of the New Jersey Legislative Black Caucus and Latino Caucus, spend a lot of time working with our union partners -- union men in labor, organized labor -- because we know they have skill sets that are really necessary for the young African-Americans, Latinos, women, and other groups who lack skill sets to be employed; those who are re-entering from the prison system. And we asked them to train people from our community on weatherization and green jobs. The new thing that everyone is talking about throughout the

country is green jobs, which goes beyond weatherization. And it's new, and we want our opportunities.

So I understand from talking to many of the trainees -- and I went to some of those graduations -- that from the time that we started these programs, most of them are not working. And so from the providers' perspective, that's of great concern to me and I'm sure the majority, if not all, of the members of the Legislative Black Caucus. Because these are basically people who live in our districts, our communities, who are being trained to do jobs in the community in which they live and their families live and our people live, to be quite frank, and your agencies are operating with the Federal funds and State funds.

So we're going to try to get a clear record. The hearing that the Legislative Oversight Committee had, under the leadership of the Majority Leader in the Senate, Senator Barbara Buono, to me was a one-sided hearing. It may have been intended that way; maybe there was intent to do a second hearing. But I let her know we were going to have our own hearing, regardless of what the Legislature's doing, so we can hear from our people. And I use that "our" in parenthesis (*sic*) because that's what we see this as -- our people. And we're not just talking black, Latino -- we're talking diversity of blacks, Latinos, women, other minority groups. We're talking non-minority groups, we're talking about senior citizens, other people who we have to service who pay taxes and need some help.

And that's what this hearing is all about. The hearing that they had only talked to the Auditor who did an audit of the system, and it only spoke to the Commissioner as to how she was going to treat the results of the audit. The interesting thing about the audit: I read the audit. The

audit really does not point to the providers. If you really read the audit, the audit said that a lot of our problems over the years in productivity, particularly when we got the new money, was the problem of the Department of Community Affairs dealing with systems that were not in place, lack of clarity to the providers, etc. The State response is, "We'll put the systems in place and get rid of the folk who have been providing for 15-plus years."

From my perspective, if the State has been monitoring these programs for the last 15, 20 years -- and I'm not talking about some new provider coming in -- and you've been sanctioning these programs and okaying these programs, then the fault doesn't lie here, so why are you terminating programs that are functioning? Now the issue becomes whether or not there is a program or some programs, out of the whole group of providers statewide, that are creating intentional, knowingly, improprieties. If, in fact, that's the case, then you deal with that from an isolated perspective, and you document it.

What I found from my experience in the State Legislature: When it comes to the urban and minority communities, and people of color, and women, and other minority groups, whatever we are doing from a working relationship, providing jobs, providing services -- when there's a problem the State's solution has always been to wipe out the whole program or wipe out all the providers. For example, when we get complaints that there's Medicaid fraud or Medicare fraud with a pharmacist, then the State response is to get rid of all the pharmacists in the urban community who happen to be mostly of the minority persuasion -- one ethnic group or another. If we have a problem with medical transportation, the State

response in our communities is always, "Let's just shut down the medical transportation and give it to others" who are non-minorities and, I guess, political and everything else.

That can't be the response in this case when it comes to weatherization. The response has to be some clear directions, some clear understanding of what the problems were in the past, what they are today, how we fix those, and start from square one with these agencies and providers. And the other problem that I'm going to raise to all of you is, the way I see it is, that we never had enough agencies or providers or contractors to do weatherization. And so it seems to me from my experience -- and my gray hair's not premature; this is real stuff -- from my life experience and interacting in the community with these types of programs, 24 years in the State Senate, it seems to me that if I'm going to increase production, yes, I would increase the number of providers. But by the same token, I won't diminish what I have that's working. And you're going to hear why that makes sense, because it's just not getting providers and saying, "Go to work." Which means if we're going to meet the timeframe we're talking about to satisfy the Federal government, then we need all hands on deck -- all hands on deck who are trained personnel, because it's going to take time to get those others situated where they should be.

So I just wanted to kind of lay a record as the Chairman of the Legislative Black Caucus. I'm going to turn this over now to the Chairlady of the Legislative Black Caucus Subcommittee on Community Affairs, Consumer Affairs, and Commerce, and that's the Honorable Cleopatra Tucker.

No, I want to say one other thing: This hearing is a hearing of the Legislative Black Caucus, not the New Jersey Assembly, not the New Jersey Senate. We have our own way of doing things. When people don't talk to us in the State Legislature, or if the Administration wants to do things one way, we want objective pictures. We don't have a problem eliminating people who are not performing, regardless of what ethnic background or gender you come from, age group -- we want accountability. We've always argued that. But we also want these job opportunities and we want the people who we represent served in our communities.

So with that, let me turn it over to the Assemblywoman.

Oh, and by the way: We also have, for the record -- and we're being transcribed, I want you to know that, for the record. And we have media here. But we also have-- Other members may come, but we have, also, Assemblyman Jerry Green's representative here. Assemblyman Green is the Speaker Pro Tem of the New Jersey Assembly. He's also a member of this subcommittee. He's also the First Vice Chair of New Jersey Legislative Black Caucus. So welcome -- if you could just put your name on the record, we'd appreciate it.

And Assemblywoman -- take it from here.

MS. TYLER: Thank you, sir. My name is Renee Tyler; I am Chief of Staff for Assemblyman Jerry Green. Thank you.

SENATOR RICE: We also have representatives from Assemblywoman Grace Spencer's office here. Why don't you come up here and take notes for the Assemblywoman in case she doesn't get here? Make sure you take good notes, because I'm going to need her support when we have to go down there and stand together if things aren't right.

Assemblywoman, Chairlady.

ASSEMBLYWOMAN CLEOPATRA G. TUCKER (Chair):

Good morning.

I'd like to take this opportunity to welcome you to the Donald K. Tucker Complex, The Centre, Inc. We're here-- The purpose of us being here today is to hold a hearing about the Commissioner's report on the weatherization program.

We're here today so we can listen to your concerns, and see how best that we can help you do the things that we know that you can do in our communities and our neighborhood.

The focus here is to listen and to learn, and with that we can collect all your thoughts and all your ideas so we can go back, as the Legislative Black Caucus, to make our demands on how we want things done and let them know what they should be focusing on; and not take their report. Because we know that there's something wrong with their report.

So we will get started and, hopefully, as different people come in they'll be able to sign up to speak. So I'll turn it back over to Senator Rice.

SENATOR RICE: The first speaker we're going to call up is Mr. Ray Ocasio, the Executive Director of La Casa de Don Pedro.

RAYMOND OCASIO: Good morning, everyone, and thank you for the opportunity to speak before you.

My name is Ray Ocasio. I'm the Executive Director of the La Casa de Don Pedro. La Casa de Don Pedro is a 40-year-old community-based organization that is operated primarily here in Newark, but under the

weatherization program we have served all of Essex County. We have been engaged in weatherization for the last 25 years. We are not a CAP agency, by the way, so that essentially our program is supported only by the weatherization dollars that we receive.

Throughout the term that we've been doing weatherization work for DCA, La Casa has been successful to use all of its dollars, for the most part; and we've also been able to capture additional dollars. Just to give you an example: Two years ago, before ARRA dollars were available, we had a production rate of about 185 units. During the last year -- 2009 -- all of our contracts, both ARRA and non-ARRA, we went up to almost 997 units last year. Only to say that when ARRA became a possibility for the weatherization program, all our agencies were asked to gear up. We did that -- we went from a team of three to a team of nine technicians. We went from two outreach workers to five.

The program was subjected to a series of issues and concerns that we all had to share -- one was, simply, the contracts. I think we were informed about the ARRA dollars in April of 2009; however, we were told to gear up but not to spend any of the dollars. Many of us were told not to spend the dollars until December 2009; so essentially, we had a nine-month period where we were not authorized to use those dollars. As I said, during that time La Casa virtually used every one of its non-ARRA dollars to do weatherization to produce, basically, 1,000 units, which is well over the projected goal that they have under the ARRA program.

At this point, we've pretty much exhausted our weatherization dollars and have asked the DCA for additional weatherization dollars, particularly in light of the fact that they are taking the ARRA dollars away.

During that time that we were gearing up, there were a number of issues that had to be a concern. Many of the ground rules were being developed, both by DCA, and DOE in Washington. Major questions were: what wages would be provided? What was the definition of a weatherization worker? All these things took time and tied our hands and tied DCA's hands as well, because many of those decisions were done in Washington.

The introduction of prevailing wage also added a new category, not only to the labor classification but also to the wage. That had to be determined. There were, as well, any number of serious programmatic issues: who would do multiple dwelling units? How would they be handled? All these questions were not of concern to us prior to the ARRA program because they came with unique application to the ARRA dollars.

When we were authorized to move forward in December of 2009, La Casa actually had a bid out by January. Unfortunately, that was confused by virtue of the fact that we tried to do electronic bidding which was being encouraged by DCA. But at the time, DCA had-- Monitors at our site had us videotape it, and also we live streamed it to DCA. And then when we finished and we were ready to award contractors who bid electronically and who bid on paper, DCA said, "Oh, this is a real bid? We thought it was just a dry run." We didn't have time for a dry run. So we had to re-bid again. So there, again, we lost another month or two.

The program has been burdened by inconsistencies and lack of clarity on the part of DCA. You should know that DCA has introduced a HESWAP program, which is a new database. That program has had glitches, as most databases will have. But that-- Even though there's been

training, there's been inconsistency in the application of the database, and that is typical of what we have seen throughout the process of ARRA.

Some of the rules have had to be made up as we went along; some of the rules were conflicting; some of the rules were not ever really communicated.

To give you an example: La Casa was undertaking the building of 130 units. The traditional weatherization program required you to report the building when it is completed, and we were following that procedure with ARRA because we were never communicated that the building could be reported otherwise. In our subsequent meetings with DCA, we were told, "Oh, we didn't have to wait for the building to be completed. We could actually enter those units into HESWAP, unit by unit, floor by floor, just to get them in." Well, that was news to us, and once we did that we were able to show DCA that we actually had the production levels that we had.

Let me go to the audit. The audit represents a State audit by the government of the weatherization ARRA program only. And as the Senator has suggested, it made some very strong critiques about the DCA performance and capacity to manage this program. It should also be pointed out that it reviewed the period of April through July -- if I'm not mistaken -- of 2010. There's no mention in that report about the specific agencies and, to the best of my knowledge, the information or the concerns raised by that audit about the subcontract issues were never really shared with the agencies. To my own knowledge -- my particular knowledge -- I was not aware that we were even mentioned in that audit until I spoke with the Commissioner at the date of the Senate Oversight Committee, when she

told me that I had an audit concern. We have been addressing that audit concern; it was a question of accounting error, not a question of any theft or anything else like that, or inappropriate use of the funds. It was just a question of accounting. But DCA had never informed us that there was any issue or any concerns on their part or raised by the audit. So we had no way of knowing that.

But that audit was more concerned about DCA's performance, and it was not concerned about production. The question of production only came into question, I think, in October of 2010 when there was additional supplemental support provided to DCA's management team for weatherization, and they were concerned about the second tranche of the ARRA dollars. We did not receive the letter; we received a notification in a casual response. Our comment, made by one of the DCA representatives, that production was going to be a major goal and the question was whether it was 30 or 40 percent -- I don't recall exactly what was said that day -- but that's the first time the production was ever raised to us.

Subsequent to that we had a meeting with the prior DCA management team. We basically outlined our production, how we had scaled out the work that we had in progress, the work we were doing in terms of outreach and waiting lists. And we were able to convince them that our production was, in fact, on course and that we would be able to meet the goal.

There was a management change on the part of DCA; there was a new management team that called us in and told us that our production was of concern to them and that we would need to boost our production if we were to continue, or that we may, in fact, lose funds. At that time, we

called DCA, we met with DCA -- the new management team; we again reviewed all of our production and our pipeline. We were able to demonstrate to them that we had units in progress. And that is the point when we showed that a unit of 130 units, which had a whole bunch of series of issues in terms of whether it could or could not be done -- that we had the deal with the DCA -- that, in fact, it was in the advance production that we had a problem with the contractor; the contractor was being helped by us, supported by us, so that they in fact could deliver and perform on their contract. But they were of the mind that, "Okay, enter the system into HESWAP and you shouldn't have any problem." We spent from, I think, Wednesday, with the holiday, through Monday, putting all that data into the HESWAP system, and in fact were able to show that we had significant production.

Two days later we were told that we were getting a letter that we were being reduced; and our funding was reduced from \$5 million to \$2.5 million. Clearly we were concerned; we raised the issue with DCA again. They told us get your production up so that we can see it. We went over the HESWAP issues; we resolved that, and we were told that this issue about the reduction would be presented to us at a public hearing that was held by DCA.

At that meeting at DCA, the question was the reduction of La Casa and seven other agencies by X number of dollars. The plan was that those reductions would be put into the set-aside fund, which had already been established -- I think it was at \$5 million and it would have been increased \$12 million, and these dollars would be available to those agencies that had significant production and needed additional dollars.

We went to that hearing; that hearing was a DCA hearing. We did not have any of the senior management of DCA at that time -- it was only the program management -- and they heard our concerns. These are people who we have been talking to, both directly at La Casa and, I believe, many of the other agencies. We were told there would be a subsequent hearing sometime in December. Shortly after the hearing, we got another letter saying that not only was our funding going to be reduced, but it was, in fact, we were being terminated and limited to spending the dollars that were in fact reported, in terms of the units that were audited. So at that point I think we may be around the \$2 million, \$2.3 million worth of dollars that we may be allocated.

We have since held meetings with DCA; we have been addressing the production. They are of the mind that we have, as of before the holidays, 240 units which more than surpasses the 30 percent. We have to add another 30 units; those units were already in progress. Since we got the notice in mid-November from DCA, we have diverted units from ARRA, as we had done previously when we were not allowed to use those dollars. We diverted projects or sites -- units -- from ARRA to the normal weatherization dollars. Again, those dollars are exhausted for all practical purposes. So that we believe that we can make that (indiscernible).

I want to say that one of the points that we made to DCA is that, in fact, La Casa has the capacity to deliver. What we have not had is the opportunity to deliver. Again, we were delayed, we had issues with any number of programmatic elements that were not clearly defined, nor was the DCA consistent in its outline of how to approach or resolve those issues.

The new management team is trying, but let me suggest-- Let me go to the Commission's plan. The Commissioner and DCA is suggesting to us: show your production and we'll reconsider. And the last comment I got from them was that probably in January there will be a reconsideration of our allocation down to the available dollars that we had as of November 15.

The Commissioner, at the hearing for the Senate, basically said that the audit -- which was the concern of the hearing -- that DCA had addressed it, that it had a new management team, that it was emphasizing production; that it was going to bring on new agencies as well as give additional dollars to the agencies that were doing high performance. And that also it had major -- \$30 million allocation to the Housing Mortgage Finance Agency that, with a special meeting they would have with DOE of the Fed, they were going to ask for special consideration so that they, in fact, could move ahead with those units.

Let me suggest to you that the new management is trying to make an effort, but clearly they don't have the experience or the expertise of some of the prior management. I won't defend, I won't throw any stones at the former management; I think they were, in fact, understaffed. I think they were asked to do a yeoman's job with not the right tools. The new team is still lean but also lacks the experience and the expertise. And I wish them well; their first effort to create a manual, I think, is useful because weatherization has been a series of bulletins that have been-- If you've collected them for the last 25 years they probably would fill up a pretty high stack and you have to wade through them. I let my management team

manage that, and I think they've dominated that. But clearly there is a need for clarity, and there is a need for consistency.

As for the production: I think the production was one of those decisions made based on HESWAP. HESWAP is, in fact, an imperfect system. HESWAP, I think, is being read on a single sheet -- your number is this, your goal is this, this is your number, you haven't made it, you're out. It did not look behind the numbers, it did not look at the experience, it did not look at the history, it did not look at the overall weatherization program, it didn't look at how you had geared up with the capacity that you had. It was a very superficial, if not arbitrary, decision -- maybe capricious -- on the part of DCA to simply say, "These eight agencies, some of them who have been stellar in their performance over the years" -- and including in ARRA, who have been sort of laying the groundwork, building the foundation for ARRA -- these organizations were the ones that were being handicapped by DCA's decision to simply look at one number, on one sheet of paper, and not look behind the paper.

Let me go to the question of adding new agencies. Adding new agencies has been an ongoing issue. La Casa, being a non-CAP agency, was added to the list 25 years ago. However, there should be greater consideration about adding agencies. One is, ARRA is a short-term proposition; it's a three-year window to produce more units as part of the stimulus package. It takes time; it takes time to build a capacity. Weatherization is not having a hammer in your hand and putting some nails into a board. Weatherization requires some rather complex procedures, it requires some very sophisticated information in terms of technical stuff that I don't even know. My wife does the boiler in my

house. You know, I know nothing about this. But our technicians are trained -- they are trained through local agencies, they are trained at national level. They receive on-the-ground training in our organization not only on the weatherization techniques and the machinery that they're required to do, but also they're trained to do education, they're trained to do customer relationships, and they're trained to do their job -- the technical job that they're doing. This is not a job that you take someone off the street and say, "Here, you're a technician, go do this work."

It takes time for an agency to develop. I have had calls from an agency that has been added on to the Commissioner's list of new agencies, and they've asked to come to my organization to figure out how we do our work so they can replicate it. I have had DCA suggest to me that other agencies that may be called on should have our assistance so that they can overcome some of the problems that they're going to have. I have had suggestions that we subcontract ourselves to other agencies that could take on additional work if we were to be subcontracted. I have even told the Commissioner of the Housing Mortgage Finance Agency that if he has problems delivering on his 1,200 units earmarked for Essex County that I would be happy to help him, particularly in the outreach, because I want to continue to work in this program.

