
Committee Meeting

of

JOINT COMMITTEE ON ECONOMIC JUSTICE AND EQUAL EMPLOYMENT OPPORTUNITY

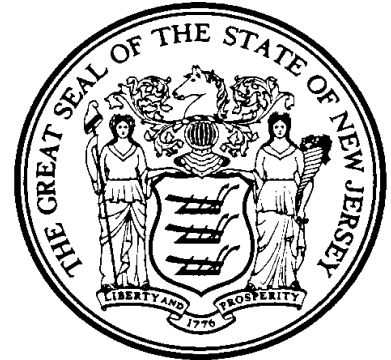
“The Committee will take testimony from invited guests concerning the findings of the New Jersey Study on Disparity in State Procurement and addressing obstacles in contracting and procurement for women, persons of color, and veterans”

LOCATION: Committee Room 4
State House Annex
Trenton, New Jersey

DATE: May 21, 2024
11:00 a.m.

MEMBERS OF COMMITTEE PRESENT:

Senator Gordon M. Johnson, Co-Chair
Assemblyman Benjie E. Wimberly, Co-Chair
Senator Shirley K. Turner
Assemblywoman Carmen Theresa Morales
Assemblywoman Verlina Reynolds-Jackson



ALSO PRESENT:

Jamie E. Galemba
Elvin Perez
Office of Legislative Services
Committee Aides

Tom Little
Senate Majority
Committee Aide

Sherwood T. Goodenough
Assembly Majority
Committee Aide

Alex Solomon
Senate Republican
Committee Aide

Meeting Recorded and Transcribed by
The Office of Legislative Services, Public Information Office,
Hearing Unit, State House Annex, PO 068, Trenton, New Jersey

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NEW JERSEY STATE LEGISLATURE

**JOINT COMMITTEE ON ECONOMIC JUSTICE AND
EQUAL EMPLOYMENT OPPORTUNITY**

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COMMITTEE NOTICE

**TO: MEMBERS OF THE JOINT COMMITTEE ON ECONOMIC JUSTICE AND EQUAL
EMPLOYMENT OPPORTUNITY**

SUBJECT: COMMITTEE MEETING - MAY 21, 2024

The public may address comments and questions to Jamie E. Galemba or Elvin Perez, Committee Aides, or make bill status and scheduling inquiries to Joanne W. Gillespie, Secretary, at (609)847-3845 or fax number (609)777-2998. Written and electronic comments, questions and testimony submitted to the committee by the public, as well as recordings and transcripts, if any, of oral testimony, are government records and will be available to the public upon request.

The Joint Committee on Economic Justice and Equal Employment Opportunity will meet on Tuesday, May 21, 2024 at 11:00 AM in Committee Room 4, First Floor, State House Annex, Trenton, New Jersey.

The committee will meet to organize. The committee will take testimony from invited guests concerning the findings of the New Jersey Study on Disparity in State Procurement and addressing obstacles in contracting and procurement for women, persons of color, and veterans.

Issued 5/14/24

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TABLE OF CONTENTS

	<u>Page</u>
Shavonda E. Sumter Assemblywoman New Jersey State Assembly 35 th District	3
Augusto “Gus” Penaranda Executive Director New Jersey Pride Chamber of Commerce	7
Colonel Jeff Cantor Founder and CEO New Jersey State Veterans Chamber of Commerce	10
Carlos Medina, Esq. President and CEO Statewide Hispanic Chamber of Commerce of New Jersey	13
Adrian E. Lee Principal and CEO Beneli Group Representing The Korean American Association of New Jersey (KAANJ)	17
James Gee Chief of Staff Stono Public Affairs	22
Ferlanda Fox Nixon, Esq. Chief of Policy and External Affairs African American Chamber of Commerce of New Jersey	29
Abby Adams Government Affairs Director Associated Construction Contractors of New Jersey (ACCNJ)	33
Michele N. Siekerka, Esq. President and CEO New Jersey Business and Industry Association (NJBIA)	38

TABLE OF CONTENTS (continued)

