

APPENDIX

TESTIMONY: THE DISPARITY IN STATE PROCUREMENT STUDY COMMISSION
NJ STATE BUILDING & CONSTRUCTION TRADES COUNCIL

February 20, 2020

MY NAME IS AJ SABATH AND I AM HERE THIS MORNING REPRESENTING WILLIAM MULLEN, PRESIDENT OF THE NJ STATE BUILDING & CONSTRUCTION TRADES COUNCIL. THE STATE BUILDING TRADES COUNCIL IS COMPRISED OF 15 INTERNATIONAL BUILDING TRADES UNIONS, 13 COUNTY COUNCILS AND SOME 150,000 UNION TRADESMEN AND WOMEN ACROSS NEW JERSEY.

I AM HERE TO LET YOU KNOW THAT OUR MEMBERSHIP IS IN ACCORD WITH THE PURPOSE AND LOFTY GOALS OF THE DISPARITY IN STATE PROCUREMENT STUDY COMMISSION: TO RECOMMEND POLICIES, PRACTICES, AND PROGRAMS TO IMPROVE ACCESS AND PROMOTE EMPLOYMENT OPPORTUNITIES FOR SMALL, DISADVANTAGED, MINORITY AND WOMEN-OWNED BUSINESSES THROUGHOUT NEW JERSEY.

NEW JERSEY HAS A NUMBER OF SMALL MINORITY, WOMEN-OWNED, AND DISADVANTAGED BUSINESS ENTERPRISE FIRMS THAT ARE HAVING PROBLEMS MAKING ENDS MEET, OFTEN BECAUSE THEY ARE PREVENTED FROM MAKING INROADS INTO CERTAIN MARKET SECTORS. IN A STATE WITH AS DIVERSE A POPULATION AS OURS, IT MAKES SENSE TO INCREASE BUSINESS OPPORTUNITIES FOR THESE FIRMS TO HELP THEM GROW AND, IN TURN, TO PROVIDE MORE AND BETTER JOBS FOR MINORITY WORKERS. MANY OF THESE FIRMS ARE LOCATED IN URBAN AREAS AND HAVE READY ACCESS TO POOLS OF WILLING MINORITY WORKERS. GOVERNMENT CONTRACTS CAN HELP SERVE THIS PURPOSE. HOWEVER, THE SITUATION IS FAR WORSE OUTSIDE THE GOODS AND SERVICE SECTOR WHERE IN OUR INDUSTRY THERE ARE FEWER SMALL MINORITY, WOMEN-OWNED, AND DISADVANTAGED BUSINESS ENTERPRISE FIRMS.

OUR COUNCIL REPRESENTS THE UNION TRADESMEN AND WOMEN WHO WORK ON CONSTRUCTION PROJECTS OF ALL KINDS. AS SUCH, OUR ORGANIZATION AND OUR MEMBERS DO NOT BID ON PUBLIC OR PRIVATE CONTRACTS. RATHER, WE PROVIDE THE MANPOWER AND JOB EXPERTISE FOR THE CONSTRUCTION FIRMS THAT DO BID ON THEM AND ULTIMATELY BRING A PROJECT TO COMPLETION.

IN THIS REGARD, OUR COUNCIL AND AFFILIATED UNIONS ARE PROUD OF THE EFFORTS WE HAVE MADE TO PROMOTE AND ADMINISTER A FEDERAL INITIATIVE THAT PROVIDES A PATHWAY FOR RETURNING MILITARY VETERANS (WITH AN EMPHASIS ON WOMEN AND MINORITIES) TO PURSUE SUCCESSFUL, GOOD PAYING CAREERS IN THE BUILDING TRADES.

SINCE 2007, OUR COUNCIL HAS ADMINISTERED THE NJ HELMETS TO HARDHATS PROGRAM, WHICH RECRUITS AND PROVIDES SKILLED TRAINING FOR VETERANS WHO WANT A SATISFYING CAREER IN THE UNION BUILDING TRADES. WORKING WITH EVERY BRANCH OF THE MILITARY, INCLUDING MARINES, ARMY, NAVY, AIR FORCE, COAST GUARD AND THE NATIONAL GUARD, THE HELMETS TO HARDHATS PROGRAM HAS REGISTERED MORE THAN 3,000 PARTICIPANTS AND PLACED MORE THAN 1,000 IN STATE-OF-THE-ART APPRENTICESHIP PROGRAMS WITH ONE OF OUR UNION TRADES.