You cannot take someone off the street and make them a weatherization technician or outreach worker. You cannot take an agency that has not done weatherization and make them weatherization, and expect them to get the production.

The proverb "less is more"? No -- less is less. If they want to do more, they need to keep us-- They may want to add some agencies, but

they have to give greater consideration than what they have been. There's a great deal of confusion as to who is doing this. If you look at the weatherization program, there's Comfort Partners, PSE&G has their own program. People knock on people's doors and they don't know who it is. And so having an array of agencies knocking on my door with conflicting jurisdictions, with conflicting organizations, with and without skills, is not going to be doing justice to the consumer. We need to reach those families. There is a great tie-in between weatherization and LIHEAP. That is the major source for most of our agencies to reach out to the public that needs the assistance because we know they are eligible, we know they have high energy bills -- that's the best way to do it.

So the idea of simply adding agencies to the list is not as easy as the Commissioner makes it out to be.

The other point is that ARRA is a three-year window. After the three years are up, there's going to be a great reduction in the weatherization. What is going to be the justification, rationalization, for reducing the number of agencies? Because, at some point, you also want to be effective and efficient. If you have three agencies, four agencies -- make it five, why not? Let's make everybody happy -- running around doing weatherization in Essex County, they not only have to do 50 units, and the other guy may have to do 20, and somebody else may have to do another 30. That is not going to be effective and efficient. I don't see where the Department has given any consideration about the long-term strategy in terms of how to move weatherization. If anything, La Casa has always asked for additional dollars, has always captured additional dollars, from agencies that have not been able to use them.

All the efforts that we go into adding new agencies, if they had spent that time and energy supporting us with the deficiencies that we've had -- if we have any -- then that would be a much more productive, much more effective use of their dollars.

Let me go to the question of the Housing Mortgage Finance Agency. They have a monumental task: \$30 million that has to be done. Housing Mortgage Finance Agency may not be busy building housing, but they also don't have the time and the experience to develop weatherization programs in short order and spend \$30 million. I'm not quite sure what the plan is. What has been suggested to us is that they need special arrangements for bidding to allow them to, essentially, subcontract that work out. That may be a plan, but that's not a short-order plan, that's not a sure-fire plan, and it requires DOE-- There were some conversations two weeks ago with DOE. I'm not quite sure what the outcome of that meeting was, but I do know that there was a change, in part, of the DCA in terms about whether or not they were encouraging us to stick with this program as opposed to abandoning it, because I think, one, DOE may have suggested that less is less. But I don't know the outcome in terms of what they did with the Housing Mortgage Finance Agency.

But clearly they need us if they're going to be successful.

I don't know what to tell you. It has been illogical, and I sometimes say it's a stupid decision by DCA. I still think it's a stupid decision, but I don't always say it. I don't know what their game plan is. My biggest fear is the same one that you have: Anytime you speak back to this Administration, they refuse to change their mind. And that kind of stubbornness, that kind of bullheadedness, unfortunately, is not productive.

How do you change that? How do you convince them? We always believed that the best thing that we could do is have the highest-quality work, have the best performance we could possibly have; that's what we try to do. And we're hoping that we are able to continue moving forward in this program.

I am free to answer any questions that you have.

ASSEMBLYWOMAN TUCKER: Thank you.

Are there any questions?

SENATOR RICE: Madam Chair, I have a few.

And those other agencies can maybe jot them down, because I may raise them again.

But I do want to say, for the record -- and I'll make sure that all members of the Legislative Black Caucus receive a copy of what was presented at the hearing in December by Senator Buono from the Auditor. And some of the things you are saying, Mr. Ocasio, are correct, based on your experience. But the Auditor indicated that one of the things they did was to obtain the training on the Hancock Energy Software Weatherization Assistance Program -- HESWAP -- from the Department, and also from Hancock Energy Software staff. They also indicated that they found that the controls to determine the ARRA Weatherization Assistance Program eligibility rate are not adequate. So it's pointing to the system, it's pointing internally -- not to the agencies. It also says, because of the lack of supporting documents for income and numbered household members, and the lack of Social Security numbers maintained by the weatherization agencies, that they could not determine the eligibility of the sample

households, and that's because of this system and the inadequacies of the system.

In addition, there are HESWAP system control issues that need to be improved, they indicated from the Auditor. They also indicated that the United States Department of Energy established national guidelines for eligibility regarding the Weatherization Assistance Program, but it's the responsibility of the Department of Community Affairs here in the State to make rules and set standards for eligibility at the State level, and to provide direction to the weatherization agencies regarding the operation of the program. So I'd like to assume that over the years you've been monitored, you've been approved for funding, and you've been productive in terms of what it is you were supposed to be doing, and got approvals. And so I guess my question is: Is that because you were receiving directions -- even though there may have been a lack of clarity in some of the documents from the Feds and others -- from the State? That's who oversees your program, right?

MR. OCASIO: Well, again, yes; we have been monitored consistently, and I think we've done well by that monitoring. I think we've performed well. I think that ARRA represented somewhat of a changed environment: There were no rules. I think -- and I'm not the expert in weatherization, but I know when it affects my agency. I think something like Social Security documentation was not required under the traditional weatherization program; it is required under ARRA. So there were changes in program requirements.

As I said, even the weatherization category as a Davis-Bacon-related labor cost, and also its application, were all new territory that had to

be defined by DOE and resolved with DCA, and then communicated to us. That communication -- whether it was HESWAP or whether the requirements -- was not always consistent and was not always clear. As I said, DCA only recently decided to put a manual together that tries to define it; and if I'm not mistaken, they've only done three chapters of, maybe, a 21-chapter novel. So it's started, but it's not complete. Again, this program may be over before they've actually finished that process. I'm hoping that that manual will be a useful guide in the future.

The other thing that I think is terribly important: During the time that the ARRA program was initiated and we were told to gear up, we were authorized to spend money and we got a 10-percent advance. DCA, I would assume, also had the ability to draw down on the ARRA funds from the Feds. Unfortunately, at that time, if you all well might recall, the State was under a hiring freeze, and DCA was, in fact, losing people, was not able to replace people and losing people -- some good people, because they figured, well, there's this act coming down the way and they were going to take their pension while they could. And so they were losing some very qualified people. So there was some dramatic changes within DCA even before the elections. And, as a consequence of the election, then we had a further change in some of the management structure.

I think consistency and clarity are major, and new requirements were all factors -- and hiring.

SENATOR RICE: So for the record, if I understand your statement correctly: In your experience -- and you seem to be one of the senior agencies in terms of tenure in the program -- is that many of the agencies, if not all, were not getting really clear and consistent guidance

from the State. Interesting enough, the audit says that “the lack of clear and consistent guidance from the Federal government has made it difficult for the Department of Community Affairs to provide proper guidance to the subgrantees--”

MR. OCASIO: I would agree with that.

SENATOR RICE: “--and for determining applicants’ eligibility.” But yet I hear the State saying that the way we’re going to address this now is wipe you all out. In other words, they are saying, “We didn’t give you clear guidance but -- we didn’t give you clear guidance. Don’t wipe us out as DCA, because the Federal government never gave it to us.” So our excuse in DCA is that -- to the Feds, about the use of the dollars and the expenditures -- is that, “We didn’t get clear guidance from you, but give us an opportunity to move forward.” DCA’s response to the agencies is that, “We didn’t give you clear guidance and, therefore, we’re wiping you out.” I have a problem with that notion.

I think my members need to read this audit and understand what is being said here, because this audit was really geared to look at the internal controls and problems within State government itself; and that’s why the agencies really never came up in the audit, no more than a conversation and testimony that we’re going to wipe them out, period. And then we’ll start fresh with people who probably can’t do the job.

It also indicated that the eligibility for the program was based on the total household income, and it tells you what that is -- not to exceed 200 percent. But it says the components of income are clearly defined by the Federal regulations; but they do not make clear -- meaning the Federal regulations -- how annual income should be determined. It says the U.S.

Department of Energy website states that an applicant for weatherization assistance must have proof of income for the year, but then they cite a U.S. Department of Energy-issued Weatherization Program notice to use as an example for the income. But the audit said that their example suggests multiplying by 4 the amount of income received. But then it goes further in order to say that this inconsistency is reflected in State guidelines.

So the bottom line is that the Feds are not giving clarity, there are inconsistencies coming down; the State was supposed to give more clarity -- that's their responsibility, to make sure that they knew what they were doing to provide to the agencies, but yet their guidelines do not reflect any consistencies at all because they didn't do their job.

And I raise that because that's what did not come out on the public record at the legislative hearing, and that's why we feel, as the Legislative Black Caucus, that we need to have a record to get the other side of the story so we can review this stuff objectively.

Let me ask you a question: We have people here who, as I indicated earlier-- And by the way, Assemblywoman Mila Jasey, a member of our Committee, the Legislative Black Caucus, is here; and also Rufus Johnson, Essex County At Large Freeholder, is here. Rufus, I'm going to ask you to come sit up here, unless we get other members, because these energy programs have really county impact as well -- when they get the calls, and they go through the aging department and all these. So he needs to be a part of this in terms of taking notes, because we will probably need the county support if things don't go in the right direction when we fix these things.

Now, it's my understanding also that the audit review of this whole HESWAP system revealed that there is a lack of necessary edits which has allowed ineligible income. But the Commissioner's testimony gave me the impression -- because I was trying to read between the lines, a little interpolation -- that the ineligible applicants who were, I guess, provided services were done "intentionally" by some agency or agencies out there. I'm not so sure if that's the case, based on the audit document.

MR. OCASIO: I think the Commissioner made some examples about a teacher being off in the summer, and then having no income, but being eligible.

SENATOR RICE: Yes, there are a few examples in here that were picked by the audit.

MR. OCASIO: Clearly, I think those income eligibility issues were the exception, not the rule. If you look at where, in fact, we target our resources -- where they have gone -- clearly the bulk of the dollars that La Casa has been able to use have gone to Newark, Irvington, and East Orange. They are not meccas of middle income; they're not meccas of high income people. The houses that we go into and the work that we do is desperately needed. We have people -- we actually have to walk away from their units because there is no sense in repairing their heating unit when the roof is leaking. And we can't touch the roof. We can't go into somebody's house who can't afford to fix their boiler and we find that there's asbestos there; and because they can't remove the asbestos, we can't fix their boilers. So, I mean, this is poverty. This is not because they're trying to get one over on the system. The vast majority of units that we serve are people who are generally low income. Senior citizens happen to be a prime target, but

clearly we have low income families in Essex County. The vast majority of those are in Newark, the vast majority of those are in East Orange and Irvington. That's where the bulk of our money-- But if Mrs. Jones happens to live out in Livingston and she's eligible, she gets it.

SENATOR RICE: Were you aware of the hearing at the State by the Senate Oversight Committee?

MR. OCASIO: We were informed, but we were never told that it was not available -- that we could not provide testimony. We were actually allowed only to leave written testimony; we were not allowed to speak. That was told to us only at the time of the start of the hearing.

SENATOR RICE: And naturally your written testimony couldn't really go into detail, to the degree that people have the full benefit of the Committee and the public to understand what is being said today.

Your agency-- Once again, we have some individuals here from throughout the state who have been waiting a number of years -- or at least months -- to get into these programs as employees, because we took the time to, as I said, to get them trained. Is your agency working with any of the trainees coming out of these energy programs at all?

MR. OCASIO: We have been; we've hired one or two of staff. We've also been working with contractors who have been certified through the process and who have employed some of these workers. Some of the contractors are, in fact, new to the business. Some of them are new to weatherization. We have had some that we've had to hold their hands; some that we have had to give some technical assistance to. That's been part of the effort. There are some that we have actually had to dismiss and have other contractors come in and repair the work. But we have made an

earnest effort, I think. We've worked very closely with Local 55, both in looking at their trainees as well as the work that they've been doing with contractors. We've also worked with them-- And I've talked about the electronic bidding. Local 55 was very much encouraging that, because it was something that they thought would open up the process for many of the contractors that they were working with. So yes, we have been working with them

I just want to go back to the public hearing. One of the unfortunate things about not being able to speak was, I quite frankly think, the Commissioner glossed over many of the points and, unfortunately, the Committee didn't question her or go behind the superficial answer. And I think if we had had the opportunity, as I had today, to put some doubt into some of her plans -- because the plan, I think, is no more than an approach. I'm not quite sure how deep that plan goes or how real it is.

SENATOR RICE: That's all the questions I have at this time for Mr. Ocasio, Madam Chairlady.

MR. OCASIO: Can I make one more comment?

SENATOR RICE: Sure.

MR. OCASIO: Because one of the things that was raised to us, as potential as to how they make it to this end goal of using the ARRA dollars, is to go to new agencies. One of the ones that they are throwing out is Comfort Partners. Comfort Partners has been around for a long time; there's been a lot of difference in opinion in terms of Comfort Partners and their approach, and the quality and the scope of their work related to weatherization, and the scope and range of services that we provide. The opinion is that we think that we do a better job; that is to say we, the

weatherization agencies and the DCA. There has been talk with the Public Utility Commission to have Comfort Partners be brought into those dollars, to be brought into the weatherization, so that you would have a single program that would reach all -- a greater range of incomes. That hasn't happened, but I would dare say that Comfort Partners would be a drastic mistake. It essentially goes to a higher level of corporate America; it will have a greater level of profit than when we're-- We don't get profit, obviously. The ability to reach down into the kind of small contractors and laborers that we deal with probably would not be the same. And, quite frankly, we're able to get into a lot of doors because we say, "We're La Casa," and they know us because they've sent their kids to our daycare or our afterschool program, or we've helped them in time of need. If I say I'm from PSE&Governor, I think, "Uh, oh, they're cutting me off. Don't open the door." If I say I'm from Comfort Partners -- I don't know who Comfort Partners is. So they're being a vehicle for achieving success of this program -- I doubt it.

Thank you.

SENATOR RICE: One other question before you go. I didn't mean to leave this out -- a couple of questions.

MR. OCASIO: Sure.

SENATOR RICE: Were you ever contacted to testify before the Legislative Oversight Committee?

MR. OCASIO: No, we were only apprised of the hearing.

SENATOR RICE: Did you attempt to testify?

MR. OCASIO: We came prepared to testify. And we were told that day that we could not.

SENATOR RICE: Is your agency one of the agencies they're talking about terminating from the program?

MR. OCASIO: Yes. The last notice we have is that we are terminated, and we are not allowed to add any units despite a long waiting list; we're not allowed to add any of those units in the ARRA program.

SENATOR RICE: But you've been doing this for 25 years.

MR. OCASIO: Yes.

SENATOR RICE: Did they tell you why they wanted to terminate you? Did they give you a chance to do corrective action plans?

MR. OCASIO: We have had meetings with them, as I said, and we demonstrated to them that we have the production -- our production is 32 percent, not less than that. It was an issue of how we reported units. The Commissioner in her statement before the Oversight Committee talked about delinquent agencies.

ASSEMBLYWOMAN JASEY: The what?

MR. OCASIO: The Commissioner talked about delinquent agencies. When I approached her after the session in the hall, she said that I was one of those delinquent agencies. And I said, "What are you talking about?" She said that I had overcharged for fleet charges. We have looked into that and I think we're resolving that issue. It was an accounting error. But we were never notified of any accounting irregularities or any other concerns that DCA may have had, because I think there was a disconnect between -- whether it was a disconnect between the auditors and DCA, or DCA and us, or DCA and us and the report, I don't know.

But I brought it to the management team's attention, and I showed them, yes, I had investigated and saw what could be an error -- to

the new management team. And they've asked us a series of questions; we provided additional information. We think we have resolved that issue with them and should be in a position that if they can get beyond-- I believe that the management team believes in La Casa and some of the other agencies that have been terminated. The ability to sell that to the Administration and the leadership, I think, is the issue.

SENATOR RICE: So the State makes mistakes, and they don't have clarity and consistency in their rules and regulations. You may have an audit error; you've been doing this for 25 years. And I would suspect, in 25 years, that at least annually-- There's a period of time in that year that the State has to look at your finances, how you're spending your money, and it's based in an audit. And this was never brought to your attention

MR. OCASIO: We are constantly monitored by DCA. We also have an annual audit requirement and that's always been reported on a timely basis to them. We have never had a direct audit that there's been any major deficiencies on our behalf.

ASSEMBLYWOMAN JASEY: First, I would like to apologize for being late; I stopped at my office and that proved to be a mistake.

MR. OCASIO: Never do that. (laughter)

ASSEMBLYWOMAN JASEY: I came in after your testimony had begun, but it's clear to me that we've got some real communication -- that's probably putting it nicely -- issues with DCA and the Administration if, in fact -- I'm well aware of La Casa's history in the community and the work that you do -- if we have a situation with an organization such as your own, that has a track record, being terminated. And what I'm picking up from the audit that Senator Rice is referencing -- that the Federal guidelines

were not clear; the State guidelines have yet to really be put out there; and it's almost as if someone needs to be scapegoated or targeted, and then removed.

And that's a big problem, because while all this is going on, the clock is ticking and the ARRA money will run out, and we're going to end up in a situation where we have failed to make use of resources provided to us. And that really hurts people who can least afford to be hurt further.

So I appreciate your coming. I'm definitely going to read this audit -- I have not seen it prior to this morning -- and I think that our job, really, is to try to figure out some approach with the Commissioner. Perhaps a private meeting; not to embarrass her, but to say, "Look, this is not going to accomplish our goal, which is to spend the money wisely, to put people to work, and to make people more comfortable in their homes."