Gerville “Gerry” Gibbs, Jr. Founding Principal Capital Impact Group	45
Adam S. Guziejewski Senior Vice President Katz Government Affairs, LLC Representing Chamber of Commerce Southern New Jersey	53
Janna Williams Founder and CEO VET4U	56
Rob Barea Chief People and Equity Officer Apex Solutions Group	61
APPENDIX:	
Opening Remarks submitted by Assemblyman Benjie E. Wimberly	1x
Testimony, and “Attracting a Diverse Workforce in the Construction Industry” submitted by Abby Adams	3x
Testimony submitted by Michele N. Siekerka, Esq.	10x
Testimony submitted by Candice M. Alfonso, Esq. Chief Diversity Officer and Director N.J. State Office of Diversity and Inclusion	13x

TABLE OF CONTENTS (continued)
APPENDIX (continued)

Testimony submitted by Samantha Roman President and CEO Associated Builders & Contractors of New Jersey (ABCNJ)	19x
Testimony submitted by Kevin Tsay President New Jersey Taiwanese Chamber of Commerce	21x
Testimony submitted by New Jersey Diverse Business Advisory Council	22x
mej: 1-72	

SENATOR GORDON M. JOHNSON (Co-Chair): There are a lot of microphones here. I feel important. Like a press conference.

Good morning, everyone.

And, welcome to our first Joint Committee on Economic Justice and Equal Opportunity.

To my right is Assemblyman Benjie Wimberly, and -- no applause necessary.

But, our first order of business is to elect Co-Chairs for this Committee, in accordance with the SCR 98.

I'm sorry, I guess we need to take a -- make a nomination for Co-Chairs.

ASSEMBLYWOMAN REYNOLDS-JACKSON: I would highly recommend that we accept Assemblyman Benjie Wimberly as the Co-Chair for the Assembly.

SENATOR JOHNSON: Thank you.

ASSEMBLYWOMAN MORALES: Can I second that?

SENATOR JOHNSON: Yes, you may.

ASSEMBLYWOMAN MORALES: I will second that.

SENATOR JOHNSON: Thank you.

SENATOR TURNER: I am honored to nominate the esteemed Gordon Johnson to be the second Co-Chair.

SENATOR JOHNSON: County of Bergen.

SENATOR TURNER: County of Bergen -- all right, it's on the record.

SENATOR JOHNSON: OK--

ASSEMBLYMAN BENJIE E. WIMBERLY (Co-Chair): And,
I second that.

SENATOR JOHNSON: (laughter)

OK, thank you.

So, we are now going to get down to business.

The purpose of this meeting is to bring out some issues and concerns of those who, in the State of New Jersey, who feel that things could improve for minority, women-owned, veteran-owned, and small businesses throughout the state.

We'll take some-- We'll take ideas from this here. There will be no policy made from this today, of course, but we are taking notes and maybe later on in the year -- this year -- you'll see some bills trying to address what we -- what's been discussed in these meetings.

Also, recognizing that there's some trades, trade unions, who have not been able to -- or, are not able to be here today, so, there's a possibility we'll have a second meeting for those stakeholders who want to be a part of this, and want to have their voices heard. And, we'll take their input.

So, on that note, I think we'll get started.

Are we OK, Tim?

All right.

ASSEMBLYMAN WIMBERLY: Once again, thank you to our esteemed Senator from Bergen County, Gordon Johnson, for allowing me to Co-Chair again this year.

But, I think it was important for us to have this Joint surrounding a statement on the Disparity Study.

You have to excuse my voice. I deal with allergies, and it's killing me for whatever reason today.

But, I would be remiss if I didn't acknowledge the late, great Senator Ron Rice, who I have worked on this Committee with many -- for many years on this, and was way ahead of the curve when it came to disparity studies and the things of that nature.

But, there is so much that we could say about it, and, unfortunately, due to my voice being very shot, I can't read each and every statement. But we do have a series of bills that we will introduce and reference to the disparity study that impacts every minority -- LGBTQ community; women; minority businesses.

And, this is near and dear to me personally. My grandfather and uncle were the founders of the (indiscernible) Union in the City of Paterson for small Black businesses. And, I remember the work that they did with (indiscernible) from the '60s, '70s on. So, this is something that is near and dear to me and that we will work closely with every stakeholder to be involved and make sure we get every voice heard and every issue acknowledged.

But, we will start off -- our first person is my Assembly mate, Assemblywoman Shavonda Sumter, who is also the Chair of the Legislative Black Caucus.

A S S E M B L Y W O M A N S H A V O N D A E. S U M T E R:
Good morning, everyone.