WITH FUNDING FROM THE STATE DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT, OUR NEW JERSEY PROGRAM HAS CONSISTENTLY BEEN RECOGNIZED AS ONE OF THE MOST SUCCESSFUL IN THE NATION. IT WAS AWARDED A BRONZE MEDAL FOR EXCELLENCE IN 2013 FOR THE SPECIAL EMPHASIS IT PLACES ON TARGETING WOMEN AND MINORITY APPLICANTS.

IN ADDITION, MANY OF OUR MEMBER UNIONS HAVE INITIATED THEIR OWN COMMUNITY OUTREACH AND SPECIALIZED TRAINING PROGRAMS TO ENCOURAGE MORE WOMEN AND MINORITY PARTICIPATION. FOR EXAMPLE, THE CARPENTERS UNION HAS A PROGRAM TO ACTIVELY SEEK QUALIFIED CANDIDATES WITHIN THE HISPANIC COMMUNITY THROUGH THE PUERTO RICAN ASSOCIATION FOR HUMAN DEVELOPMENT.

THE CARPENTERS ALSO LAUNCHED A SUCCESSFUL EFFORT TO RECRUIT MORE WOMEN INTO ITS WORKFORCE THROUGH ITS "SISTERS IN THE BROTHERHOOD" INITIATIVE. THIS PROGRAM FOCUSES ON COMMUNITY-BASED WOMEN AND MINORITY ORGANIZATIONS, RE-ENTRY PROGRAMS, ONE-STOP CENTERS AND ORGANIZATIONS THAT SPECIFICALLY SERVE WOMEN. SISTERS IN THE BROTHERHOOD SUPPORTS FEMALE MEMBERS BY PROVIDING ASSISTANCE IN OBTAINING CRAFT TRAINING AND LEADERSHIP SKILLS; BY BEING ADVOCATES ON WOMEN ISSUES; AND BY MENTORING NEW MEMBERS AND EVEN POTENTIAL MEMBERS.

THIS IS JUST A SAMPLING OF THE VARIOUS PROGRAMS BEING INSTITUTED BY OUR MEMBER UNIONS TO SOLIDIFY AND BOOST THEIR RANKS WITH MINORITY, WOMEN AND VETERAN WORKERS. OUR STATE BUILDING TRADES COUNCIL IS ALSO WORKING HAND-IN-HAND WITH OUR SIGNATORY CONTRACTOR ASSOCIATIONS, SUCH AS THE ASSOCIATED CONSTRUCTION CONTRACTORS OF NJ (ACCNJ), TO ASSIST IN THEIR ONGOING EFFORTS TO PROMOTE AND EXPAND THE PRESENCE OF DIVERSE BUSINESS INTERESTS IN THE CONSTRUCTION INDUSTRY.

OUR MEMBERS PARTICIPATED IN AN ACCNJ-COMMISSIONED STUDY TO EVALUATE THE EFFECTIVENESS AND CAPABILITIES OF THE DISADVANTAGED

BUSINESS ENTERPRISE FIRMS THAT HAVE BEEN QUALIFIED TO PERFORM CONSTRUCTION CONTRACTS FOR THE NJ DOT AND NJ TRANSIT. THE RESULTS OF THE STUDY – WHICH HAVE BEEN PRESENTED TO THE STATE OFFICE OF DIVERSITY AND INCLUSION – SHOW THAT MANY OF THESE DISADVANTAGED BUSINESS ENTERPRISES CURRENTLY LACK THE CAPACITY TO EFFICIENTLY HANDLE HEAVY AND HIGHWAY, CIVIL AND UTILITY CONSTRUCTION WORK AND IN SOME CASES TRADITIONAL VERTICAL BUILDING CONSTRUCTION. AND, THOSE THAT DO HAVE THE GREATEST CAPACITY RECEIVE THE SMALLEST AMOUNT OF SPENDING AWARDED BY THE TWO AGENCIES.

LIKEWISE, OUR UNIONS HAVE PARTICIPATED IN SEVERAL DIVERSITY CONFERENCES SPONSORED BY THE ASSOCIATION WHICH HAVE BROUGHT MINORITY, WOMEN AND VETERAN-OWNED FIRMS TOGETHER TO MEET WITH CONTRACTORS, CONSTRUCTION MANAGERS AND PUBLIC AGENCIES TO DISCUSS THE MULTIPLE CERTIFICATIONS AND PREQUALIFICATIONS REQUIRED TO BE ELIGIBLE FOR GOVERNMENT WORK SET-ASIDES.