So I appreciate that -- I look forward to hearing the rest of the testimony this morning. But this is a huge problem, and as Vice Chair of Housing in the Assembly, this is something I think we're going to have to take up. It had not come before our Committee because we've been dealing with the affordable housing issue.

MR. OCASIO: One more last thing. Many of my colleagues may not show today because I think there's a factor of intimidation.

ASSEMBLYWOMAN JASEY: Yes.

MR. OCASIO: And so those of us who are here, I think, have to speak for all of us because we're all going to be affected by this -- those who have been terminated, and those who have not been terminated but may be terminated.

Thank you.

ASSEMBLYWOMAN JASEY: Thank you.

SENATOR RICE: While you're leaving, before I call up-- Let me say this for the record -- and you can take this back, and they can even print it if they want to: We don't like folks feeling intimidated. We also know that we are the Legislature and it is our responsibility to get accountability. And folks who are not willing to come forward to let us know what problems they are having in these agencies and entities, whether it's this program or other programs, daycares, or anything else, then my position is very simple: I can't help you and I won't go out of my way to help you. If you can't help us set the record straight to help people in need -- that's the taxpayers and the voters, in most cases low- and moderate-income people and some middle class income people -- then we can't help you. Because as legislators, and from all levels of government, people coming to us when they are losing their jobs, or losing their funding -- there's a problem. Before then, they don't even know who we are.

We take the time in all this bad weather to travel to have these hearings, and so as a Senator for 24 years, I'm very serious. Unlike most legislators, I hold agencies and people accountable to respond to us. You don't want to come forward -- don't call us; call somebody else. Go to the people who are intimidating you, after they hurt you, after their intimidation.

So let me be clear about that, because I know that happens quite a bit. Also, there are agencies that are not terminated from the program -- they feel that they're okay right now. Well, you may be okay right now, but tomorrow might be a different situation. You know, even

though you're not terminated, there have been problems internally. So your testimony becomes important to us, particularly if it's common testimony.

So for the record, be very clear about my leadership as Chairman of the Legislative Black Caucus as well as a Senator, the position that I take -- that's my position. I would like to hope that my Caucus would support me on this position, because you not only run to my office, you run to their office. And to be quite frank about it, if you're African Americans, you come to us first. And if you're not African Americans, I've done injustice to you and want us to correct it.

So this is a two-way street type of a relationship, because we'll be holding hearings in the future from different subcommittees so we can get an objective record and opinion of what's really taking place in the Legislature. As the Assemblywoman said, this is an issue that should have been brought, and should still be brought -- from both sides -- in the Assembly -- the Housing Committee -- under the Assemblyman Jerry Green, Speaker Pro Tem. It should have been brought through the Community Affairs Committee, which I used to Chair; I'm Vice Chair now. But the Legislative Oversight Committee decided to hold a hearing, which doesn't prohibit the proper committees to have the hearing also.

Forty Senators and 80 Assembly people need to understand the full record before they go sanctioning changes that the Administration wanted -- administratively, by regulations, or by legislation -- so it can be beneficial not just to the providers -- more so to the people we have to service in this program.

There are questions in our communities that we don't have answers for right now, based on the previous hearing and my call to the Commissioner the other day. How does, for example -- if La Casa in Essex County -- you're service based, you've been working for 25 years -- if you're no longer around how does the senior citizen or senior citizens, the disabled, the low and moderate income, and other people eligible for the program get service? How much more gap time is going to be put in between that service if we're bringing in new agencies and we have to train them, and teach them the rules, and all that in the timeframe we have to do the productivity that's required by the Federal government? What happens to those who live in our communities who we re-established their faith in life, if you will, by getting them trained with the hopes of having some employment? They're not going to be rocket scientists at the beginning of the stage; they may be at the end of it. What happens there?

And these are taxpayer dollars; what happened to our share of taxpayer dollars? Does that mean we bring an organization from Trenton -- because I heard organizations like Isles and some other groups -- that means that they come into an area, whether it's Hudson County or Essex County or Monmouth County, or wherever we are located and just -- not for me, but the (indiscernible), the geography, the people, the politics -- and just come in and get productivity and exclude those who can get it done here? We don't know what all this means. Do they get a contract and then they have to come back and contract La Casa to do work they've been doing for 25 years, or PACO, or some of the other organizations -- Tri County down in South Jersey? I don't know.

Do they turn all this over to PSE&G? And if, in fact, PSE&G-- They have technically skilled people -- we understand that. We also understand that they've done weatherization in the past. But the reality is, does PSE&G have the trainees we're trying to augment the system with, in terms of putting people to work, and giving people second chances and first opportunities -- particularly in these neighborhoods that are distressed, where people can't find jobs, and folks don't want to hire us, and claim we don't have any skills -- and we're giving them skills? We don't have the answers to this.

So for those people who could not make it because of weather or other commitments, we appreciate that. For those who could not make it, for the record -- and I don't know who they are, but I have a list of all the agencies that did not make it because they didn't feel it was worth it because they're okay; they're safe in their environment, or they feel intimidated: beware; beware; three times, beware. A new year's coming, a new day is coming. Let me be clear on that.

The next speaker coming up is Henry-- Now Henry, you have to pronounce this last name.

HENRY MENDOZA: (speaking off mike) My writing is bad.

SENATOR RICE: Tell me about it. (laughter)

Henry, pronounce your name -- Mend-- Is that an A?

MR. MENDOZA: Mendoza (indicating pronunciation).

SENATOR RICE: Mendoza.

MR. MENDOZA: Mendoza.

SENATOR RICE: Oh -- Mendoza; that's an *E*; *END* -- okay. You write like a doctor, man.

MR. MENDOZA: Actually, I am, in my country.

SENATOR RICE: Oh, okay. Well, see? I knew there was something to that. (laughter)

Okay, you are the Coordinator of Operations for PACO, Inc.

MR. MENDOZA: Yes.

SENATOR RICE: And you are located in Jersey City.

MR. MENDOZA: In Jersey City, sir.

SENATOR RICE: I know that Senator Cunningham, who is not here this morning, was very much concerned at the Legislative Oversight hearing about the providers in Jersey City. Also, she raised some issues. And, for the record, let me be quite clear: I sat there and listened and the Commissioner indicated -- I don't know which agency she was talking about in Jersey City -- I think you have more than one service in the area -- that she felt that some of the questions raised by the Senator could not be answered in that forum because of the problems that were indicated, that there may be agencies of greater authority than hers to look at them. Now, let me tell you what that means to me: It means that she was smelling the stench of impropriety -- that's what I sensed, okay? So I don't know if that was your agency she was referring to or another one, but would you give us your take on this from an agency perspective, the impact on your community, what you've been doing? And, by the way, are you one of the agencies that they are trying to terminate?

MR. MENDOZA: Yes sir, we are.

SENATOR RICE: Okay, and let me know what kind of conversations, if any, that you can speak on the record on, or cooperation

you've been getting from them; the same kind of issues that we were raising with La Casa -- Mr. Ocasio.

MR. MENDOZA: First of all, I want to thank this Committee for giving us the opportunity to address our issues. Because I really feel that what happened in that hearing, when the Commissioner spoke, was a one-sided road. They didn't listen to us; they didn't give us an opportunity to address our questions in the situation.

For the record, I want to say that PACO has been a part of Hudson County and Jersey City for more than 40 years. And we've been with the weatherization program for more than 25 years. So we are very well known in our community. We've been serving Hudson County, as I said, for 40 years, and we have not only the weatherization programs, but we have other programs that serve the seniors, home energy, some other different programs in which we assist our community.

I don't want to be redundant in too many of the issues that the Executive Director of La Casa pointed out in his testimony. But I want to emphasize a couple of things: The first one is that the Commissioner, in her testimony, said that all the decisions to terminate, or reduce, or do all the things that they did to our agencies were not based on HESWAP -- and that's not accurate. Actually, all the numbers that show in the Department, the Federal audit, all the numbers that DCA has brought up are based on HESWAP. HESWAP is the eyes of the State of how agencies are performing.

But I also want to point out that HESWAP has been an issue from the beginning. It's was developed on a trial and error basis. The training that we have received on HESWAP is more of, "Let's find out what

is wrong and let's see how we can fix it as we go;" not as a clear direction of, "Listen, this is what it is in HESWAP, and this is what you have to do in order to manage the software in a proper way, and in this way we can get proper information -- accurate information."

And that has been the common denominator with all our agencies -- not only the ones that have been terminated, but also those that haven't been. Because we are all facing the same issues, and we all come together into a room to address these issues. And that's what has been the norm and the way that the DCA has been handling the training on HESWAP.

So in reality there hasn't been any clear directive on that program itself. Then, to top it off, all the unclarity that we have received on the ARRA -- how to manage the ARRA.

I want to point out also that our agency, in our particular case, we were notified in April 2009 that we were given the grant of the ARRA from the ARRA funding. But we weren't authorized to use this fund until June of 2010. That's 14 months later. So we could have used those funds for 14 months, and during that period of time we weren't able to produce anything because we were not authorized to use any funds from the ARRA. We were producing in our other grants -- we have units, we have production, we have the capacity. In the letter that was sent to us-- They said they will terminate -- okay? -- they literally said that PACO has failed to demonstrate an ability to perform under the terms of the above-referenced grant agreement. And I really resent that a little bit because -- not a little bit; a lot.

ASSEMBLYWOMAN JASEY: Just let me be clear on that: So what you're saying is that you received authorization, or the grant, in April of 2009. But for 14 months you were precluded from using that money, and that this determination is based on the lack of productivity during that period because you were precluded.

MR. MENDOZA: That's correct, ma'am.

I have to say that PACO has the ability to perform, we do, like La Casa and all the other agencies that have been terminated. Now, I have to clarify that we've been terminated from the ARRA funds, because I don't want, at least in our case -- and I know that's the case with the other agencies as well -- we're talking about the ARRA funds specifically here. So I don't want to confuse things, because we get funds from other grants. So we're talking about the ARRA funds. And all the issues that have arisen from this situation has been related to ARRA.

Another thing that I want to point out is the Davis-Bacon provision, because that was one of the major issues with the ARRA funds. There was no clarity into how the contractors were going to do their certification payrolls. They were using some agency that, later on, they found out that they were doing some dubious business. They said that they owned the software that they were going to use for the certification payroll, and at the end, it ended up that they were not the owners -- it was somebody else -- and there were some issues there. And the State, at the end, decided to get rid of that, and that we were going to be notified when this will be done and how. So there were some issues.

And also some of the directives that came from DCA pushed away a lot of the contractors that we normally use for other grants. I have

to say that in our case -- and I'm sure that other agencies did the same -- we use local contractors -- people who have their own small businesses -- because we use people from the community to do the work that we put up for bid. And, in our case, we have a contractor who has been working for us for 20 years, and that contractor has stated to us that he was not willing to bid on any of the ARRA contracts because these issues that came out that came from DCA.

But never mind -- we did push and try to do production under ARRA to come up with the numbers that the DCA wanted.

So the recent directives from DCA definitely were not clear. And I'm not going to go again through all them because, as I said, the Executive Director of La Casa really pointed out practically all of them. I want to say also that in the testimony of the Commissioner, she gave, very (indiscernible), numbers almost at the end of her testimony -- numbers that included production of those agencies that are being terminated. She did not say that; and those are things that are going to not be there because we are not authorized to do anymore production under ARRA.

As a matter of fact, when we were informed that there was a reduction of our grant and we were going to have a hearing on that -- the day before we received the letter of termination. So what's one day before the hearing where we were supposed to be reduced? And to this day we haven't had any hearing on the termination. Because they are supposed to follow that as well. Not only a hearing on the reduction, but also a hearing on the termination. And to date, we haven't had that hearing. So right there, there is a procedural issue on the part of the DCA.

I also want to point out the role of the State monitor through all this, because the State monitor is the voice of DCA. And our experience has been that under the ARRA -- because, then again, there is not a clear directive from management -- upper management in DCA -- the State monitor also doesn't have the capacity or the ability to address the issues that are present in our agencies, when they're present, because they're not clear also on those issues.

So they usually say something to us or try to respond to the issues that present on the field, but most of the time they have to wait and go back to DCA to try to see how we can address those issues. And that presents also a road block in the process of all this production. And again I want to say that this has to do with ARRA, although some of these are issues also present with other grants that we deal with.

In October of 2010 we had a meeting with the new management at DCA. At that meeting we were told that we had until December -- the end of December of 2010 to come up with the production numbers. And we left that meeting with the understanding that we had the time to address the issues that they presented to us.

And as I said before, we received the letter where they informed us that they were reducing the grant; and then the termination. So right there it was something conflicting -- because we were told something in our meeting and then, later on, they acted differently.

Also, we came out to DCA and we presented to them an action plan: How we were going to address the issues that were presented to us. At a later meeting, based on the report that they received, an audit report, they pointed out to us about the light bulbs that were charged \$27; the CO

(sic) for \$75; and we explained to them why that happened. That was part of the contract that we made with the contractor. In general, we don't make those items -- which are the light bulbs, the CO detectors, and the shower heads -- as part of the contract. But under the ARRA, because of the Davis-Bacon provision, and the certified payroll, and the seriousness of things, our manager decided to make it part of the contract -- or the bidding process. And as part of the bidding process, the contractor sent their bid in, and those were the charges that the contractor was charging -- not PACO, but the contractor. And this contract was sent to DCA, they reviewed it, and they sent us back a letter saying that all the procedures were okay. Later on, when we brought up this issue to them, they said that they only deal with the procedural aspect of it, but they do not authorize the contract per se -- that that's our doing. But that was after the fact.

And when that happened and they brought up that issue to us about the light bulbs, the CO detector, and that, we immediately took action. We wrote to the contractor, and we said to the contractor, "Listen, this is what happened. DCA is saying that this is an excessive charge on this, and we need to do a corrective action on this." And we wrote a letter to the contractor asking for a refund of the money -- which actually we did, and we sent copies to DCA of that.

So when they brought up an issue to us, we immediately took a corrective action.

Now, in all this, our feeling, our collective feeling, is that we haven't been given a just opportunity to correct the issues that they have. This is not about our capacity; this is not about our ability; this is not about if we can do the job or not. There's no question about that because we can

do the job. We have also -- like La Casa, Camden O.E.O., all of them -- we have a proven record of performing. We have won several awards also in that period of time. So it's not a question of can we do the job, it's a question of: How are we going to work together to really accomplish our goal?

And I agree with the Executive Director of La Casa that the action of bringing new agencies into this situation is going to make the situation worse -- it's going to make matters worse. Instead of helping to achieve -- the State of New Jersey to achieve their goal, our goal -- our collective goal -- it's going to put a bigger road block into achieving that goal.

We know that we have the capacity to do the job. We know that we can fulfill our goals. As a matter of fact, we have 196 units waiting to be weatherized and we, on November 22, 2010, had a big opening for 96 units that are ready to be contracted -- ready to go. And we received a letter-- We sent a letter to DCA saying, "Listen, as per your letter on the termination, we have these audited units and all this," and immediately the following day we received a letter from DCA saying -- and I'm going to read it -- it says, "PACO shall cease all activity under the above referenced Grant Agreement until further notice from this office. To be clear, this action includes all work regarding current pipeline projects as referenced in the November 17 letter."

So my question is: If we have the capacity, if we demonstrate that we the production there, why we are not being allowed to do it? Why can't we just move forward if the money, the funds are there, we demonstrate capacity to do it, and we can move forward?

I don't have the answer to that. I don't know if there is any other issues behind that -- I have no idea and I'm not going to speculate here. But if the question is capacity and the ability to do it, we have it. And all we ask is for that opportunity in a just way, because there are issues that DCA has not addressed that belongs to them. It does not belong to the agencies; it does not belong to us. And those issues that they have affect us and the production, and that's why we are in the situation that we are.

And I have to point out that these issues do not only affect the agencies that have been terminated; it also affects the other agencies that have not been terminated. And also it seems to be that the rule that they use to measure was not the same across the board. Why? Again, I'm not going to speculate. But the facts are there and that's what I demonstrate. We were not treated the same way. I don't know why.

I also want to say that in her testimony, the Commissioner said that we were given the opportunity -- that these issues were brought up to us; that we even had monthly meetings with them. If I remember correctly, those were her words: that the DCA had monthly meetings with our agencies. Well, at least in our case, we didn't have monthly meetings with DCA to address these issues. We had some, and after that we had met also with DCA -- like La Casa and I'm sure the other agencies have done -- to address this issue. We have brought up the same things to them, saying this is the capacity that we have, this is what we can do. Just recently we received a questionnaire with several questions to respond to about the ARRA issues and we are preparing to respond to that questionnaire.

And some of the issues that they have with HESWAP, just to give you an example: Just yesterday I had one where we're preparing to do a report on the ARRA, and HESWAP -- one of the reports of HESWAP does not reflect that-- By the way, they demand to be part of the report -- it does not match the actual report. And I had to contact technical support at Hancock to address it, because before I did that I reviewed the whole thing just to make sure that there was nothing on our end. And that issue came out, and I'm still waiting for an answer to see what we're going to do on that so they can properly receive the report on ARRA.

So again, I don't want to put everything on DCA, because as agencies we also have our issues -- our internal issues. However, all we ask is for a fair opportunity to address the issues and be treated fairly. Because it's not a question of capacity, it's not a question of ability to perform the job; it's a question of how we're going to do it and address the issues that put a block on that process.

ASSEMBLYWOMAN TUCKER: Thank you so much for your comments.