I want to thank this Committee for pulling your first hearing together and, of course, selecting your Chair, and taking on the work -- that is legacy work -- to repair some of the historic harms that are now in our front view versus our rear view, with the recent report of the Disparity Study.

Last Monday in the Community Development and Women's Affairs Committee, which I chair, we heard from a number of the testifiers for MWVE businesses and construction, goods and services, and professional services.

The individuals work in New Jersey, both as prime and sub-prime contractors. They testified to the challenges faced that is worth hearing again, so I want to thank you for the invitation to all of these esteemed guests. Some of the things they testified on was onerous paperwork; forced waivers for prompt payment; call by prime for work that they don't do -- just checking a box to say they called them; business registrations and certificates that cost them money and time.

It is not a training issue to compete, but clear, concrete walls that need to be broken. Our Black-owned, minority, and women-owned businesses are not looking for a social handout, but an economic opportunity to work and deliver. These businesses employ partners, and they also spend their money in our local communities throughout our state.

It's up to us to deepen our work in this section, and it really is import upon us to improve upon the procurement process for State controls in all areas -- not just construction, but goods and services and professional services.

Then, we may lean on corporate partners in the private sector to help us do the same. This is a Legislative Black Caucus priority for this session -- also Latino Caucus priority; also an Asian Pacific Islander priority. And, I heard from the Speaker just yesterday -- also his priority; and that of the Senate President. We know that the Governor has made it a priority, and we want to thank him for completing the report and releasing the report,

because it has passed through both Democrat and Republican governors without being released for us to know the truth of the facts that were stated in that report.

As was mentioned by my Assembly mate that there will be legislation that comes out of this. But, I just want us to think about this -- something that was shared in our last hearing, which I'm sure you will hear today.

New Jersey ranks the fifth highest in gross domestic product in the country. The 25% of race-neutral policies failed for small businesses, because the report shows that less than 3% of all contracts were awarded to Blacks, Asians, and minorities -- and women -- in the state when we had available contractors.

The New Jersey SAVI registration and register list shows available vendors. I spent three hours with procurement officers from the state, so taking a deep dive. We still were not selected. So, it's not a certification issue. We raised the -- we waived the fee to register as an MWVE. We have a list in the New Jersey SAVI system of available vendors. We're *still* not selected when we apply.

It's broken. It's wrong. Remediation and intentional transformation is needed *now*. The subjugation of our MWVEs by always wanting them to train or be the sub primes is discriminatory *at best*. So, we need a discussion on procurement oversight so that we can check in to be sure that it's legitimate offers to contract and looks at the procurement process for selection of awards.

So, you have a big task before you. I want to thank you again for taking your time to be here today and for inviting all of the testifiers.

If you have any questions of me, I am available at this time.

But, thank you for allowing me to at least open up and provide some framing of what we're hearing.

ASSEMBLYMAN WIMBERLY: Thank you, Madam Chairwoman.

And, we thank you for holding hearings and having a positive impact.

Our goal, strictly, here is to go through legislation to address these issues. I think that's the key word for it, and I think we're all-- Every stakeholder in here is concerned about solutions. Like, our main goal is to make sure that the government is doing what it's its purpose to do, not just legislatively having something on paper that we do not address.

So, Senator.

SENATOR JOHNSON: I concur with that; yes.

We all know your work, the work you've done; your leadership in the Legislative Black Caucus, following in the footsteps of Senator Ron Rice.

So, we commend you for what you do. Hopefully -- (indiscernible) incentive and continue to fight, which, I'm sure you don't need that incentive, but you'll be fighting anyway.

But, thank you for coming.

Are there any questions from the dais, of the Assemblywoman?

(no response)

No?

Chairwoman; Assemblywoman.

OK, thank you-- Oh, you had one.

Senator Turner, I'm sorry.

SENATOR TURNER: I don't have a question, but I would just like to state for the record that the late, great Senator Rice worked diligently all the time he's been in this Legislature for a disparity study.

Every time we complained, they always threw up the fact we have to have a diversity study, or a disparity study. And, now we do have one, but unfortunately it's during the 11th hour of this administration.

So, I'm just hopeful that we can get some meaningful legislation drafted and get it through the Legislature and onto this Governor's desk.

Thank you.

ASSEMBLYWOMAN SUMTER: Thank you.

ASSEMBLYMAN WIMBERLY: And, Assemblywoman, that will be key, to make sure not only we draft legislation--

ASSEMBLYWOMAN SUMTER: Yes--

ASSEMBLYMAN WIMBERLY: --that legislation is passed in both houses and signed into law.

