

APPENDIX

**Testimony Before the Disparity in State Procurement Study Commission
Associated Construction Contractors of New Jersey**

January 15, 2020

My name is Carol Fulton and I serve as the Compliance and Diversity Director for the Associated Construction Contractors of NJ (ACCNJ). The ACCNJ is an association of building contractors, construction managers, heavy highway, civil, and utility contractors in New Jersey that employ tens of thousands of skilled union craftworkers each year. The Association also includes Associate Service Providers who provide expertise in areas such as accounting, insurance and bonding, and legal expertise.

Our members have been challenged for many years to meet MWDBE goal requirements on construction projects in NJ and despite good faith effort and rigorous outreach to MWDBE firms, the problems remain. I appreciate the opportunity to speak to you today on behalf of our CEO Jack Kocsis about some of the challenges our general contractors and construction managers face in meeting aspirational goals and our Association's efforts to help cultivate and expand diverse businesses in the construction industry.

Contractor Challenges

MWDBE Goals can be accurately adjusted with a capacity study

Diversity goals are not always formulated based on the true capacity and qualifications of available MWDBE firms. We believe it's important a capacity study be conducted statewide to determine the realistic number of MWDBE firms able to perform the specialized work required for public and private construction projects in New Jersey.

Limited specialty work capability should be considered when evaluating goals

Commercial Building, Heavy Highway, Civil, Utility construction projects involve specialty construction. Although there are subcontracting and supplier opportunities on these construction projects, there is a shortage of MWDBE firms qualified to perform specialty work. General contractors make every effort to subcontract out work, but with so few companies qualified to perform specialized construction, the general contractor must self-perform. This results in the general contractor falling short of the aspirational goals set for projects. We are pleased that several public agencies are adjusting their aspirational goals based on the pool of qualified MWDBE contractors capable of performing the work on a project-by-project basis, but more needs to be done. Here is where a capacity analysis would be beneficial.

MWDBE Inaccurate commodity codes and company information

Certifying agencies must do a better job of vetting companies to certify they are able to perform a Commercially Useful Function (CUF) prior to assigning commodity codes. It has become incumbent upon general contractors to insure Commercially Useful Function (CUF) as MWDBEs are sometimes classified inaccurately as it relates to appropriate categories of work. Contractors spend valuable time and resources reaching out to MWDBE firms only to realize they do not have the expertise or capacity to perform the scope of work required for a construction project. In addition, certified firms are not required to update their information in the appropriate databases making it difficult for general contractors to achieve good faith efforts.

Standardized "One Shop" database

General contractors and certified firms would benefit from the creation of one standardized database that reflects accurate commodity codes and/or construction classifications. A standardized database should display updated company contact information, certification status, and prequalification information. We are pleased to hear this standardization process is underway.

ACCNJ Initiatives

These issues have been a long-standing frustration for ACCNJ general contractors. To better understand the challenges they face in achieving aspirational goals, ACCNJ, with industry partners, commissioned a study to look at the capacity of diverse firms qualified to perform construction contracts for NJ Department of Transportation and NJ Transit. The results of the 2017 study showed that the state is lacking MWDBE contractors capable of performing the "bricks and mortar" work needed for building, heavy and highway, civil and utility construction. In fact, the study showed New Jersey DBEs have more capacity than other regions of the country, but the greatest capacity was available in the smallest contracting spend for these two agencies. It was evident that agencies and industry need to do more to concentrate on building capacity where it's needed most. The results of the study were presented to agencies and the State Office of Diversity and Inclusion.

Following the study, ACCNJ recognized the need to increase efforts to help its members and to expand outreach to the MWDBE community. In 2017, the association hosted its first Diversity Conference bringing MWDBE and veteran-owned firms together with general contractors, construction managers and public agencies to learn more about processes for certifications, prequalification and opportunities for work in the construction industry. In October 2020, we will host this successful conference for the 4th time.

We also established a position within our Association to formalize and guide additional initiatives aimed at targeting MWDBE firms appropriate for our industry and to identify ways we can help them grow and flourish in the construction industry. We also formed an internal Compliance and Diversity Council comprised of general contractors, SMWDBEs and veteran-owned companies. The council allows for interactive discussions about practices and policies and ways to improve outreach, communication and alleviate unnecessary barriers that may exist during the RFP or procurement process.

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ACCNJ is actively working with the NJ African American and NJ Hispanic Chambers of Commerce as well as the NJ Veteran's Chamber to expand our outreach and promote opportunities to work on ACCNJ member construction projects in New Jersey.

This year, we will launch a mentoring program, pairing MWDBEs with our general contractors to provide technical expertise in areas of need to enable them to pursue larger public projects.

As you can see, Associated Construction Contractors of NJ supports the inclusion of MWDBE companies in the union construction industry. Opportunities are abundant, as are the challenges. We will continue to work with the State Office of Diversity and Inclusion to promote the first and overcome the second.