I've listened to the different comments so far. It's been made very clear that there's a lot of miscommunication between the DCA and the different agencies. And that's why we're going to have to make sure that we can address those issues. Because if we can address those issues, maybe we can find a way to make the whole program work better for the agency as well as DCA. And my personal opinion is that we're going to have to really-- I heard in one testimony that they were making a manual. And I think if we can get that done as soon as possible it should help in some of these situations where you don't know what to do, and then when you try

to contact them it's a long period before they respond. Even if they send you a letter for a hearing, and then the next day you get a letter of termination-- There are some real problems that we really need to address with the agency.

So we thank you for your testimony.

Are there any other questions?

SENATOR RICE: Yes, Madam Chair.

First of all, you indicated just yesterday there was an issue you had to address and you had to call Hancock. That's Hancock Energy Software weatherization people, who the State has who are supposed to be helping you; that the State Auditor said there are issues with their system and with them.

MR. MENDOZA: Yes, sir.

SENATOR RICE: So you're going to get a response back, hopefully, from Hancock. And based on that response you're going to respond and provide the State whatever it is you're supposed to provide them. Then they're going to come back, if there's something wrong with that, and say, "It was you, not Hancock." Because I suspect they haven't gotten Hancock's system in place yet since the audit is not that old.

MR. MENDOZA: That could happen, Senator, but you know that's--

SENATOR RICE: That's fearful.

MR. MENDOZA: But that's what we face. We're working with a system that is not perfect, that has its issues; they still have some issues in it. And we have to maneuver through that to get the proper results.

SENATOR RICE: Let me tell you what the Commissioner said, for the record, for those who weren't at the hearing. It is her written testimony:

"The rapid expansion of this program in 2009 to meet tight Federal timelines unfortunately exposed a number of weaknesses in DCA's monitoring and record keeping protocol. Also compounding the situation was a prolonged hiring and promotional freeze instituted by the prior administration that precluded DCA from appropriately staffing up to manage such a large undertaking. Even though there was an administrative budget tied to the ARRA funds, hiring for a federally funded position required a lengthy waiver process which did not serve the immediate needs of this project." And then she went on with excuses as to why the State has not provided the productivity.

And then she comes down and says, "And finally, although DCA program controls were appropriately designed, we agree with the State Auditor's finding that they were not properly executed. With the reorganization of the Weatherization Unit, DCA has already strengthened the administration of the program to achieve better accountability. Additionally, the weatherization field staff will now be aggressively monitoring each local agency." So by their own admission, they weren't monitoring their problems, etc., and they slowed the process.

But then down below she said, "Senator, as you clearly are aware, in order for the State of New Jersey to successfully weatherize the appropriate number of households in each of our service areas, the State has to take immediate action. Those actions were not arbitrary or capricious, but necessary steps to help New Jersey's Weatherization Program recover

from a shaky start and successfully reach its goal. As you can understand, continued delays in production by several of the agencies were simply unacceptable.”

Now, that bothers me because she went through this whole thing at the testimony. And this is why I wonder if my colleagues on committees down there listen, or if they just come to show up, just be seen, and could care less, particularly when programs don't affect their constituency base in large numbers. But if you listen to the testimony -- and I was there -- the testimony acknowledged that the Auditor's report was basically correct in most cases, indicating that internally, in the State government, the Department of Community Affairs, there were some real serious issues relating to accountability, and systems, and system breakdowns, and staffing, and monitoring. But yet, at the end of her testimony, acknowledging that her position is -- the way I understand it in writing and in hearing her -- the way we're going to fix this is, just get rid of the agencies out there that can be of benefit to us if we get our act together in-house and work with them; and therefore we're going to blame them. And then, I'm like, that's the biggest contradiction I've ever heard.

And that's why this hearing on the part of the Legislative Black Caucus, regardless of what we can do at the end, becomes important for public record. And I'm going to make certain that every member of our legislative delegation some kind of way gets a copy of this hearing and, hopefully, the Assembly gets a copy -- even if we just give it to their committees; that's really all that should see this. I'm going to also make sure that Senator Barbara Buono gets a copy of this for her Committee, and ask her to maybe do a joint Committee, if she wants to -- or just have the

Chairs do it -- and raise these issues and bring the Commissioner back. Because that's where the problem is. And they're going to try to cover this stuff up by having 50 million other agencies look at some of these agencies to try to find a problem that they couldn't identify. They may identify the problem there, but it wasn't caused by the agencies directly.

So I just wanted to raise that, and I'm going to make sure that members of this particular Committee, the Legislative Black Caucus, get a copy of all these various documents that I'm raising.

La Casa, maybe you can answer this too. I understand-- First of all, New Jersey Housing Mortgage and Finance Agency: What is their role in this project? You want to come up to the mike -- you have any answers? Are they given a role? Have they been involved before? Are we talking about the ARRA funds now?

MR. OCASIO: They were allocated \$30 million at the same time that we were awarded contracts.

ASSEMBLYWOMAN JASEY: HMFA?

MR. OCASIO: Yes, the Housing Mortgage Finance Agency. They have not produced a single unit, to the best of my knowledge. They talk about a pipeline -- the Commissioner said that they were going to, basically, get 3,000, 4,000 units done in short order, but it needed special consideration from DOE. Part of what I've heard is that they needed dispensation from their own bidding process, and the thought is they would actually be contracting agencies or an agent to undertake the program. That sounds to me like a start-up operation or, perhaps, giving it to someone like Comfort Partners or giving it to the PSE&G to manage. Is it a

sure-fire delivery system? I don't know. Those details were not specified by the Commissioner; they're not in general knowledge.

There was a meeting two weeks ago with DCA and DOE from Washington. Senator Menendez had an observer at that meeting. The sense that I get from whatever I could glean from friends is that DOE was not supportive of the dismissal of some of the agencies, and I think that what I'm hearing is that maybe in January there will be some reallocation. I don't know what was done with the Housing Mortgage Finance Agency. I did speak to the Executive Director of that program. He is rather optimistic, but I didn't get any details of an execution plan.

SENATOR RICE: Well, let me ask you this: The \$3 million--

MR. OCASIO: Thirty million.

SENATOR RICE: You said they received \$3 million.

MR. OCASIO: Thirty million.

SENATOR RICE: NJHMFA received, you said, \$3 million the time you got your money.

MR. OCASIO: Well, they were awarded \$30 million, and every agency was allocated 10 percent of their grant as an advance.

SENATOR RICE: So it wasn't \$3 million. They were awarded-- All right, so technically-- All right, so let me get this right.

MR. OCASIO: They were awarded \$30 million.

SENATOR RICE: I got that; okay. NJHMFA was allocated \$30 million in the ARRA funds. And they had no experience in weatherization at the time, right?

MR. OCASIO: No.

SENATOR RICE: Construction, but not weatherization -- okay.

Then let me ask you a question, then you can weigh in on this: Does anyone know who TRC is, because I understand that New Jersey HMFA hired TRC to manage the weatherization grant. And TRC, I understand, is a subsidiary of Honeywell DMC, which is a contractor with contracts with several public utility companies. Are you aware of TRC and Honeywell?

MR. OCASIO: I'm aware of Honeywell; we actually did some work for Honeywell. It's a different scope of work. It's targeted to above the low income.

SENATOR RICE: Okay.

MR. OCASIO: It is not as thorough in terms of the audit. It has a different measuring stick in terms of what can be done and what can't be done. They generally invest in Comfort Partners less dollars than we invest in our families. They subcontract a lot of their work, but they have a huge office in Wayne. Honeywell has had an office in Wayne, at least when I knew it, and they have a tremendous overhead.

MR. MENDOZA: I just want to add something. They are not part of the audit. I don't know why they were not audited. If you see the audit list of all the agencies--

SENATOR RICE: State your name, for the record when you speak, because I forgot we were being transcribed.

MR. MENDOZA: Henry Mendoza.

SENATOR RICE: And Mr. Mendoza, you said they are not part of the audit. You're talking about Honeywell or NJHMFA?

MR. MENDOZA: No, no -- I'm talking about HM-- You know, the Home--

ASSEMBLYWOMAN JASEY: HMFA.

MR. MENDOZA: Yes, that's what I'm talking about. They are not listed in the audit. In these numbers, as I say in the audit, all these numbers are numbers that, at that moment that the audit was done, were reflected in HESWAP -- were reflected in HESWAP.

ASSEMBLYWOMAN JASEY: That was your point earlier.

MR. OCASIO: Yes. La Casa said that they went back and did the revision in HESWAP -- we did the same. We went in HESWAP because the numbers in the letter didn't reflect a reality. And we said, "Well, something's wrong here in HESWAP." So we went back and we fixed it. But regardless of all that, all those actions that we have taken showing our capacity, our ability to do the things, it seems like we're hitting a wall.

MR. OCASIO: Specifically to the Housing Mortgage Finance Agency, they did get \$3 million, to the best of my knowledge. They have not spent any of that money.

SENATOR RICE: Three million?

MR. OCASIO: Three million -- that's the advance.

SENATOR RICE: Oh.

ASSEMBLYWOMAN JASEY: They got \$30 million overall.

MR. OCASIO: Allocated.

ASSEMBLYWOMAN JASEY: And 10 percent was upfront.

MR. MENDOZA: Upfront.

MR. OCASIO: An advance.

SENATOR RICE: Okay. Now, it's my understanding, and the understanding of some members of the Legislative Black Caucus, that the U.S. Department of Energy expressed concern about the New Jersey Housing Mortgage Finance Agency contracting with TRC, who will hire and manage contractors, and the reason is because this is not the approved model for providing weatherization. The subgrantee is to directly manage the program and provide the services by using in-house crews, labor, or hiring contractors.

MR. MENDOZA: That's correct.

SENATOR RICE: That's correct, is that right?

MR. MENDOZA: That's how it was done. Some of our agencies, they have their in-house crew, and some other agencies like La Casa, ourselves -- we subcontract. That's been the model.

SENATOR RICE: Now, I also understand, and some of my members understand, that DCA made a decision to implement a responsible contractor policy that caused most of the experienced contractors to opt out of bidding on these funds, at least on these jobs.

MR. MENDOZA: That's what I referred to before.

SENATOR RICE: And the original policy has since been modified, from my understanding, and the modification was not made until it became critical. Also, for most of 2010, my understanding was that there were only 15 contractors eligible, approximately, to work on these statewide projects. I understand that as a result of this lack of eligible contractors, many agencies that had never used crew labor were forced to hire staff and utilize crews to meet production requirements. I also understand that the responsibility of the contract was supposed to create opportunities -- and

this is a concern we have -- for residents of distressed areas to find employment. The policy was an attempt to encourage weatherization contractors to hire members labor-trained, and most of that is not happening. I understand that the DCA allocated the Department of Labor \$4 million to train the weatherization workers. A determination was made that 500 workers should be trained and placed with weatherization agencies with weatherization contracts. None of this seemed to be coming to light, and questions are being raised as to where are we in the mix of things here.

I just want to go for the record -- and we'll get back on this, because you may not have enough information, but we need to raise it -- this relationship with NJHMFA, TRC, Honeywell, people like that. What's happened to our workers throughout the state, what happened to the money to train them, are we out of money? How do we make sure that our agency providers, particularly in the nonprofit sector, remain agency providers if they, in fact, have a track record in doing the job; just correct the things that need to be corrected. But how do we get the agencies who are not working, and they are contractors, with the worker we've trained -- how do we fit that within the economics of the program, etc.? So I just wanted to raise those issues.

MR. MENDOZA: And I just want to clarify one more point here, and this is the concept of pipeline. Because you will hear it for several things: the pipeline. Pipeline is the process that begins with outreach, with going to the people who need the service. So it begins there and ends when the unit is completed -- when that unit is done. It is supervised, it is reviewed, everything is fine. All that is a pipeline.

For DCA, the concept of pipeline -- up to now, what we've been told -- is units that have been audited, meaning there are field techs being there and seeing what needs to be done on that house, on that unit. But I think pipeline is more than that, as I said. It begins with all those people who are waiting, who are on the waiting list, who need the service. That because of time, capacity of our personnel -- need to wait until they come and they bring all the proper documentation, because there are rules to be followed, there are documents that they need to provide.

And also there are issues there that were also addressed on the audit by the Federal DOE -- things that put road blocks in all these processes. However, with all those road blocks, the capacity to fulfill the goals under the ARRA program for the State of New Jersey is there, and the ability to do it is there. So we know, and we're confident -- and I'm sure I can speak for the other agencies -- because you can see our track record. It's not a matter that we're here showing our face and saying, "Yes, we can do our work, but just trust me, believe me -- I can do the job." No -- see what we've done. And not only what we've done, but what we're doing in other grants -- our capacity of producing to fulfill the goals that are imposed on us based on our agreement, our written agreement.

And with that, I want to end, because I just want, again, to say we are just asking for the opportunity, a fair opportunity, a fair way of dealing with this. Because we feel that the way the procedure -- the way it was done was not the proper one. And that's all we ask for.

SENATOR RICE: Well, let me say this for the record, because I want to keep this record clear, because I may not remember all these things and how these documents are being transcribed. I want to make sure

that it's on record for my colleagues in Trenton and anybody else in the world who wants to see them. It's our understanding that the final rule for the Weatherization Assistance Program is 10 CFR 440, and annual Grant Guidance are the regulations that states are to adhere to when administering the program. "The regulations give preference to community action associations and other community-based organizations. While local government is eligible to provide weatherization assistance, the rules and grant guidance are clear that the intent is to give preference to community-based organizations. The New Jersey Weatherization Program model has included the CAP agencies, the nonprofit agencies, Native American Tribal organizations, and local government agencies. The process to evaluate weatherization agencies is a performance rating system -- performance rating system. The progressive compliant mechanism is used to address agencies for performance problems. Both processes are outlined in the annual State plan, and grant application, and the contracts that DCA entered into with the weatherization subgrantees. The progressive compliant mechanism requires the following process for a non-performing agency."

Now, the Commissioner is saying that she's terminating folks for non-performance; in essence, that's what's she is saying. Well, the progressive compliant mechanism "requires informal discussions with agency management; formal meetings with agency staff; written notification of failure to correct deficiencies; reduction of grants as an interim step to defunding; termination of agency." And the question is: What happened up to-- It seems to me that chronologically we forgot *A* and *B* and *C*. We went down to reducing funds and terminating. But it's also clear to me that

the progressive compliant mechanism, based on whatever statutes, requires these things. I don't believe it said *may*. I believe it required that these things be done.

And what I'm hearing at these hearings is that some agencies, if not all, that are getting reductions in funding, or are being terminated, have not had the opportunity to have a serious, no bully, objective, rational, reasonable-person discussion to go over these things; and an opportunity for corrective action. I will make sure that my members get a copy of that. My office has been working because we are very serious about this on behalf of the Legislative Black Caucus.

So with that, I'm finished with my questioning of you. But the Assemblywomen, they may have some questions.

MR. MENDOZA: I just want to leave, for the record, so that it's on the record, that we have not received, to date, a letter from the DCA with a corrective action plan -- we have not. The first letter we received was the reduction of funds that was sent on an e-mail that I have a copy here. And after that was a termination. So I just want to state, for the record, that we have not received a corrective action.

SENATOR RICE: Through the Chair, would you give us a copy -- through the Chairwoman? We'll make a copy, give yours back, for our record.

MR. MENDOZA: Of the reduction?

SENATOR RICE: Yes, the letter.

ASSEMBLYWOMAN JASEY: Thank you. I don't have any questions; I think your testimony was very clear, and equally disturbing. So

I think it is our job to figure how to proceed from here and how to rectify the situation.

MR. MENDOZA: Thank you very much.

ASSEMBLYWOMAN JASEY: Thank you.

SENATOR RICE: The next person we'll call up -- since the Chairlady is busy -- is Mr. Wayne R. Griffith. And Mr. Griffith is the New Jersey Community Action Association CEO.

Welcome, Mr. Griffith.

W A Y N E R. G R I F F I T H: Good afternoon. Thank you, Mr. Senator, for having this forum today; and to the honorable members of the panel.

My name is Wayne Griffith, and I'm the CEO of New Jersey Community Action Association, which is a collaboration of 24 community action agencies within the State of New Jersey. Many of our agencies run weatherization programs. Not all of the weatherization agencies that are engaged in this process are community action agencies. There are 23 agencies throughout the State of New Jersey that are engaged in this weatherization work; and basically, we're here as a State association to make some testimony concerning this process.

I believe it was Ben Franklin who was speaking to the delegates of the architects of our country, and he said to them at one time, "We will all have to hang together, or we certainly will hang separately." So we're just here to view our position on the matter. We're not here to throw rocks at DCA. But we do believe that a lot of the information that came down from DCA wasn't clear. And my colleagues have done a (indiscernible) job of expressing the issues.

I'm not going to be redundant and go through all of them in detail; but they are correct in saying that the due process, as relating to the termination of funds for these agencies, wasn't adhered to. Also, persons on the national level are aware of the fact that it wasn't adhered to, and it really needs to be rectified. There should have been a hearing as relating to the termination of these funds; that never happened. Many of the agencies received an e-mail or letter the day before that hearing took place that discussed and addressed another issue. That's the first challenge that I want to put before you as it relates to the termination of funds of the seven agencies that are in question.

Secondly, as Ray mentioned, and also as Henry mentioned, the HESWAP system had problems from the beginning in terms of reporting the units that had been completed. It's a process that has caused a lot of problems. It was an agency that was hired by DCA, and we've been having problems with trying to get through the mechanics of that particular reporting system. And therefore, even when the agencies put in information, many times it wasn't adequately filed or correct.