ASSEMBLYWOMAN SUMTER: Thank you.

ASSEMBLYMAN WIMBERLY: We appreciate your work.

Next, we have Gus Penaranda, New Jersey Pride Chamber of Commerce.

AUGUSTO "GUS" PENARANDA: Good morning.

My name is Gus Penaranda; I am the Executive Director of the New Jersey Pride Chamber of Commerce.

I am happy to say that I live in a state that is now the only state in the country with a law that recognizes LGBTQ-plus-owned businesses.

And, congratulations and thank you to all of you who supported that cause through the guidance, also, of Assemblyman Wimberly.

My statements are brief. I know we are looking for a legislative answer to what the Disparity Study has shown us, but there are options that could move a little bit faster to get the ball rolling for the minority, women-owned, small business-owned, veteran-owned, and LGBT-owned businesses *now* that are ready to bid on a lot of contracts.

We should consider -- since we mentioned that we're looking for ideas -- we should consider an executive order to create a commission in which all the procurement opportunities that the State offers, which are in the billions of dollars, can then be funneled through one source. And, then, through chambers and business associations and organizations across the state, disseminate that information so then people don't have to go looking for it through 16 or 15 different agencies.

Then, seeing in sample resolutions about what legislation we want -- we want to introduce -- words like "good faith," "good will," it's hard to enforce that, especially when you're dealing with the business of an entire state.

However, if by executive order this commission is created, you can then have an entity that can reinforce that. So, not only will they know everything that's available for the businesses in the State of New Jersey, especially the diverse businesses, they can then say, "Hey, so-and-so, what's going on? Why are you not meeting your good-faith numbers?" And, then, address it as legislation is being introduced and passed.

Because my concern -- and I said this at every opportunity that I get to testify -- is time. Business owners don't have the luxury of a lot of

waiting time. It costs them money. So, if we can get them a temporary solution while we are working on a permanent solution -- which is the commission, and then the legislation -- then at least we are showing the businesses -- the small minority-owned diverse businesses in the state -- that we are -- we know what the issue is.

And, I'll close with this. The reason that we know what the issue is, because my history is working for schools construction back in 2004. I dealt with the *same* issues in trying to get these hundreds of millions of dollar school contracts broken down so small businesses can participate. It was so intense, and it never left my mind that after I left schools construction they had already spent somewhere around \$40 billion and the job wasn't done.

But, you know what I remembered? Is all of the minority-owned businesses, women-owned businesses that didn't get contracts. They were given spin; they were made to certify; get financials; get accountants; and do everything. And, once they went to submit their RFPs, the contracts are gone.

So, I've lived this. I've seen it. And, I'm talking about 2004. So, 20 years later, we now have a disparity study that confirms everything that we've known. So, that's why I recommend that we get a quick solution now by executive order; get the right legislation; mend them together; and let's move New Jersey businesses forward.

Thank you.

ASSEMBLYMAN WIMBERLY: And, Gus, you'll be glad to know that's one of the bills we're working on.

MR. PENARANDA: Thank you.

SENATOR JOHNSON: Next up, we have-- Oh, any questions of the -- any questions? (no response)

OK.

Next slip is Jeff Cantor, New Jersey State Veterans Chamber of Commerce. A young man who I know rather well. A veteran.

COLONEL JEFF CANTOR: Chairman, thank you so much -- honorable Chairman, honorable members of this caucus.

I appreciate the opportunity to present today.

And, Senator Johnson, thank you so much for your service to our great nation. It's greatly appreciated.

As the Senator indicated, I am Colonel Jeff Cantor, founder and CEO of the New Jersey State Veterans Chamber of Commerce. And, we represent roughly several thousand veteran businesses here in the state and military spouse-owned businesses.

As you are aware, the Disparity Study that was published last in January indicated that the State has not done its fair share. What I will tell you is there was another disparity study that the State had conducted back in 1999 to 2004. So, the data that we have is actually 25 years old. So, for 25 years -- not just the last five of the Disparity Study -- for 25 years, there has been a disparity in the state with procurement to minority, women, and veteran businesses.