THROUGH THESE AND OTHER INITIATIVES, THE NJ STATE BUILDING & CONSTRUCTION TRADES COUNCIL HAS DEMONSTRATED ITS COMMITMENT TO REDUCING EXISTING DISPARITIES FACED BY MINORITY-OWNED BUSINESSES IN PROCURING CONSTRUCTION CONTRACTS AWARDED BY STATE AND LOCAL GOVERNING AGENCIES. THERE IS STILL MUCH TO BE DONE. OUR COUNCIL AND UNIONS STAND READY TO ASSIST THIS COMMISSION AND RELEVANT AGENCIES IN ANY WAY WE CAN.

AS I NOTED PREVIOUSLY, OUR COUNCIL AND MEMBER UNIONS DO NOT BID ON PUBLIC OR PRIVATE CONSTRUCTION CONTRACTS. HOWEVER, DAY-TO-DAY EXPERIENCE WITH OUR SIGNATORY CONTRACTORS HAS MADE US AWARE OF THE OBSTACLES THAT CONFRONT SMALL AND DIVERSE BUSINESS ENTERPRISES AND THE DIFFICULTIES IN ACHIEVING THE SMALL MINORITY, WOMEN-OWNED, AND DISADVANTAGED BUSINESS ENTERPRISE GOALS THAT HAVE BEEN SET FOR CONSTRUCTION PROJECTS. THIS COMMISSION MIGHT WANT TO CONSIDER ONE OR MORE OF THE FOLLOWING SUGGESTIONS FOR RESOLVING SOME OF THESE ISSUES, MOST OF WHICH HAVE BEEN ECHOED BY OTHER SPEAKERS:

- DEVELOP A UNIVERSAL REGISTRATION SYSTEM WHEREBY ONCE A DIVERSE BUSINESS IS REGISTERED IT WILL BE PREQUALIFIED WITH ALL STATE ENTITIES. THE EXISTING SYSTEM OF REGISTERING WITH MULTIPLE STATE ENTITIES IS EXTREMELY COMPLEX, CONFUSING, EXPENSIVE AND TIME CONSUMING.

- REDUCE THE TIME AND PAPERWORK NEEDED FOR A QUALIFIED SMALL MINORITY, WOMEN-OWNED, AND DISADVANTAGED BUSINESS ENTERPRISE FIRM TO OBTAIN STATE CERTIFICATION.
- CREATE A STATE DATABASE OR WEBSITE OF QUALIFIED MINORITY, WOMEN AND VETERAN FIRMS THAT REFLECTS ACCURATE CONSTRUCTION CLASSIFICATIONS AND IS EASILY ACCESSIBLE BY STATE AND LOCAL GOVERNING AGENCIES, GENERAL AND SUB-CONTRACTORS, AND OTHER MINORITY FIRMS.
- SCHEDULE REGULAR WORKSHOPS TO INSTRUCT SMALL, DISADVANTAGED, MINORITY AND WOMEN-OWNED BUSINESSES ON HOW TO APPLY FOR CERTIFICATIONS AND PREPARE BIDS ON PUBLIC CONTRACTS. MANY CERTIFICATIONS ARE DENIED AND BIDS ARE REJECTED BECAUSE OWNERS ARE UNSURE OF THE PROCESS.
- CREATE A PROCUREMENT MONITORING SYSTEM THAT ATTESTS TO THE VALIDITY OF OUTREACH EFFORTS TO INCLUDE MORE WOMEN, MINORITY AND VETERAN PARTICIPATION ON PUBLIC CONSTRUCTION PROJECTS. THIS SHOULD APPLY TO BOTH THE AWARDING AGENCY AND PRIME CONTRACTORS WHO ARE AWARDED BIDS.

ON BEHALF OF WILLIAM MULLEN AND THE NJ STATE BUILDING AND CONSTRUCTION TRADES COUNCIL, I WANT TO THANK MEMBERS OF THE COMMISSION FOR THE OPPORTUNITY TO APPEAR BEFORE YOU TODAY. WE APPLAUD AND WILL CONTINUE TO SUPPORT YOUR EFFORTS TO IMPROVE STATE PROCUREMENT POLICIES IN NEW JERSEY.

Alliance of NY

Asian Architects
& Engineers, Inc.