And the third point is, there was a lack of monitors to monitor this system and the units. As it was mentioned earlier, there was a State freeze. So the Weatherization Office was undermanned and could not hire adequate personnel to go out and monitor these agencies. And many times when they did go out and check the units, they had a process. There were 24 units that had been inspected; if two of them failed, they would hold back the entire number of units and not go on to the next 25, but would throw everything out and then come back and then re-inspect the units -- which really bogged down the process. So there are a number of issues, as

relating to monitoring. Now there's a new staff in place; they're trying to do the best that they are able to do. But really, the problem started with the monitoring situation when the program started. And, of course, when you were told in April not to start spending the money and then you were not allowed to do something until November -- you had the lag in time. So as it was mentioned earlier, that was definitely a problem, and the monitoring was likewise a problem.

Then fourthly, as it relates to new agencies: It would boggle down and cause a delay in us reaching the 13,000 units that we were mandated to reach if you bring on new agencies that have to ramp up. We have experienced agencies that have been doing this for a number of years, and it seems to make better sense to make sure that the agencies that are currently doing the work have the adequate funds to continue doing the work.

Now, as related to HMFA -- and I listened to the dialogue before I came up to speak -- the \$30 million that they were given, that decision was made by the previous Administration, by the former Commissioner of DCA. When the audit was done and when they were determining how many unit had been worked on, the \$30 million-- If it had been in our pipeline, we could have had additional units being done. Along with the fact that we had been asked to start earlier, we wouldn't have had the crisis that started back in December. So I want to make that point; it's a very important point to be made. But those funds were taken out of our network -- into HMFA, that is contracting with a private firm that really does not have the expertise and the experience that we have.

So we just want to go on record, as the State association, how we feel about this issue and about this process. As I said earlier, we're not trying to throw stones at DCA; they were going by the information they received from the Feds. But I do think that it is unfair to penalize the agencies that have been doing this for over 40 years; have stellar commendations from DCA, as Camden did, as related to doing this work; and now they're being penalized for some of the work they've been doing for these many years.

SENATOR RICE: Thank you, Mr. Griffith.

A couple of questions: The New Jersey Community Action Association -- that's your organization?

MR. GRIFFITH: That's correct.

SENATOR RICE: And your organization, according to information we have in the audit, has contracts with the Hancock Energy Software for the internet-based program?

MR. GRIFFITH: That's correct.

SENATOR RICE: Okay.

MR. GRIFFITH: Through DCA. We were, for lack of a better word, the pass-through in order for them to operate the system.

SENATOR RICE: Okay. So they couldn't get it directly themselves, they had to have-- They had to have someone-- In other words, you didn't go out yourself and just buy a system. DCA bought the system.

MR. GRIFFITH: That's true; that's correct.

SENATOR RICE: Because if you look at it, my questions would be to you, in the real world, thinking ownership is there and initiated

there, is: Why so many problems with the program, the HESWAP program? Because the HESWAP system, according to the auditors, through a grant from the Department of Community Affairs to your organization, enabled you to contract this system. But then it goes on to say, "After a review of the system, a review of the (indiscernible), there is a lack of necessary edits which has allowed ineligible applicants to be placed on the weatherization list. The system is designed to disapprove applicants who have a household income of more than 200 percent of the Federal poverty level." However, the system is not accomplishing this, but yet agencies are being blamed for maybe neglect, oversight, or just playing games with peoples' income. It's the system. Has your agency raised these issues to DCA prior to DCA coming to you?

MR. GRIFFITH: Yes we have. Not only did we have trainings, and we had Hancock come in to better explain the system to our agencies-- And, quite frankly, as was mentioned earlier by Henry, it was always them trying to make sure and find a way for the system to work. And it has been a challenge throughout -- from the beginning.

SENATOR RICE: So in reality, what I'm gathering from this hearing -- and I don't want to put words in anybody's mouth, but I'm trying to do what I did when I was in law school and all that stuff -- trying to understand what's going on here; so correct me if I'm wrong. I'm getting the feeling that this system was not a cure for anything. It was like a charter school experiment: Let's start something new because something's not working, and then we'll figure out whether we spread it across or not.

Because what I'm hearing and reading is that the system, for example, didn't link-- Needy families were not linked between the various

input screens -- you know, just technical, technology stuff -- you know what I'm saying? So therefore, the information they're reviewing over here, when they look at your documents they're saying, "Well, something is wrong here; this is questionable. You did something wrong, or somebody's lying to us."

And so it's clear to me that-- And I'm not sure where the State is, because this audit is a recent audit, and I don't know how much -- and maybe you know -- this is December 4, 2009 -- how much of that system has been corrected. Are we still using that system? Is it still a system that is known as an experimental model; or is it a system that people like yourself and others believe was an experimental model, but the State was actually using it for accountability? Or reverse that: Is it a system that the State assumed was an experimental model, and you assumed it was being used as the actual format or instrument, if you will, to provide the information?

MR. GRIFFITH: It's a system that had been problematic from the beginning; before I assumed this position as CEO the system was in place. We attempted to provide training and bringing Hancock in to explain it to the agencies. It's my understanding that the State felt that the system was credible enough so that the agencies could report their units, and they used that information to base their decision on termination of the agencies.

SENATOR RICE: Okay. Were the agencies terminated prior to this whole new audit and this new Commissioner, to your knowledge?

MR. GRIFFITH: No.

SENATOR RICE: Interesting.

Okay, so the State was basing it, whether the information was faulty or not-- And I go back to the question again: Prior to this new Administration and this system in place, that the State never really terminated anybody because of the system information. Did the agencies raise questions about the system to the previous Administration that it needed tweaking, or things like that, that could be more beneficial to the agencies?

MR. GRIFFITH: There were meetings of course, managers' meetings with the weatherization agencies, in which it was known that the system wasn't working properly. So the staff of DCA was aware of the challenges.

SENATOR RICE: Now, I'm told -- and this goes back to some of the testimony this morning -- that the majority of the reasoning for the lack of production, in most instances, is due to several factors. Number one, I understand that funding was received in November. Agencies received 35 percent of the 10 percent DOE allowed for ramp up. When DOE decided to allow states with experienced -- meaning all the states in the country -- agencies to start production, or contracts with the agencies had to be amended to give the agencies the 35 percent advance on 50 percent of the grant-- During the winter months the workable days were limited due to inclement weather -- naturally, you can't perform then. There was considerable delay in the provision of the prevailing wages rate for residential and commercial weatherization workers and contractors. And the number of contracts available to bid on -- the agency contracts were severely limited due to the responsible contractor policy. Do those elements sound reasonably correct to you?

MR. GRIFFITH: All those facts are correct.

SENATOR RICE: Okay. I'm finished.

ASSEMBLYWOMAN TUCKER: Do we have any other questions?

ASSEMBLYWOMAN JASEY: No, I don't think so. I think the story is building, unfortunately. You're all basically supporting what we heard from the first presenter, and it paints a very disturbing picture. But thank you for--

MR. GRIFFITH: You're very welcome.

ASSEMBLYWOMAN JASEY: --illuminating it, especially on a statewide basis.

MR. GRIFFITH: You're very welcome.

ASSEMBLYWOMAN TUCKER: Okay, thank you.

Yes, I saw your hand? You wanted to make another comment?

MR. MENDOZA: I just want to add something for the record.

SENATOR RICE: For the record?

MR. MENDOZA: For the record. I'm Henry Mendoza again, from PACO.

I just want to add something, for the record.

Because the State uses two systems, one which is SAGE, which is their accountability -- accounting, where we report; and HESWAP, which is the production. Now, the Senator asked if this HESWAP software is experimental software. It is my understanding that it's not, because it's being used in all the states; all the states that have weatherization use HESWAP. It's just the State of New Jersey gets their software, but they are customizing the system to their-- The system itself -- just by experience -- I

believe it's a good system to use if it's worked properly; if all the tools are put there and the training is given the way it's supposed to.

So I just want to put that fact in there because, again, if we're going to talk the truth, we have to say the way that things are, how they are. That's a production software, and then there is this other, which is an accounting software. Now, these two -- they don't communicate, and that's another issue that I'm not going to address at this point.

SENATOR RICE: Well, has the State ever asked anyone -- whether it's community associations, the agencies -- during the course of the year, prior to this Administration, during this Administration -- that we have a system here, what kind of information do you think should be put into this system and how do you think-- Because if I'm building a system-- The background I come from -- I'm on the private side. When I'm building something, I'm trying to customize it, then I'm asking people who have to use that system what they feel some of their needs are that the system should be responding to.

MR. MENDOZA: Well, the process has been more like-- The software has different modules, and these modules have been put in place again, as I said before, as we go through and try to solve the situation. So literally, from one day to the other, even without prior information informing the agencies, they've been switched on and off on this software. And then when we do the work, we present, again, our situation there. But that's what has been happening.

I'm just trying to give a more clear idea of what's happening with the software. It's not that the software, per se, is not a good tool -- it is a good tool. If we use it in the proper way, and we get the proper

training, and the rules are clear, I believe -- it's my personal opinion, I don't know about the others -- my personal opinion is that it is a good tool to manage productivity. It's just the way it was put in place -- the things that are happening on that road to using it. And that's why I wanted to clarify that.

SENATOR RICE: Madam Chair-- Could you stay there? Could you come back up? Could you come back up? I have a couple of questions I want to ask, for the record, based on testimony presented by the Commissioner.

The Commissioner indicated on December 13, at the hearing in the State House-- She indicated that "the Department's Director of the Division of Housing and Community Resources, DHCR, the Division that hosts the weatherization program, met with the weatherization managers in April 2010, at which time he informed them that production levels at that time were unacceptable and must be improved. Technical assistance was offered in order to mitigate any obstacles and streamline procedures. Additionally, as a follow-up, seven agencies -- Tri-County CAP, Bayonne CAP Human Resources, Camden County O.E.O -- and I think they're here, we're going to have them speak next -- Checkmate, Inc., La Casa de Don Pedro, and Mercer County received letters expressing the Department's concern regarding their production levels. Specifically, the letters stated that the agencies have failed to make satisfactory progress towards completion of the terms set forth in the above-referenced grant agreement. It also required each agency receiving the letter to provide a corrective action plan in order to right the course." Can someone tell me about that?

MR. OCASIO: There was a general meeting that we had with DCA. There was the statement made by--

MR. GRIFFITH: Paul Stridick.

MR. OCASIO: Paul Stridick, yes, thank you. It was as casual as, "it's a nice day outside," in the sense that on the surface it was, "we're all concerned about production; we want to get to the goal." I think it did not deal with individual situations; it did not deal with particulars. There was a follow-up session with the DCA management -- of program management. I had a session with them. As I said earlier, when we had that session, and we went behind that generalized statement and we talked about our production, our activities, there was a general agreement that we were well on course. Yes, there were difficulties on the road; they were understood, they were shared experiences, shared difficulties. But clearly that we had a pipeline, as was suggested before, not only of active projects, but ongoing projects -- projects that were ready to go, as well as a waiting list that would, in fact, suggest to DCA that we were on course and were okay. That's how we walked away from that meeting. There were no other instructions for us to do, other than to continue to do what we were doing.

As I said earlier, we did meet again with DCA, with the new management team. At that point they said the production was not being demonstrated in the HESWAP system. We reviewed our production, we reviewed our pipeline. We went through the problems of HESWAP. It was that issue that we had a building that had 130 units -- we were waiting for that building to be completed to report the units. When we did that, our production now stands at 32 percent. The current management is now looking at that as being okay, but they have not said how they would, in

fact, turn back the determination or the reallocation. So we're sort of in limbo, hoping for the best -- that they'll see the light -- but I'll leave my colleagues to--

MR. MENDOZA: Well, the meeting that I had, as I stated in my testimony, was with DCA. Out of that meeting, it was my understanding -- I was told -- that we were told, PACO was told, that we had until December to do to all this and show the production based on the money that was allocated to us. And again, it was nothing like-- We never received a letter from them stating, "Okay, based on our meeting, this is what we need from you." They asked us to present what numbers we expect; we provided that to them. We have copies of what-- I don't have it here with me, but I would gladly present it to the Committee if you request that -- copies of what we presented to them. With the manager, the weatherization manager, we sat down, we went through the numbers -- realistic numbers that we can produce -- and that's what we presented to DCA. And out of that meeting-- We got out of the meeting with that: Just work, let's do it, you have until December, let's work together. That was the feeling. Let's work together on this. And then just everything crumbled from there. We received the letters--

MR. OCASIO: Not to steal Wayne's-- But Arnold -- I think Mercer County has a similar but somewhat different version, that I think you should hear his account.

SENATOR RICE: I'm going to hear it, but I have a couple more questions while you're up there. Because I hear December: "The Division again sent a letter to all weatherization agencies in late September 2010 setting forth a targeted population level of 40 percent of their total

goal by October 20, 2010.” So it looked like a 30-day timeframe here? Can we do stuff in 30 days like that?

MR. OCASIO: That was the letter we got-- I believe we got it, and that was the reason why we had a meeting in October to review that; and that's the meeting we walked out of feeling okay.

SENATOR RICE: And finally, “Our weatherization team then met with each agency individually during the first two weeks of October in order to discuss specific issues and identify any obstacles related to their administration of the ARRA funds, and to move them towards their production goals.”

MR. MENDOZA: That's the meeting I'm referring to -- it was in October. In that meeting we were told that we had until December to do the corrections -- to present all the numbers. And it was, again, nothing in writing -- everything was, “Okay, come here. Let's talk about it.” What they did was, they said previously, “just via e-mail, please fill in this form.” When we went to the meeting, we went through the form and said, ‘No, this isn't correct; let me send you the right information.’ We sent it back. But then again -- that's the meeting I'm referring to, where we were told that we had until December to correct. We were never told that we had until October of this date to complete the whole percentage.

By the way, that percentage is not even in the contract, but that's a number that they came up with. Fine, we have no issue with that. But give us a time to complete--

MR. OCASIO: It's been 30, it's been 40 percent -- depending on who you referred to.

MR. MENDOZA: Who you talked to.

Because I heard that some agencies were 40 percent; ours was 30 percent.

MR. GRIFFITH: We're not a weatherization provider, per se, as a State Association. But as they did mention, they did meet with DCA on those dates; and the meetings, at least the general meetings we had when I was present -- there was a sense of "we have to be on track," but it wasn't a sense of urgency, like they would receive a letter a couple of weeks later to say, "you're terminated."

ASSEMBLYWOMAN JASEY: Right.

SENATOR RICE: Thank you, Madam Chair.

Okay, we're getting there.

Next, we're going to bring up two people; they're from Camden County -- I want to thank them for traveling up here -- and that is Michele Williams and Arnold Byrd.

Tell the Mayor that we miss her in the Senate, and we're doing all we can to save Camden, to make sure that weatherization takes place and the seniors and people--

How are you doing? Just to get your names for the record, and who you represent.

ARNOLD N. BYRD: Good afternoon. My name is Arnold Byrd, and I'm the Executive Director of Camden County O.E.O.

MICHELE WILLIAMS: Good morning. I am Michele Williams, Weatherization Program for Camden County O.E.O.

MR. BYRD: And I'd like to say I'm very impressed with this gathering. I am from South Jersey; we don't get a chance to be with legislators who have the interest of the community at heart like I see here.

And I'm very proud -- proud to be present. Hopefully we'll say the right things.

As you noticed, my gray is earned too (laughter), for years, and some of it left. So I've been around a while. I've been in these agencies here since-- Well, I might as well admit it: since about 1968, '69. I've been working--

SENATOR RICE: You're back in Model City days.

MR. BYRD: Yes, yes, yes. (laughter)

But I also say that to say that I've seen a lot of things happen in this field. I've seen us win a lot of battles, and I've seen us lose some battles. I've been called a number of things -- some positive, some negative -- so I hope that I end on a positive note here.

But I would like to say-- The first thing I'd like to do is allow my weatherization manager to speak first, because I'm quite sure she has all the technical kinds of aspects that went on. Also, I'd like to say I'm very proud of my colleagues Henry and Ray. I think they did an excellent job -- as well as Wayne; and the way that you articulated, Senator, so far -- I hope to get a copy of that hearing, because there is some other things that we want to do with that. I may confer with you later on about it.

Michele.

MS. WILLIAMS: Well, good morning.

I want to, first, thank the Senator, the Chair, and the Caucus for allowing us this opportunity to be heard and say what our position is. We are one of the agencies that have been terminated.

I will be somewhat redundant. I am not a speaker, so I ask permission to read from my notes. Thank you.

Camden County O.E.O. has successfully operated the weatherization program for the last 30 years. In fact, since 1998, Camden County O.E.O. has been recognized seven times by the State of New Jersey as the most effectively run weatherization program in the State. This recognition is symbolized by our program receiving awards, with our most recent award given to us by DCA, the Office of Low-Income Energy Conservation, just five months ago. These awards indicate outstanding performance by a local weatherization program in all facets of the program.

In June 2009, the State of New Jersey, in accordance with the mandates of the DOE's Weatherization Program, provided Camden County O.E.O. with an American Recovery and Reinvestment Act -- ARRA -- grant to implement a program designed to assist income eligible households by weatherizing their homes to make their dwellings more energy efficient. Although the grant date was April 1, 2009, and Camden County O.E.O. was prepared to start work soon after that date, DCA did not authorize Camden County O.E.O. to begin actual weatherization services until December 2009 -- a full eight months after the grant date. This and other delays cost critical time in implementing the program. Despite these delays, Camden County O.E.O. implemented a program to fulfill its obligations to the grant, to DCA, and the people of Camden County.

Camden County O.E.O. has served its community of low-income residents with dedication and compassion through the many programs administered for over 45 years. We have created a relationship and huge presence in our community where residents rely on us in times of need.