There are several issues with the way the State awards contracts to businesses, which reduces opportunities for diverse businesses, and it is clearly evident that the distribution of 70% of all contract dollars in construction -- roughly \$8 billion -- went to 35 highly used businesses in the state. These awards to a select few contractors are repeated across construction contracts, professional-service contracts, and goods-and-service contracts. So, if you ask those 35 contractors, they'll let you know that

there's nothing wrong with the procurement process in the state. If you ask the 20,000 businesses that are represented by the New Jersey Diverse Business Advisory Council -- of which many people who are sitting behind me, the diverse chambers, are members -- they will share with you that there's a significant problem with the procurement in the state. And, understanding problems is about perspective.

I know you are aware that there's a 3% disabled veteran business set-aside in the State of New Jersey. In 2021, Department of Treasury tracked the amount of spends for disabled veteran-owned businesses. The State spent roughly \$21 million with disabled veteran business that year -- that represents 0.53% spend. And, in the same year, New York State contracted -- awarded -- \$182 million; \$182 million versus \$21 million. Definitely a disparity there; a shortfall. In Fiscal Year 2022, New Jersey spent \$54 million with disabled veteran-owned businesses, amounting to 0.96% in spends. That same year New York spent \$176 million. So, obviously, there's a problem here.

Unfortunately, veteran businesses are anecdotal in this disparity study, so we weren't utilized through the statistical significant parameters that other groups were. So, what we did through the New Jersey Diverse Business Advisory Council is we came up with 15 legislative priorities that we think could significantly address the shortfalls, as well as what the goals are -- what we're trying to accomplish. So, I'm going to hand those out.

But, I just want to thank you for allowing me to come in today to offer testimony; to reiterate the fact there is disparity in awarding of contracts. There's a way forward; there's a solution; and we hope you consider us part of the solution.

I yield. Thank you, Senator.

SENATOR JOHNSON: OK, we have your handout here.

I'm told that we're also working on that legislatively -- similar to what New York State is doing -- so, we'll look into that.

Any questions?

Yes, Assemblywoman.

ASSEMBLYWOMAN REYNOLDS-JACKSON: I don't have a question, but I just wanted to thank you for your testimony.

You know -- as we know -- we've heard this study has been going on for quite some time. Every time I hear testimony, it's reaffirming that we know this was here; now we have the data.

Our veterans are still a part of that group, because we still know we have women -- African American, there's Latinos, minorities -- who are veterans, who served our country as well. And, so, I think we definitely have to do a better job at it.

And, you pointed out some really significant things about the 35 main contractors that we use. And, when you want to be intentional, I think this goes to the legislation. This goes to those set-aside programs, and we *do* have the data.

So, we look forward to working with you and others in the room, but thank you for being so affirming to what we've already known.

Thank you.

COLONEL CANTOR: Thank you very much.

SENATOR JOHNSON: Thank you, Colonel.

Next, we have Carlos Medina from the Statewide Hispanic Chamber of Commerce. Le Chamber? Le Chamber?

CARLOS MEDINA, Esq.: Yes, thank you; good morning.

SENATOR JOHNSON: OK.

Thanks for coming, sir.

MR. MEDINA: Thank you, Chair Wimberly and Chair Johnson and members of the Committee.

I am Carlos Medina; I am the CEO-President of the Statewide Hispanic Chamber of Commerce of New Jersey. We are the largest chamber by membership in New Jersey, as ranked the last seven years by *NJBIZ* magazine.

And, I wanted to give you a flavor, as I gave the other committee, of the Hispanic -- what we call the GDP, the Gross Domestic Product -- here in New Jersey. It's the fifth largest GDP -- Hispanic GDP -- in the country, and it exceeds \$100 billion annually. What's amazing about this number: It's really being done without the assistance of any work being done with the State of New Jersey; we're doing it working with a private industry.

I also own a small firm called Robinson Aerial Surveys, so I really have lived the study; I've lived when there was a program for minority and women-owned businesses. And, it all happened when GEOD, which was actually a competitor of mine, sued the State of New Jersey saying they were discriminated against because contractors doing small parts of a project, such as surveying and aerial mapping, were not giving them the opportunity to fairly compete.

Ironically, when somebody sues the State, you think they're going to hold their feet to the fire and they're going to be *persona non grata*, but GEOD thrived, and other engineering firms continued to give them work and the State continued to oversee that and allow these folks to get work, so,

I found that to be interesting and something that we've had to live through the last 20 years.