Testimony to the State Procurement Study Commission

By Mahendra Patel provided on February 19, 2020

Good Morning, all the members of the State Procurement Study Commission and Chief Diversity Officer Hester Agudosi present here today. My name is Mahendra Patel. I am an Asian Indian American and I own MP Engineers, an Engineering Firm. I am also president of Alliance of New York Asian Architects and Engineers ("The Alliance"). As an MWBE business owner, I am here to express my strong support for the the MWBE program.

Collectively, the Alliance is comprised of more than 50 Asian American owned architectural and engineering firms, which provide a full spectrum of engineering and architectural services and employ more than 1,000 individuals across the states of New York and New Jersey. MWBE program in NJ and NY States has had a substantial impact on my company. At this point, more than 50% of our work at MP Engineers, involves subcontracting services we provide for other larger firms on government (MBE) contracts. This generates over 10 Million dollars in revenue annually for my company and supports the employment of 90 people including 51 minorities and 12 women at our firm. Larger firms would be less likely to engage our firm, if they did not have to meet the MWBE goals provided by the Governors of NJ and NY.

Therefore, on behalf of the Asian architectural, engineering community, I humbly request that the Legislature and Executive focus on the importance of this program and the economic success and future of our community as it reviews and considers making changes to the program. The current MWBE program has provided us immense opportunities, and we in turn have contributed to developing a very useful workforce in the States of NJ and NY.

Thank you.

Sincerely,

Mahendra Patel, PE

President
The Alliance of New York
Asian Architects & Engineers, Inc.

65 Broadway, Suite 1002
New York, NY 10006
E. info@ANYAAE.org
P. 732.857.5501

5x

State of New Jersey

Disparity in State Procurement Study Commission

Remarks

By Sanjay Naik provided on February 20, 2020

Good Morning, Chair Agudosi and all the members of the Commission. I am Sanjay Naik, the owner of Naik Consulting Group, P.C. located in Edison NJ. Thank you for giving me the opportunity to discuss the impact of the MWBE program on state contracts. My firm is a certified Minority Owned Business Enterprise (MBE) in the state of New Jersey. We provide civil engineering, land surveying and construction management services, primarily to government sector clients like NJDOT, NJ Turnpike Authority and PANYNJ. Our Edison office currently has more than 50 employees, mostly in high paid positions and many of them live in New Jersey with their family.

It is the state SMWBE and the federal Disadvantaged Business Enterprise (DBE) programs, which gave me the confidence and encouragement to start my own consulting engineering firm 20 years ago. Our survival and all our successes to date, are entirely attributed to these programs. Even today, nearly after 20 years in business, we rely significantly on our S/MBE designation to secure contracts. Majority of our contracts are a subcontractor/subconsultant to large non-MBE firms. Most often these contracts are awarded to us due to the fact that these large firms need to meet their S/MWBE goals. Without these goals firms such as ours would struggle to compete.

As you embark on a new disparity study it is very important to get it right. I request you to examine the results of the 2005 and 2019 New York City Disparity Studies. The 2005 study incorrectly established a lack of disparity for Asian Americans in professional service categories and eliminated MBE goals for this ethnic group from New York City contracts. As a result of this policy, this ethnic group lost many opportunities to work with New York City agencies. The negative impact this policy had on Asian American firms has been documented in New York City's 2019 Disparity Study. The 2019 study showed that by eliminating the MBE goals for this group, placed them at a great disadvantage and led to a disparity.

We believe the 2005 study had two major shortcomings:

1: The professional services was too broadly defined and placed many businesses like Legal services, technology services, engineer & architect services under one category.

2: The 2005 study included contracts received by the minority and women owned businesses to meet MWBE goals in its analysis to determine the disparity. When in fact these contracts should been excluded from the analysis to determine true inequalities. Including these

bx

contracts in the would only indicate the success or failure of the MWBE program and it would not indicate if there is an inequality in the contract awards. Only contracts received directly should have been considered for a true evaluation

While you are looking to design, implement, and utilize the next MWBE program I would like to bring up one more point for your considerations. Many MWBE programs around country fail to provide opportunities for MWBE firms to work directly as a prime with the state agencies. These programs only promote subcontracting opportunities. Once again the recently completed disparity studies in NY highlights this issue very clearly. I urge you to look into creating a set-a-side or a discretionary spending program for MWBE businesses.

We look forward to working with the commission on this important issue and we welcome any opportunity to meet and continue to discuss this issue.

Thank you.

Sanjay Naik
President
Naik Consulting Group, P.C.