During our tenure with the Weatherization Program we have always served our clients with respect and consideration, never leaving them in a worse situation than we found them. Each time we have served our clients we have walked away leaving them in a place that added value and comfort to their livelihoods.

Camden was notified via e-mail on November 5, 2010, that our DOE ARRA allocation in the State plan would be reduced by approximately \$1.4 million due to a lack of production; and that there would be a hearing on November 19, 2010, to be heard before approval of this recommendation. However, on November 18, 2010, one day before the hearing on our reduction, we were served by DCA with a termination letter effective immediately.

We feel that this is an unjust act to our agency, our clients, and the community. We feel that DCA's Weatherization office is wrong in the action they are taking against our agency, and that we should not lose our grant and the opportunity to serve our clients due to the following reasons.

One: Camden has never been cited by DCA's Weatherization Office as not meeting our contractual obligations. We have always completed our contracts on time, if not earlier. Also, Camden has always appropriately expended funds allocated to us, and at times accepted additional funds to assist the Department of Community Affairs' Weatherization office in meeting their contractual responsibilities.

Two: Approval to begin work was not issued by the Department of Community Affairs' Weatherization office until nine months onto the contract, December 2009.

Three: We still were not able to award contracts to contractors until the required responsible contractors language was approved, sometime in early 2010, which delayed production and limited the number of contractors eligible to work in the program.

Another obstacle was put in place by the DCA's Weatherization office on April 28, 2010, via Bulletin No. 112, which forced our office to lose 145 applications from our waiting list. These applications had been deemed eligible to receive weatherization services but had to be removed due to the language used in that bulletin -- 112.

Our agency was instructed by the DCA's Weatherization office to ramp up as a result of the stimulus funds, which enabled the agency to maintain staff and provide additional employment opportunities.

To reduce our grant would result in hard-working employees, dedicated to their jobs, to be placed back into the unemployment market. Also, there are still additional residents who are in desperate need of our weatherization services.

Our history with the Weatherization Program demonstrates we have always been responsible in meeting our contractual goals. Our agency currently has 471 units either completed, in progress, or packaged to award to a contracting companies at this time -- well over 50 percent of our required minimum number to do.

For the importance and integrity of the weatherization program in improving the quality of life for the people who we serve in Camden County and portions of Atlantic County, New Jersey, Camden County O.E.O. is asking that consideration and latitude be granted to our agency as it has been granted to other agencies. We need to be allowed to keep our

funding to demonstrate our continuous ability to successfully fulfill our contractual requirements. We strongly believe that our marketing strategies and outreach plan that are already in place will more than satisfy the current goals set by DCA's Office of Low-Income Energy Conservation Weatherization Program.

Thank you.

MR. BYRD: You see why I asked her to go first, right?
(laughter) Excellent job.

A couple of things I'd like to say to the Committee: LIHEAP -- I think that's overlooked. LIHEAP is the situation where we provide energy assistance to low-income residents of Camden County, as well as throughout the state. I think a couple of the other programs also have LIHEAP grants. The thing that is missing on LIHEAP -- that's a 20,000-plus database. Because you have the same application for LIHEAP as you do for weatherization -- it's the same piece of paper, and I think people are overlooking that. These are folks who are dependent on us for years and years to get this kind of service. As a matter of fact, because of the blizzard that we all just experienced here, I was the only one in my building yesterday, and by that I meant I had to handle the mail. And in the mail was five applications for LIHEAP that checked off weatherization. What happens to these people if we're not there to serve them? That's a problem I have.

Also, she made mention of receiving awards -- approximately seven to eight awards over the last decade. The last award -- the Golden Hammer Award -- presented to the agency was presented in July -- July 2010. Several months later we receive a termination letter. Also, Senator,

you read about the performance rating system. That's the system they use to present the award. That award-- And I should have known at that time that there were some issues, because we received that award in July, and there was a lot of consternation in the State as to how we got that award -- this is back in July. So apparently they had plans to eliminate us back in July if they were concerned about the award. They were so concerned about us receiving the award that we had to, literally, take the plaques to Senator Menendez' office and let them copy the plaques; because DCA had said they did not issue the award, although the award was signed by the Commissioner and the appropriate staff people.

I'm not going to keep on-- But I think we have to back up a little bit and realize what happened. Over the years the weatherization program has been operated by the grantees -- the weatherization grantees -- community action agencies, and other nonprofits. They became very, very professional -- the audits that they do, the work that they do. I mean, nobody can compete. The utility companies, Comfort Partners, or what have you -- they are the best at what they do. But they were only receiving \$21 million in the State of New Jersey. Now, when the stimulus money came through, that was, how would you say, increased to \$118 million in the State of New Jersey. Now, you see, it's a different kind of game, and that's when people started cutting the money, reducing the grants, and a lot of other kinds of things.

So I think-- Nobody wants to say it, it's like the elephant in the room: it's political -- it's very much so. Somebody did not think the community action agencies or other nonprofits had the right to administer grants totaling up to \$118 million. I mean, that's where it is. Also, I'll tell

you how important it is. I think we've overlooked the point that most of the areas that we serve are like Newark, Jersey City, New Brunswick, Camden, Atlantic City, Atlantic County, Cape May -- poor areas, low income folks, and so forth. If we're not in play, they really don't have access to the service.

Let me tell you what we did as an agency. One of the issues that kept coming to us was that we can't -- and I think Ray had mentioned it -- some units we would walk away from because they had other needs. So with the other ARRA money we got we started a program, Senior Repair, where we dealt with the other needs, and then they can be eligible for weatherization. It's working well. As a matter of fact, we do outreach -- we go to the seniors and we allow them to get all their documents there, even if it means giving them a ride to City Hall, and so forth. So nobody can do the job that we're doing.

Also, you're talking about-- In one year's time, this agency, as well as the other agencies -- doing a number of units. For instance, we got almost 500 units that have been audited and are completed. Now, that's in a year's time, because we couldn't start until last December -- last November, last December. So in one year's time we did that. Hey, one more year, we'd have it made -- we'd do it. Nobody else can come in and do that. It just cannot happen. I'm from the old school; I still believe in the Jackie Robinson syndrome. For the young folks, Jackie Robinson had to be better than everybody else to play in the majors. So I say even though we had all these issues, and these issues are for real, we're still better than everybody else, and we still continue to be better than everybody else, and we will be better than anybody else. I believe in the community, like, when

you talk the talk, you have to walk the walk. We're definitely going to talk the talk, and we can walk the walk. And we do it all the time, and we'll do it again.

So I'm ready for any questions you folks have. I'm sorry to get emotional, but I just can't help it.

ASSEMBLYWOMAN TUCKER: Well, we thank you for your emotions because, just sitting here today, it's hard to believe that an agency is making so many mistakes. And I don't understand that if they approved your contract in one month and then you have all this lag time -- months and months -- before you start a project, how do they expect you to do something on time if they're the main ones who are hindering you from doing your work?

So just listening to this -- everybody should be emotional. This is an emotional issue because it affects everybody in our counties and everything, especially the low-income people who we serve in our counties. So we all should be emotional and outraged at the things that have been happening, and we should be-- We have to work hard to straighten it out, to make sure that whatever things that are put in place are operated properly, and everybody knows-- We're not going to do any underhanded deals. And how you could have something one day, and you're supposed to have a hearing, and then you get terminated -- all within the same week or a few days of each other -- that's just not acceptable. We can't accept that.

MR. BYRD: As a matter of fact, I heard you mention before about DCA contacting-- They never contacted us. They never asked for a corrective action plan. We had an audit; we have no information about that audit. The only thing we heard from our auditor is that we did well.

So where are they getting these kinds of things-- The monthly meetings never took place. We had one meeting up here, I think, and all the agencies at that meeting when we went up-- Was it in October, when we went up and discussed--

MS. WILLIAMS: October 13 we had a meeting.

MR. BYRD: Before that there was no communications about meetings, about corrective action plans, about issues, about problems. The only thing I sensed there was a problem -- when they were concerned about the award, I felt as though they had some other kind of game plan, which came to fruition.

I'm sorry to interrupt, but I just thought--

ASSEMBLYWOMAN TUCKER: No problem.

SENATOR RICE: My understanding-- I'm reading from the intelligence unit (laughter): "Camden County O.E.O. has never failed to complete a weatherization contract on time and is one of the highest-rated agencies, based on the performance rating system. La Casa Don Pedro has satisfactory performance, has successfully weatherized many multi-family projects in Essex County." And what they are saying is that many of the agencies that are being terminated from the ARRA program have exemplary performance records. Also, there are three agencies -- and I won't name them -- that, it's my understanding, that I will say for the sake of tears, mid-management had recommended not to be funded initially, coming into the program, because they weren't ready to deal with the productivity. In fact, they should have been funded from set-aside dollars -- in other words, they could still come into the program because of the ramp-up stuff you talked about and mobilization. But people were overruled at the top, down here.

People down here were saying the systems are faulty, you're not following the rules of the Federal government; and they overruled them up here. But they wanted to blame the agencies.

Let me ask you: In Camden, are you working with those trainees that the Legislative Black Caucus, including your Mayor when she was one of our colleagues, worked real hard with the former Governor to make sure that in our cities, where we have the most problems-- You know, in Newark and Camden -- they're always talked about -- and Paterson and Jersey City, etc. That regardless of how this stuff works, whether you're nonprofit or not, we have to look at the community as a whole. If we're going to help seniors, and homeowners, family members, adults -- we have to help those who live in those units, who happen to be there -- our children and the extended-- Get them off the street corners.

Are you working with the trainees? Are there any trainees in your program? And that same question goes back to Mr. Mendoza -- I forgot to ask him.

MR. BYRD: Let me react to that.

First of all, I'd like to say, in the employment aspect, were able to hire 15 employees, and we have several of our employees here with us who came up. We asked them to come and hold our hands while we're here.

But to get back to Local 55: What happened when Local 55 came into our community, they actually did the orientation and training in our facility. We opened our facility up to them. As a matter of fact, the first class in Camden County that they put together -- the Camden County Vocational Technical School -- was recruited by us. We had the orientation

in our class, processing paperwork, done in our facility. Now we have a situation where we contract out, and we refer them to our contractors in order to actually be employed. But we've always had an open door policy toward Local 55.

SENATOR RICE: And that's important to us regardless of how it works out, and that's why we invited-- We asked people to let contractors know because we don't have -- I'm going to say we, because most of my members-- See, we don't have a problem of pulling contractors' (indiscernible) our concern. They can't make money without a workforce. And if we're talking about small businesses, and all the fights we've gone through and legislation we are moving helping women and minority businesses, then we have an obligation to help our folks with their needs. So if you're having problems with these contractors, identify them. I don't care if they're African-Americans, Latinos, or females, I will confront them personally and professionally and let them know, "You will not get your assistance from us if we can't empower our communities from which the dollars are coming in order to make you who you are."

So I appreciate what you're doing.

PACO -- Mr. Mendoza -- are you working with the trainees in your organization over there?

MR. MENDOZA: We don't have our own crew. With the ARRA funds, we hired only one field tech, and this was prior to our knowledge of any available trainee or someone who came from that training program. If they contact us-- As a matter of fact, in one of the meetings that we had, and we've been in contact with them, I said, "Send me a résumé; I will be looking for that." And if we cannot do it ourselves, how

we can help you to do it through our contractor, or something like that. Because we're also open to that. We're not closed to anything; it's everything for the community, as you well put it. If they have work, it's better for everybody.

SENATOR RICE: I appreciate it.

MR. BYRD: Can I add something?

We utilize small contractors from the community. Diversity is a key with us -- Hispanics, African-Americans, caucasian contractors. There are three of our main contractors, and they've been with us for years and years and years. They've been with us-- One contractor has been with us approximately 20 years.

MS. WILLIAMS: Yes.

MR. BYRD: And we provide that kind of employment in the community. So we're definitely about making resources available for our communities.

ASSEMBLYWOMAN TUCKER: Thank you.

With that, since we've been here since 11 o'clock, we're going to take a 15-minute break. We have some sandwiches and stuff. I know everybody traveled some distance and everything, so we don't expect you to run out anywhere. There are some sandwiches and soda and water; let's have some refreshments. We will resume in about 15 minutes.

SENATOR RICE: Sounds good.

(RECESS)

AFTER RECESS:

ASSEMBLYWOMAN TUCKER: We're going to continue with our hearing.

At this time, I think we have a lot of-- Can we have your attention, please?

SENATOR RICE: Okay. We're getting ready to start. Can we have some (indiscernible) conversations now? That's one of those words we use here in the Abbott districts.

ASSEMBLYWOMAN TUCKER: At this time we would like to bring up the representatives from Local 55.

Do you have a spokesperson who is going to be speaking from the group?

SENATOR RICE: Why don't you bring up three of them at one time? Why don't you pull up another chair? You have four people.

We have -- what's that -- Allan Edmond. We have Charles Lord -- Charlie Lloyd; we have Hector Cornejo.

You write like my man Mendoza over there. Are you a doctor too?

And we have Robert Lyons.

Welcome. Just state your name for the record and then tell us about your training program -- whether you're working or not; if so, who you're working with; and some of the problems you have seen and promises and commitments you have had.

ASSEMBLYWOMAN JASEY: And speak into one of these mikes for the record.

ALLAN EDMOND: My name is Allan Edmond.

I'm not working. I finished the training program in October.

SENATOR RICE: Of this year?

MR. EDMOND: Yes, of this year -- the 29th.

I brought my folder from graduation so you could actually see some of the stuff we did and received. We did asbestos awareness -- so that's being able to identify asbestos and remove it. We did CPR in AED. We completed first aid, hazardous communications. So that's basically knowing what's on the chemical data sheet of the chemicals we're using. We did lead-based paint renovator so we can identify lead-based paint and remove it. We also completed mold awareness -- OSHA, 10 hours -- which is basically the safety regulations. We did Scaffold User, which is building the scaffold -- being aware of how it should be built and how it should be operated and maintained. And the big one that we did was the weatherization program itself, which was a State-funded program that -- for this work that everybody is talking about. And with that we learned basic carpentry, window installation, door installation, siding -- putting in siding. We learned energy conservation. We learned how to use the blower insulator to blow in insulation in walls, bat insulation -- to put that down. We learned how to put up the blower door to run tests for the appraisers. We also learned -- we learned some technical stuff that's more for the appraiser, as far as how many air changes you need in a house a day; stack affect of how the wind affects the house and the air movement in the house. So we learned a lot.

And I know that companies -- their main goal is to worry about the bottom line and how much money they're saving. So maybe they're a

little nervous about hiring a union because they're probably thinking more of putting money in their pocket. But I'm just giving you an idea of what we bring to the table. And I think you'll get your money's worth.

SENATOR RICE: Madam Chair, through you, I believe that Davis-Bacon is about prevailing wages, right?

MR. EDMOND: Yes.

SENATOR RICE: I forgot that.

Well, prevailing wages -- contrary to what people's beliefs are -- are set by unions, basically, at the national level. I don't think a lot of people know that. And so the State has a responsibility, even from the auditor -- if you read the reports, that was one of the issues that they had to address to make sure that those things were happening. And I believe that's whether you're union or not -- Davis-Bacon.

So I don't see why any organization-- What I hear from the organizations here is, they don't have a problem working with labor. My understanding with the trainees -- because they don't necessarily have to be labor. Because it's my understanding that all the members who go through the program, statewide, are not necessarily union members, but some of them are working. The unions are more concerned about people, number one, having the skill set where they can get jobs. The other stuff they worry about later because they know that we have to function, particularly in the urban communities and rural America.

And so I don't see why that should be a barrier to any of these agencies. And I have a list of them, and I'm going to take them to task on it. If, in fact, an agency tells me that we are contracting out, then I think those of us -- and the agencies who talk to their attorneys -- in the

Legislative Black Caucus, and anybody else who is not in our Caucus who is concerned about real people, and about social justice, and equality, and all that stuff, should be looking at: How do we do contracts? Because if I did a contract, which is my contract, saying that, "I'm putting this out to bid. These are the things in my RFP. I want you to use the Section 3 (indiscernible) of HUD," which they already do -- saying that a priority be given to local residents and contractors first, where feasible. And the State has to work to make sure that this *feasible* means they can actually do the work. I mean, we shouldn't have to keep passing legislation for that stuff. But if in fact we have to, then certainly, collectively, we will put something together and try to get it passed. But I think for the agencies' perspective, that said you don't hire, I think you need to get with your lawyers and take another look at your contract and your contract language, where you can have an opportunity to work immediately before we kind of force some issues. That's the concern I have.

But go ahead. I wanted to at least raise that for the record.

MR. EDMOND: Okay. That was pretty much all I had. I just brought the certificates that we received so you can actually see what we have -- what we've obtained. A lot of it is Federal. So I just wanted to bring it down so you could actually take a look at what we learned.

ASSEMBLYWOMAN JASEY: And through the Chair, how long was your training program?

MR. EDMOND: Ten weeks.

ASSEMBLYWOMAN JASEY: Ten weeks?

MR. EDMOND: Yes.

ASSEMBLYWOMAN JASEY: And where did it happen?
Where did it occur?

MR. EDMOND: Ours was in Newark, on Wilson Avenue.

UNIDENTIFIED SPEAKER: At the local union.

ASSEMBLYWOMAN JASEY: At the local union.

UNIDENTIFIED SPEAKER: Yes, Local 55.

ASSEMBLYWOMAN JASEY: Great.

SENATOR RICE: Is any of this hands-on stuff?