We also have seen that some agencies have attempted to bundle projects, which make it harder for small and minority businesses to compete. One was DOT under Governor Christie. They had engineering ancillary services; under that was environmental engineering; (indiscernible) survey; aerial mapping. They were all performed by women- and minority-owned businesses. The managers at DOT said they were being overwhelmed having to manage all these small businesses. They gave it to the prime, so all those contracts went away, and they went to prime contractors, which increased the amount of money that New Jersey spent, because they included their management fees. So, you had a nice program feeding a lot of folks in New Jersey and it went to give it all to one contractor; raise your fees; but make it easier for the managers down at DOT.

Another problem that I've seen when we were part of the program was often you would perform a percentage of the work -- let's say 10% -- but you weren't getting paid that equal percentage. You would often find that out if you OPRAed after the contract. So, I had several occasions where I was paid for 10% of the work, but I actually would perform 20% or 25% of the work. And, what happens is, the primes insert a management fee into the contract so, again, they keep on escalating the cost to the State of New Jersey.

What I'd like to see is more buy local -- and, that's not even has to do with disparity. I know the State chamber has tried to promote buy local. A lot of these engineering firms, just like the same 35 contractors are getting the bulk of the work, it's still 10 to 15 engineering firms that have a

presence in New Jersey, but they're not headquartered here. So, they have hundreds of employees who they're feeding in other states. By buying local, you're putting the money here in Jersey and keeping it in the economy. So, I would ask you to look at the Board of Directors of these engineering firms when they come to bid for work in New Jersey. And, if their Board does not reflect the State of New Jersey, I would ask you to stop giving them the red carpet and letting them win work when New Jersey firms are being deprived of the opportunity to work in their home state.

Another issue is prompt payment. There is a prompt payment law on the books; however, it is burdensome. It would require me to possibly reach out to a project manager at DOT and say, "Hey, you owe me money. I'm going to add a 2% penalty to my invoice." That's impractical; I'm never going to do that. It's bad business development. So, right now, it's a broken system. There is a law, but nobody is enforcing it. Even the agencies themselves don't enforce it, and if they do, it's a crazy math that comes with an extra \$8 in your check or something like that.

I would like to see a mobilization fee. Private industry has adapted. When they're dealing with smaller contractors, they often will give you 10% of the contract value on day one of the contract to enable you to mobilize your employees, any equipment, and needs of that sort. So, I would like to see state contractors -- state contracts, rather -- have a mobilization fee for small and diverse businesses.

I would also ask that when we start our reporting process, that we only report dollars that are actually given to subcontractors. MTA is famous and they have some very good numbers, but often they award a \$1 million contract, never give that engineer or contractor a task, but they still

report that as a win. They report it as the total amount of dollars being contracted with diverse firms. That is not accurate, and I hope it doesn't happen here. We want to have accurate reporting.

And, that's all I have to say. Any questions, I am here to address them.

Thank you very much.

SENATOR JOHNSON: Any questions from the dais? (no response)

Sir, I guess you're free to go.

MR. MEDINA: Thank you.

SENATOR JOHNSON: Thank you for your information-- Oh, the Co-Chair has a question.

ASSEMBLYMAN WIMBERLY: Yes, Mr. Medina, can you actually elaborate a little bit more on how you are included in contracts (indiscernible), but not included?

MR. MEDINA: I'm sorry?

ASSEMBLYMAN WIMBERLY: How are you part-- You said you're a part of contracts, but not included?

MR. MEDINA: I'm not under-- I'm not hearing, I'm sorry.

ASSEMBLYMAN WIMBERLY: As far as the contracts are concerned, can you elaborate a little bit more on not being inclusive as far as being included in them?

MR. MEDINA: No, we haven't been. We haven't been.

SENATOR JOHNSON: I think you said, like, the DOT will bundle a project, bundle it--

MR. MEDINA: DOT--

SENATOR JOHNSON: --and, therefore, the small contractor--

MR. MEDINA: DOT, under Governor Christie, they had a contract, it was one from environmental sciences; there was one for survey and aerial mapping. They were all diverse firms. They bundled them and put them into general engineering, so then general engineering was doing it.

They did reach out to some of us, but it was a much smaller task. They kept the bulk of the work, because a lot of the work they're able to perform in house. And, without a mandate, they maybe gave 1% or 2% to some of these diverse firms, rather than they were doing 100% of the work.

SENATOR JOHNSON: Something like that.

Thank you.

MR. MEDINA: Thank you very much.

SENATOR JOHNSON: Any questions? (no response)

OK, thank you, sir.

Adrian Lee, from the Korean American Association of New Jersey.

And, David Hong -- is David Hong here, also? Is he coming up, or--

A D R I A N E . L E E: Yes, he's here.

SENATOR JOHNSON: He's supporting you.

MR. LEE: He's supporting us, yes.

SENATOR JOHNSON: He's supporting you from the back, OK.

Adrian Lee is also with the Beneli Group. Is that an architecture firm?

MR. LEE: Yes.

SENATOR JOHNSON: OK, architecture firm.

All right, so, Mr. Lee, the microphone is yours.

MR. LEE: Thank you.

Good morning esteemed Chairman, Senator Gordon Johnson, and members of the Committee.

Thank you for the opportunity to speak before you today.

My name is Adrian Lee, President of the Korean American Association of New Jersey. I am here as a representative to the Korean American community, and as a community leader dedicated to addressing these disparities highlighted in the New Jersey Study on State Procurement.

New Jersey has identified systemic issues and barriers that hinder equitable access to state contracts for minority-owned businesses. And, as a community leader and business owner, I have witnessed firsthand the challenges faced by Korean American business owners, reflecting the broader issues affecting other minority groups.

The study found that businesses owned by women, persons of color, and veterans were significantly un-represented in state procurement contracts. This un-representation historically contrasts with New Jersey's demographic composition where minority groups constitute a substantial portion of the population and business community. These are some of the barriers hindering full participation of minority-owned businesses:

Number 1: Lack of access to information. Many businesses are unaware of available procurement opportunities, or find it challenging to navigate the complex application process.

Number 2: Financial constraints. Limited access to capital and financial resources hampers the ability of minority-owned businesses to compete for state contracts.

Number 3: Bureaucratic hurdles. The certification and application processes are often cumbersome and time consuming, deterring many businesses from applying. Additionally, the study highlighted needs to consist of both explicit and implicit discrimination that adversely affects minority-owned businesses. This includes biases in the evaluation and selection processes, as well as lack of targeted support and outreach.

These are some of the recommendations to address these disparities:

Number 1: Enhanced outreach and education implemented-- Implement targeted outreach programs, specifically aimed at minority communities to raise awareness about procurement opportunities. Provide workshops and training sessions to help business owners understand and navigate the procurement process effectively.

Number 2: Streamline certification processes. Simplify the certification process for minority-owned businesses that reduce bureaucratic barriers. Establish a centralized certification system recognized across multiple state agencies to avoid redundancy and streamline processes.

Number 3: Financial support and resources. Increase access to grants, loans, and other financial resources tailored to the needs of minority-owned businesses. Partner with financial institutions to create favorable financing options that can help minority businesses grow and compete.

Number 4: Anti-discrimination measures. Enforce strict anti-discrimination policies throughout the procurement process to ensure fairness and equity.

Number 5: Community involvement and resource allocation. Allocate funding -- and, this is an interesting one -- to nonprofit organizations from diverse communities to hire staff and share information widely, thereby providing more opportunities for minority-owned businesses.

And, Number 6: Monitoring and accountability. Establish a dedicated oversight body to monitor the participation of minority-owned businesses in the state procurement; set clearer targets and metrics to measure progress and hold agencies accountable for meeting inclusion goals.

In conclusion, the findings of the New Jersey study on disparity in the state procurement underscore the urgent need for action to address the systemic barriers faced by minority-owned businesses. It is crucial to provide all relevant documents and announcements in multiple languages, including Korean, to ensure effective communication and support. By implementing these recommendations, we can create a more equitable and inclusive procurement system that provides fairer opportunities for all business owners, regardless of gender, race, or veteran status.

As a leader within the Korean American community, I am ensured that these measures are enacted and that we move forward a more just and inclusive procurement process in New Jersey.

Thank you for your time and consideration. I look forward to collaborating with you to make meaningful progress on these critical issues.

Thank you.

ASSEMBLYMAN WIMBERLY: Thank you very much.

And, one thing -- that oversight is part of the bill package that we're working on. I've been informed that we'll stay on top of that and that's something we'll work on obviously as a partnership with you guys for any more insight that we need.

MR. LEE: Thank you so much.

We are here to support.

SENATOR JOHNSON: Any questions?