MR. EDMOND: Yes, we actually built a tool box and a tool shed. I don't have any pictures with me. I meant to bring some. But we actually built a tool shed: two windows, two doors. We insulated a small attic. We put the roof on it. So it was a lot of hands-on. And we built some subbasements.

ASSEMBLYWOMAN JASEY: Through the Chair, just two questions for my information. Had you ever had any interest in this before? What was your background before?

MR. EDMOND: I didn't have any interest. My background, taxes -- I've done taxes in the past. So that's pretty much my background. A truck driver.

ASSEMBLYWOMAN JASEY: And did you find, going through the training, that this is something that you liked?

MR. EDMOND: Yes.

ASSEMBLYWOMAN JASEY: I got that impression. I just wanted to confirm it.

Thank you.

MR. EDMOND: You're welcome.

ROBERT LYONS: Good afternoon.

My name is Robert Lyons. I'm 40 years old.

SENATOR RICE: Your address, Robert. Just state your address.

MR. LYONS: I live at 82 Leslie Street, in Newark. I was born in East Orange, New Jersey. I'm an Army veteran. I worked with the Newark Public Schools for seven years as a teacher's aide -- personal aide. And I was laid off in February 2010.

And I heard through a friend of mine that they were having a weatherization training program. We went to sign up at Essex County College in July 2010. I was accepted in the program out of -- I think I was selected out of 260 people -- 350 people. Eighteen of us were selected to be a part of this class -- this last class that graduated October 29. Out of 18 of us, 15 completed the course. It was a strenuous, thorough course. You couldn't be absent more than two days. If you were absent, you had to have documentation. It wasn't a fly-by-night course. Local 55, along with the Black Ministers Council, along with the Vocational School of Hudson County, partnered together to give us this training. They were very thorough in their training.

The first five weeks of the training was basic life skills: construction, math, things like that. We had to complete it. We had to pass certification tests to go to the next phase. When we went to the next phase, that was the majority of the hands-on: the carpentry, the first aid, the weatherization course. And it was stringent. You had to complete and pass every phase of the course. And out of the 18, three of us didn't make it.

Along with that, Local 55 mainly worked along with us, because they understood our plight of being unemployed. Some of us had pasts coming into the program, and they didn't look at our past. They looked at what we were working towards. And we're doing everything in our power to find employment. We want to put a name and the face to the weatherization technician. We went to Trenton on November 19. We went down to Trenton and we listened to the different agencies testify. And we just wanted to let you guys know that it's -- I know of at least, personally, 15 ready, willing, and able weatherization -- well-trained weatherization technicians who are waiting for employment. None of us are employed at this time. We're doing everything in our power to be employed.

We're helping out with political campaigns during the election. This past election we went out and did whatever we could. Anybody who was willing to help us -- help Local 55 -- and look at us as people. Because it's rough going through the holidays -- and I got to get personal about it -- going through the holiday season unemployed. And like I said, I've been living in this area all my life, and I see a lot of construction going on. And we're ready, we're willing, and we're able. But the phone is not ringing, as far as employment goes.

SENATOR RICE: Let me ask a question: Are any of you homeowners, married, have children? (affirmative responses)

The whole idea of the training-- The Legislative Black Caucus -- we have -- we do a lot of things. Unfortunately, once we pass legislation, it's up to the Administration of government to implement it. I think we can do more. And that's why these hearings become important. Because

many of the members of the New Jersey Legislature, unfortunately, have caring hearts and don't understand. And so it takes a period of time to educate some of them.

Some of them, unfortunately, could care less about any of us. And I'm personally saying that because I've been there 24 years, and I think I can identify some of them. You patronize, but that's about all you're going to get. Some of us are parochial. If it doesn't impact the lives of the people we represent -- like in wealthy communities, or something like that, versus poor communities or middle-class, etc.--

So we're trying to put the record straight in terms of educating, letting people know that it's one New Jersey. And whatever we can do to help people, regardless of where they come from-- You know, when they tell me that the shore community needs money to put up beachheads or whatever they need -- I don't know -- I take my colleagues' word for that. They tell me that in rural communities, agricultural community -- (a), (b), (c) -- they have my support. But when we tell them -- coming from our community -- that we have these needs, we recognize some of them just don't understand. They think that the things that we're doing are entitlements, and they think that's the way we view them as entitlements rather than real needs.

And so we're going to continue to push that. Because to us, it goes beyond the weatherization program. We've done a lot of discussion. All you're going to hear is green jobs. And a lot of people don't understand what green jobs actually means, because we look for something green. We think it's gardening or something like that. But the mere fact -- you hit that light switch -- it's a green job. And I say, "That's an electrical job." Yes, but

it's a green job. And so we have to educate our communities, because we know that there are some opportunities out there that we're not participating in.

To the community-based organizations that live in the areas that we represent -- and surviving because of what we do collectively to keep you in those areas -- you've got to find a way to work with these trainees; primarily because if we don't show that we're willing to give opportunities, and we're not collective in the fight and standing up for what's right for the opportunities, then to be quite frank about it, we can't expect "nonminorities and others" -- or people from other districts that don't have the same economics that our districts have -- to really raise all the sand. They may care, but not enough to be in the lead and take the hits for it. And so that's why it's important for you to be here, because we want to know what's happening with you.

Is there anyone who can tell me, presently, how many trainees we have for weatherization who came out of the program statewide?

SAVERIO SAMARELLI: One hundred and eighty-five.

SENATOR RICE: Would you come up and give your name?

MR. SAMARELLI: My name is Saverio Samarelli. One hundred and eighty-five graduated the program, statewide.

SENATOR RICE: And the program started when? Does anyone know?

MR. SAMARELLI: I don't recall an exact date.

SENATOR RICE: You know, roughly?

CHARLES LLOYD III: Charles Lloyd III.

I was a part of the first training class of the program, and we finished training in April of 2009.

SENATOR RICE: Was that the program where the graduates came out of the church?

MR. LLOYD: Yes.

SENATOR RICE: I was there?

MR. LLOYD: Yes.

SENATOR RICE: With Governor Corzine?

MR. LLOYD: Yes.

SENATOR RICE: Where you all didn't know him, but you knew me? (laughter) He was pulling your leg on stuff, right?

We haven't gotten a job yet, okay. So since that time we've actually trained, statewide, 185 people. Does anyone know how many of the 185 are actually working someplace?

KENDALL ELLINGTON: Hi, my name is Kendall Ellington. I'm actually from--

Let me answer your question first. Approximately 10 to 20 percent of the total are actually partially working.

SENATOR RICE: About 20 people.

MR. ELLINGTON: I can't say full-time, because they're partially working because the work is not there as far as people hiring them for the work.

SENATOR RICE: Right.

MR. ELLINGTON: Now, let me give you a background so you understand what perspective we're coming from. I was actually on the first home on Goldsmith that was actually weatherized in New Jersey from

GANE, which is Garden State Alliance for a New Economy, which partnered with Local 55 to create the surety of training situation.

Now, in doing so, we trained members of the city to actually be weatherization technicians. That wasn't enough. We also trained them in the aspect of becoming construction workers. That's why they had scaffold building, life skills, asbestos removal, Lead Renovator, lead removal, and all. So we trained them not only-- We never told anyone we'd promise them a job. But what we can do is promise them that we can make them more attractive, more comprehensive, more ready for a job -- make them more tangible so that contractors would want to hire them.

From the door, this is what we've done. There have been some situations where they've been hired and they stay there. But there is no work for the actual contractors. La Casa has been one of the few who have used our contractors in abundance to do their work and get it done. But then when DCA makes it a problem -- has a problem with the work going forward and everything else--

But the solution to the whole thing is, if you're going to ramp up, why not use the quality, trained workforce that we have here? We spent all this government money -- a federally accredited union hall is actually taking the facilities, time, effort to train these people, and they're still not working. It's been two years. And people come over with families-- As I said -- and I come from union organizing. I was hired by the actual union to be an organizer. So I'm on both sides of the stone here. And one of my main things is, when we went to these counties such as Camden and all over the place, one of my main subjects -- what I spoke constantly is: What is a good job? It's three things: When you're able to come home and

care for your family, take care of your medical, provide food. And a little leisure time is more than anyone wants. That's what I consider to be a good job.

Prevailing wage is just enough money to make that happen. Sure, if we get more with the Davis-Bacon, or whatever else from the situation, it's a beautiful thing. But we're only asking for the minimum. And not only that, to make it more attractive to the contractors here, within those situations, is that not only would they be hiring a union-qualified individual, their insurances would drop because of the fact that these people are OSHA-trained. You have a liaison -- OSHA liaison -- and different things where their insurance would (indiscernible).

But the main thing we're here for today is the fact that we still don't have enough work. Me sitting on that side, as far as the managerial part of Local 55 and everything else -- it's hard to see people who've come through the ranks, through the fire -- city hall in the middle of the night with GANE, at the church in (indiscernible). You were at the first graduation. Those original people still are not working. And I think that's what we're here for today -- to actually represent that. Hey, if you decide to ramp up, use some of these qualified, trained people we have spent this government money for, who are truly credited and qualified for this work. Give them the work, give them the chance. They went through 10 weeks of extensive training in weatherization, as far as all aspects of construction. And yet, still, they're still not working.

So that's my cry.

SENATOR RICE: I think we need to do a couple of things, because we need to be talking to the Senate leaderships -- Steve Sweeney --

and others over on the Assembly side. We may have to do something legislatively. But when you have leadership that comes from a trades background, it means that they know contractors who are working who should be able to help assist.

From the State perspective, we may have to compel that -- change the law to say that first priority has to be given to people who we train through our money.

MR. ELLINGTON: Correct.

SENATOR RICE: Do you understand what I'm saying? It doesn't make any sense for us to use taxpayer dollars to train you to make sure you don't go back inside, or you never think about doing something wrong to get inside; and have an opportunity to feed your families and maybe get encouraged to go from here to engineering school, which some people do.

In your program, if I remember, there was one female.

MR. ELLINGTON: Correct.

SENATOR RICE: What happened to her?

MR. ELLINGTON: She's still not working at the present time.

SENATOR RICE: All right. So from my perspective -- and I think I can speak on behalf of the Black Caucus -- we'll do all we can to continue to drive home the importance, as well as the need, to employ people who are trained -- who we train with our money. It's like the cops. Police officers, at one time-- You train them, which is special training. And all of a sudden, if you get laid off, you have to take Civil Service again. That didn't make any sense. We spent money to train them. And so we changed the law, and we just amended the law for those who got laid off.

“No, you go on a reemployment list.” If you’re going to hire cops, you hire from that list first.

It seems to me if there is going to be an employment list for weatherization contractors, we may have to say, “If you’re receiving Federal and State money, you have to look at our lists and take some of these people with your mix there. We’re not telling you not to bring you’re A-team. But to say you can’t sit aside somebody to bring in some of our folks” -- meaning trained people, regardless of what ethnic background it is who are trained through us -- “it doesn’t make any sense.” So we’re going to take a look at that.

MR. ELLINGTON: Okay. And another -- if you could take a look at -- is actually what we’re trying to do now is implement, and hold people accountable. We’ve heard these stories from the beginning from various and numerous public officials, statewide. We went to the paper, the press, and everything else, from the first home, and yet still there has been nothing done. We’ve went to council meetings, all types of -- any kind of meeting you want to go to, we’ve been to. And yet still no one is actually being held accountable for putting us to work.

SENATOR RICE: Okay. I hear you.

One quick question -- it’s my final-- One quick question, and I won’t -- because I don’t think I have any other questions -- because I don’t want to forget this. Does someone-- Can someone provide a list to us, through the Chair, of the number of trainees you have throughout the state? In other words, how many are in Essex County, how many are in Camden, Mercer? Because we need to share those numbers with our membership. And my gut feeling when you break it down is that out of 185

-- depending on what counties -- we're not going to be talking about a lot of bodies per county right away.

MR. ELLINGTON: Correct. That can be arranged.

MR. LLOYD: Charlie Lloyd again.

From my understanding -- and anyone up there is welcome to correct me if I'm wrong -- that these ARRA funds for weatherization were meant to uplift the middle class, make it stronger; and uplift people from the lower class into the middle class through these ARRA funds and these green jobs.

We've received that training -- extensive training. And the laborers have put on this training with everybody going through it not having to become a laborer -- meaning joining the union -- and the laborers still would take the obligation of finding them work within the Weatherization Assistance Program. And they have been working hard. And some agencies, such as La Casa and GreenLight Solutions, have given our contractors those opportunities. But as a whole, for the most part, folks have been holding on. They haven't been releasing the money so we can get to work. And me being graduated from this program in 2009 -- in the spring of 2009 -- it's unacceptable why I haven't worked within the Weatherization Assistance Program as of yet.

As Senator Rice said, we had a female who came through with that first class. There has been more than just that one female who has been trained to do this weatherization work -- the same 10-week training program that me and the people sitting before you have been through.

My question to you is: Where is this disconnect? Why isn't it-- Why aren't we working? These jobs that are going on -- that was

supposed to take people where the work is going on. Say the work is going on in Newark. There are supposed to be Newarkers on that job. When I personally witnessed a house being weatherized down the street from where I live -- and the guys were from Dover. And this is on the exact street where I live. And I've been trained to do this work. Why wasn't I the one on that job -- not even me personally -- but someone else from my community working that job? And I'm pretty sure that wasn't the only house in Newark they did.

ASSEMBLYWOMAN JASEY: That's the question.

MR. LLOYD: And speaking personally, not for the organization, legislation does help this. But I think enforcement is our issue.

SENATOR RICE: Enforcement.

MR. LLOYD: Legislation with no enforcement is purposeless.

SENATOR RICE: The response is just that, as I prefaced my remarks-- We write the legislation, and it's the Administration who implements and enforces. And that's where we have to go back. The statute is very clear -- the Constitution. We can't administer by legislation, even though we try -- and we'll continue to try. But we do have some authority to push some issues. Once we do the State legislation-- Usually when we do things statewide, it's more germane when it comes to working -- and working opportunities -- to State contracts and State work. The permissive legislation gives municipalities -- unless we mandate it -- and counties the ability to address the enforcement aspect of it; even to write some internal laws within those municipalities.

I've been in Newark since 1955, and I think some of you know that. I'm a former West Ward Councilman. You know my position. And you're right. It's more politics than anything else. When people say, "Well, we can't hire folks because we're getting the dollars, and the dollars -- we have to hire people anyplace they come from, depending on this." No problem. But the law doesn't say how you write your contract. There are ways to write contracts -- believe me, I know -- to write contracts where it has more meaning. If you talk about FirstSource in New Jersey, FirstSource is nothing but a big public relations thing in this city. And I don't know about other cities. And that's real, and everybody wants to tweak messages across the country about how wonderful they're doing while we don't eat. But everybody is coming to the city to work. And so at the local level we have to deal with that.

It's the same thing with the county. People look at the cities. I'm glad the Freeholder is here. Because we've been arguing, as the Legislative Black Caucus-- We've put together -- trying to put together a database of African-American businesses, small businesses, and women businesses throughout the state so we'll know where people are. Because people tell us they can't find work because they can't find this. And that's not true. But the county has a responsibility too.

And it's sad that you feel you have to go and do politics in order to get a job. That's not the way our society was built. That's not the way it was supposed to be, even though it happens. But I think the problem now -- it's happening more to benefit a select few than it is to helping those who don't have and need. And so we have to address that.

We have to find a way to enforce-- I think we have enough teeth, if the agencies do their jobs, to enforce laws.

This whole weatherization piece, to me, is starting to stink of politics. And maybe it's some personal things too that I'm not aware of. But it doesn't make any sense to me, looking at where the weatherization program was-- I mean, if I'm bad for 25 years, and it's your job to watch me, you haven't figured out I was bad yet? I have a problem with that. If you're an agency, and you tell me you want to work with the union people - - at least the trainees-- Don't even call them union people -- they're union-trained. First, they're not union, because they're not booked to do any work for anybody. So they're union-trained people. So that's like saying, "Well, you're Essex County College-trained, you're Rutgers-trained." What difference does it make who does the training? But to say, "We can't work with them because we do contractors--" Well, I think La Casa does contracting too.

Do you do contracting over there? (indiscernible)

They told me you work with them.

So apparently, maybe some of the agencies should talk with La Casa and say, "How do you do this;" and those others who are working, etc.

But I can't accept any excuse why, in this case, weatherization organizations are not looking at our trainees when we spend money. And I can't accept any excuse on the other side, with other programs, why folks don't look at the folks we're training -- whether it's nursing or something else -- that we have these programs for. And so we have laws. We have to revisit them. Because I'm not sure many of those laws require, if we spend money training, a priority. And I'm not sure how many of them say you

have to (indiscernible) your way out. In other words, where the work is taking place, a priority be given to that sector. They call it Section 3 under the HUD Federal law. And then if it means -- if it's not -- you can't find anybody in the city, then you go to your county; then you spread out.

But some kind of way we have to take a look at that and maybe write another law. But eventually we're going to have to reach the point where we're going to have to hold attorney generals and all these "folks elected" -- put everybody in jail -- accountable for overseeing their own people as to how they are treating the civil rights of people and the human rights of people, and how they're enforcing the laws that we are writing.

I mean, that's the best explanation that I can give you on that. And we're committed to it, and we do it every day. The press just doesn't print what we do, or what we say, and how we fight for the people we represent in this state for fairness and social justice.

HECTOR CORNEJO: Excuse me.

My name is Hector Cornejo, and I graduated in June. See, me, I'm an ex-convict, right? But I'm working too. I'm actually one of the chosen ones. I'm blessed. I'm working. But the thing is, even though I'm still working, it feels like I'm not working, because I probably work, if I'm lucky, two days out of the week. I work for GreenLight Solutions. My boss was getting contracts from La Casa. But since they got cut back, I guess they cut him off. So now he, like, is hard up on work. And it's crazy, because what I'm hearing is there is a lot of work to be done. So why aren't I working? Do you know what I'm saying? That's what I don't get.

SENATOR RICE: We're going to try to raise the question another way. Our function out here, as members of the Legislative Black Caucus, is to collectively go back, try to establish a record that we can discuss and necessarily debate in-house with members of the 80-member Assembly, as well as the Senate.

I know that the Speaker of the General Assembly, who is from East Orange-- Long before she became Speaker, she had a very strong interest in this area, because she understands. So we just have to bring her up-to-date as to what they may not know. I know that the Chairman of the Assembly Housing Committee -- which this is the Vice Chair -- Speaker Pro Tempore, Jerry Green, is very much concerned and committed about this. He lives in Plainfield.

I know, and like to think that, Senator Sweeney, who comes from the trade unions -- the President; and he and I -- we can disagree on a lot of things. But he hears me argue all the time, "Where are the minorities and women in these trade unions?" and things of that magnitude. He tells me he does a good job with his union, so I think he understands that there is a way to spread this. And where there is not a way to legally do it now-- We're called legislators. Unless we are prevented by the Constitution, we make laws. So if there is no law, then we need to look at making one so people can stop making excuses.

So in your situation-- How long have you been out?

MR. CORNEJO: I've been out almost a year. When I came home from State Prison, I was in a program. That program -- so people came to talk to us about the Weatherization Program, so I gave it a shot, and I did it. I was one of the chosen ones. After 10 weeks, I finished it. I

didn't have to join the union, but I joined it. I joined Local 55, and I got blessed, because they found me a job like a month later -- from June -- like the end of July -- I found a job. And ever since then I've been working. But around October -- like the end of October -- it got real slow, because they cut my boss off. So now he's like -- now I work probably like twice out of the week -- now like four days out of the month, if that.

SENATOR RICE: Under the leadership of Assemblywoman Bonnie Watson Coleman, people you see sitting here went up and down the state. And the whole issue was jobs and corrections. And what you got is what they articulated. How do we-- We make mistakes in life. How do we do reentry? How do we help those who don't make mistakes? It has to come hand-in-hand. You can't put one over the other. And that's what we're talking about here.

Now, the question is: How do we enforce that? Because there's been some indication that the present Governor -- and I hope it's not true -- is trying to look at that and roll some of those things back. We passed a law that said that we want you working. We want you to believe in yourself. Because we'll be the first to hurt you. Let me say that again. We'll be the first to hurt you, not those other folks -- because we work too hard. We're saying, if you're out here for a period of time doing the right thing, they have to expunge that record based on the expungement bill we passed. And so the question goes back to you: How do we get these things enforced? How do we make you aware of them? Then how do we get them enforced?

But I saw, Madam Chair, I think some hands over there.

ASSEMBLYWOMAN TUCKER: I saw your hand first, and then you're next.

MR. BYRD: Yes. Speaking about the Local 55 and the trainees-- The instructions that we received from the DCA is that any contractor who hired any new employees had to hire a trained employee, which employees from Local 55 would actually be a trained employee. I'm thinking here that if DCA ramps up with new agencies, these are new employees, and they should be hiring from some sort of training organization. And that's something we could look into.

SENATOR RICE: Say that again. You got that from DCA?

MR. BYRD: Yes, it's kind of complicated.

SENATOR RICE: No, it can't be that complicated. Was it in writing?

MR. BYRD: Yes, (indiscernible).

ASSEMBLYWOMAN JASEY: He's not being on the record.

SENATOR RICE: Oh, I'm sorry. You have to get on the record. Just go to -- grab one of the--

One of you let him sit there for a moment. Let him go on the mike.

MR. LLOYD: I actually want to pose -- this is piggy-backing off of what he's-- Because new hires do have to come from that certified training program. But months before that language was changed, the language was that 50 percent of all weatherization work done through ARRA funds had to come from folks who were in a certified training program. And at that time, the only certified training program was the program that Local 55 was doing.

MR. ELLINGTON: At present -- excuse me for interrupting -- but at present, DCA's (indiscernible) paperwork states that any new contractors that come on do not have to have trained personnel from an accredited--

ASSEMBLYWOMAN JASEY: You're saying DCA's new--

ASSEMBLYWOMAN TUCKER: Do you have a copy of that?

MR. ELLINGTON: I believe we can get you a copy.

ASSEMBLYWOMAN TUCKER: Okay, please.

SENATOR RICE: Can we back up just a little, because I'm hearing different things?

UNIDENTIFIED SPEAKER FROM AUDIENCE: Okay, at first--

SENATOR RICE: Hang on a moment. Let me raise this so somebody-- Maybe somebody can give me the answers. I have to find out.

I'm hearing-- If I'm hearing correctly, some place, verbally or in writing -- whether it's regulation or just a policy -- that there was a policy that said that 50 percent had to do -- this had to happen. Then I heard someone say, "Well, that language is not there anymore. It just says you come from the list."

MR. LLOYD: No, originally the language was that 50 percent of your workforce had to come from the folks who came through the certified training program.

SENATOR RICE: For weatherization.

MR. LLOYD: For weatherization. That was before -- it was just an increase. That was the language as it was stated. Then it was changed to--

SENATOR RICE: That's what I heard.

MR. LLOYD: Your name, sir?

MR. BYRD: Mr. Byrd, Arnold Byrd.

MR. LLOYD: Then it was changed to what Mr. Byrd was speaking of -- when any new hires that you hired into your weatherization company or onto your crew had to come -- 50 percent of those folks had to come from a certified training program. But even before the language was changed that enforcement wasn't there, and that 50 percent of man hours worked wasn't being--

SENATOR RICE: Hang on a moment. Let's stay with that, because this is important for the record.

So you said the language was changed to say *new hire*. Does that imply that those who were never hired from the list don't get hired? When was this language changed? It seems like the language is the same, but it seems like there's a line where something got cut off. Fifty percent is 50 percent. But now I hear the words *new hire*. What does that mean for the 2009 class?

MR. ELLINGTON: Excuse me, Mr. Rice.

SENATOR RICE: Yes.

MR. ELLINGTON: So we're not going backward and forward with this, let me give you to someone who is actually the head of the organizers, who can give you 100 percent concrete what it is.

SENATOR RICE: Yes, that's what we want. This is a public record.

MR. ELLINGTON: Mr. Saverio Samarelli?

SENATOR RICE: If you don't mind, sure. Because if there's a document -- I don't care if it's policy or regs -- we need to put our hands on it, because it may have to be turned into law.

MR. ELLINGTON: This is Mr. Saverio Samarelli, head of the union organizers.

MR. SAMARELLI: I'm the acting business agent of Local 55. Bulletin 501(a) is the bulletin that we're all speaking about now.

SENATOR RICE: It's 501?

MR. SAMARELLI: It's 501(a).

SENATOR RICE: It's a bulletin from DCA?

MR. SAMARELLI: Yes, from DCA to the CAP agencies and any contractors who would be awarded a job through the open public bids. They would have to sign -- or initial this document to state that they are in compliance with State regulations. And within the 501(a) bulletin there is a provision in there that states that any new hirees that the contractor will make would be coming out of a certified training facility.

SENATOR RICE: Okay. What's the date on this bulletin?

MR. SAMARELLI: This bulletin--

SENATOR RICE: Roughly, year wide, 2009 or 2010?

MR. SAMARELLI: It was '09.

SENATOR RICE: Basically when the program almost started?

MR. SAMARELLI: Yes.

SENATOR RICE: Okay. Now, what's the change in it? Because it appears that there was a change in it.

MR. SAMARELLI: The change went from a 50 percent to any new hires. The new 501(a) that came out is any new hires. In '09 it was

that 50 percent of the workforce had to be out of a certified training facility.

UNIDENTIFIED SPEAKER FROM AUDIENCE: This has to be taken in conjunction with the fact that you need to be a certified contractor.

MR. BYRD: I think I started all this action, right? (laughter)

SENATOR RICE: Yes, you confused me. The 50 percent is confusing me on new hires.

MR. BYRD: I think the process might need some clarity on it. I mean, it seems to be a process that sometimes the State was certifying contractors and they're employees. And if you weren't on this certified list -- and Ray, you can correct me if I'm wrong -- if you weren't on this certified list, and you showed up as doing work under the program, you were considered a new hire. And therefore they had to come -- any new hire had to come from a certified training program.

The other thing about that is that the change was -- is that now the agencies have to be the ones to certify that this is being enforced. And if it's not being enforced, they receive some kind of slap on the hand from DCA. So there is a way that Local 55 can get its trainees employed if this is enforced. Because apparently DCA is moving to create a whole new system of new contractors and new hirees. And based on the bulletin, those people are supposed to come from a certified training organization.

MR. SAMARELLI: The only agencies that were exempt from this 501(a) bulletin was self-performing agencies. So agencies that hired within and did their own work -- they were exempt from this.

SENATOR RICE: Okay. So our task is going to be -- and maybe my task -- is to get the bulletin. So my understanding is that at one time it said just 50 percent had to come from the list. But now it's saying new hires. So what it's really saying is that if you get certified, you should find a way to get your name on the list. That's basically what it's saying.

In other words, if you said 50 percent-- You can hire someone else. But if I didn't go through, say, this organization -- say 55 to get trained -- but I got certified someplace, I think I want to find a way to put my name in DCA's list. Because they're saying take 50 percent from that list.

MR. BYRD: Well, I don't think they're taking from the list anymore. They take it from the contractor's certification. They have to certify their payroll. They give a certified payroll every week. And you take a look at the certified payroll. If a new name comes up on that payroll that's not in the original contract that goes out when you do the first bid under that program, then that's a red flag.

SENATOR RICE: That's not two different things? Because I do come from some basic contract knowledge. Payroll -- and that was the issue of the audit to accountability -- it's supposed to be-- I don't see what the difficulty in payroll stuff -- and how to monitor that stuff. But my concern is, if I have trainees here, and they're on the list, then the bulletin shouldn't change. Because the bulletin has changed -- it was in the right direction -- then we need to take a look at maybe putting it into law and trying to get it passed, where it has to occur that way. Then the certification by the contractor should be, when you look at that list -- is that

they have some certified workers there. It's no different than any other labor agreements that -- when you go to the job site.

Ray.

ASSEMBLYWOMAN JASEY: You have to speak into the mike.

SENATOR RICE: You have to come to the mike. Everybody has to come to the mike if you're speaking, because they're recording us. And we need this for the record.

MR. OCASIO: Ray Ocasio, La Casa de Pedro.

Local 55 was contracted by DCA to provide training, but it's a separate arm from the union itself. I'm not sure of how the distance was created, but it was a unique contract. The list of eligible trainees is not only from the training program from Local 55. There are other training programs that are also out there generating potential workers.

The other side of this is-- We talked a little bit about certification of contractors. That is a major piece. One, when we first started, many of the agencies already were working with local contractors. And the idea of introducing prevailing wage to them was somewhat disturbing, because they were paying at a certain rate. Many of them are mom and pops. They hire their uncles and nephews, whatever. And the idea of providing prevailing wage is representative of something-- "I'm going to pay you for this job at prevailing wage, but the next job I'm going to pay you less, because that's my--" So even that bookkeeping thing was an issue for them.

What we did was, we said all our contracts are now prevailing wages, whether it's ARRA or not. So now the incentive is to get them

certified. It took a lot of hand-holding to make some of those contractors willing to go through the rigmarole, if you will, to be certified. Even when you had a certified contractor, particularly some of the newer contractors who stepped up, you had to sometimes hold their hands because this was a new environment for them to be working in. This was a new business for them. So we had to work with them. And as I said earlier, some of them didn't work out, and we had to move them.

The other thing is that construction and weatherization is -- as construction is -- it's not a job that you have 52 weeks out of the year. There are good times and there are bad times. And having a crew come from this block, this town is hard. You really have to have a contractor who is active, engaged, and chasing the (indiscernible). There has to be a flow of money, there has to be a consistent supply of work so that a worker can be engaged full-time and not have to be-- So this is not, "You're trained, you get a job, and you have a job for the full year, and the next year is just another year." This is a business that goes up and down like that. So this is a tough place to try to do that.

But it does take trained people -- people who are trained in not only the basic skills, but in the particular aspects of weatherization, in the feel of how DCA wants it done and how the agencies want it done. So there's a huge learning curve. And all that's to say that simply injecting -- opening this up to the world and saying, "Come on in and do weatherization," is not an easy ordeal. It takes time. So replacing contractors, replacing agencies, replacing workers is not a remedy for spending money in a three-year window.

MR. BYRD: I agree, but I just wanted to clear up one situation there. There's no list at DCA for trainees. The list is for, like you say, responsible contractors. And when the responsible contractors go through that certification process, they indicate their employees. They list their actual employees. That's what we work from. And that's sent down to the agencies. And as we bid out contracts, and they come back with that information, if the name appears -- if a name appears that's not on that list certified by DCA, of the contract and its existing employees, that's considered a new hire, and they are the ones who have to come from a certified training agency.

Did I say it correctly?

MR. LLOYD: Yes, that was 100 percent correct. And speaking personally, that's where the problem lies and why so many people who have been through the training program are still sitting and waiting. Because if you give a list of my workers -- I have 20 folks on here -- but I only need five to do this weatherization work, when I do need someone else, all I have to do is pull from that list I already gave you instead of going out and getting one of those certified trainees.

SENATOR RICE: I know we're going to try to wrap up, but this is probably the most important -- this second, or maybe co-equal important aspect of this hearing. We're going to have to have some more discussion as the Legislative Black Caucus, because we have a labor committee -- subcommittee too -- and maybe get our heads together with the nonprofits who are trying to cooperate with the trainees; and then talk to some of the trainees and maybe the people doing the training to find out exactly how we can refine something that's substantive, that gives some

direction; and get accountability. Maybe there should be a list of trainees. The State has a list right now on bidders. In other words, if you're not using this list of contractors -- if they don't come from this contract list, then the State wants to-- Do you see what I'm saying?

I don't see why, if you have that scenario, why can there not be a list of trainees -- we can always change things in the future -- regardless of where they get trained, who are certified. So they can say to the contractors, "You will use 50 percent or whatever number is reasonable of State-certified people." So if that means you went to Camden and got them -- because that's where you're from and you're working here-- I can't beef on that. I'd like to have them from the neighborhood, but you know you can't beef. The idea is to do what? Put people to work. Put who to work? More women and minorities. Give who business? More women and minority -- small businesses that keep being locked out of the process, etc. So we need to work on that piece, and I'm committed to getting that done.

MR. SAMARELLI: And just to clarify, Laborers Local 55 is not the lead agency on this grant that we have for training. The New Jersey Building Laborers Training and Apprenticeship Fund is the lead agency. We are a partner within this grant. Just to make sure that's clarified.

All of the trainees or the graduates are not members. I would say only maybe 10 percent at the most are members of Laborers Local 55, the others are not. In the grant, we have a responsibility-- One of our responsibilities is to help them find work. So that's one of our goals.

SENATOR RICE: Just make sure, for the record, you get it to me who it is we're talking about at the State. I mean, if we're talking to Ray Pocino, then we'll talk to Ray. If we're talking to Mullens (phonetic

spelling), we'll talk to Mullens. Tell me who I have to talk to, because we don't subordinate ourselves to anybody, and we have relations with them. And they need to be a part of helping us put together something that we know -- that, legislatively, we have a good chance of getting through -- at least getting it through our houses and get support on -- that's going to make some things happen.

Because I'm the one who's been there 24 years. And most of my colleagues in the Black Caucus are newer. And I'm the one who's been taking the labor hits, because labor tries to say I'm anti-labor. I keep saying, "I'm not anti-labor. I want to see some black folks in your union." I have to put it on the record just like that. "And I want to see some women and Latinos." And they finally came full circle to recognize that I'm not foe, I'm friend. My colleagues are not foes, we're friends. We just wanted to try to figure how to work with them to get some things done. Now we're working together, and they show us how to get it done, and they're saying people (indiscernible) beat up on labor about can't get the jobs, after we have some relationships. And so we're going to have to go back and revisit. Because they're our partners in this effort.

And then we have to be fair to the nonprofits, recognizing when government money comes in for programs -- always tell labor this -- is that if the government says, "I'm giving you \$1,000 to do build 100 houses," they have to build 100 houses. Once the number starts to not work, they have a problem. So we have to figure, "Okay. If this is this, here is how we will work with you. If this is better, we'll work this way." But some kind of way we have to come together. Because I think there's enough experience -- and I may be wrong, Assemblywomen, and Rufus, Freeholder -- there

should be enough experience -- it doesn't have to be a lot of people -- between some of us working these relationships that we can try and get it done.

La Casa should be able to tell us -- and people from his network -- it's that, "Look, there's no problem working with trainees, but here has -- this is the way it has to be done." You should be able to say, "You know what? He's right, and here's how you tweak that." So what that means is that La Casa has no fear of being a nonprofit, moving productivity this way with all these barriers, and in the meanwhile helping people with jobs -- helping the very people the program is geared to help. Labor has no problem, because they understand this is the middle row on these types of projects. And so we're going to have to try to fix that by coming together.

Jerry, we need to have that meeting, okay?

Thanks.

ASSEMBLYWOMAN TUCKER: Thank you very much.

This will conclude our hearing. We were very delighted to have all of you come out today. And we will take all your concerns in consideration. And we will be doing our best to make everything work out to the best of our ability.

Thank you.

ASSEMBLYWOMAN JASEY: Thank you.

(MEETING CONCLUDED)