We have one -- we have one question.

ASSEMBLYWOMAN MORALES: Not a question.

Thank you so much.

SENATOR JOHNSON: A statement.

ASSEMBLYWOMAN MORALES: Thank you so much, Mr. Lee, for all of those targeted, I guess, responses.

If there's any way we could get a list -- I tried to write them all down -- so, if we can get that, all your recommendations.

MR. LEE: Sure.

SENATOR JOHNSON: OK, did you--

MR. LEE: I will send it by email.

SENATOR JOHNSON: Did you present that -- we don't have that, right, that list you described?

MR. LEE: No.

SENATOR JOHNSON: OK, get it to us -- well, get it to me, I'll get it to--

MR. LEE: We'll send it by email.

Thank you so much.

SENATOR JOHNSON: Get it to me, and we'll get it to the members here.

ASSEMBLYWOMAN MORALES: Thank you so much.

ASSEMBLYMAN WIMBERLY: James Gee, Stono Public Affairs.

J A M E S G E E: Thank you; thank you, Mr. Chairman.

I am normally behind you all, I've never been--

SENATOR JOHNSON: This is not new to you.

MR. GEE: It's so great to be here; thank you, Mr. Chairman--

SENATOR JOHNSON: Good to have you back.

MR. GEE: --for having me.

I, as a former staffer here, am so honored that you all are taking the time to take on this issue. Your task here today is linked to history. It is the latest chapter in a long fight for equality.

Let us be clear that the origins harken back to an attempt to provide some level of compensatory justice for victims of slavery, Jim Crow, and institutional racism. And, today's book ban environment not only challenges the notions of fairness, it challenges the historical record, making it difficult for some to acknowledge the horrors of slavery, Jim Crow, segregation, or the notion that there is some lingering effect of both.

I want to remind everybody that the disparity study discussion and the fight that we're having is one that is linked to our history and, more explicitly, to our politics. I think that in 1977, Richmond, Virginia, elected its first Black mayor. It's no -- there's no -- there's a linkage between the fact that the first Black mayor of Richmond happened in '77, and, just six years

later, *Richmond v. Croson*, the case that says that you have to demonstrate that there is disparity in order for you to justify having programs.

Atlanta, Georgia -- one of the greatest hallmarks of African American middle-class success -- there's a relationship between that and the election of Black mayors, one in particular, Mayor Maynard Jackson, who said, "We're going to build the greatest airport in the history of the world, but we won't do it unless there's 43% African American participation." And, after holding that project up for over a month, some people decided that it makes more sense for us to get this money that this airport suggests and let Maynard have his way. And he did, and he built that airport.

And, there's a relationship between the fact that that airport was built with 43% African American participation, and the fact that, 50 years later, Atlanta still harkens as one of the greatest examples of Black political and business success in the nation.

I came here today not with the specifics of some of my colleagues in business -- I've only been in business for four years. I came here to remind us that you are linked to a tradition, a tradition that harkens back all the way to a guy named A. Philip Randolph, who said, "If you're going to have a defense industry that's propelled by the war, then we ought to have Black people who participate in that defense industry." And, it was that issue that caused A. Philip Randolph to call for a march on Washington -- not in 1963, but in 1941. And, President Roosevelt, in response to that call, said to A. Philip Randolph, "Don't do this march. We will make sure that there is no discrimination." And, so, an executive order was put in place that said you couldn't discriminate in defense contracting.

This is a tradition that people want you to forget about; this is not something new. At every stage, elected officials like those that I am facing had to fight for the right of people to work. And, there's a relationship between the wealth gap in America; the health disparities in America; the unemployment in America; the Black housing issues in America; and the fact that we forgot to fight for our ability to be equal partners in business.

What angers me the most is that some of our friends on the other side of the aisle or from other communities fight with us about this issue. But, we know -- looking at Detroit, and Atlanta, and Washington, D.C. -- that where Black businesses flourish, the communities look different. Where there is diversity in both business and economy, the world looks better.

There's a point in time where 70% of the dry cleaners in the state were Korean-owned. I don't know if that stat still is true, but people fought us-- When I was in the Governor's administration, we said that the regs for dry cleaning should also be in Korean, even though 70% of the dry cleaners were Korean.

I think that what's most important here is to know that there are people who are watching. And, what angered me the most about the disparity study is *not* the findings; we knew the findings. We had to do the findings because they said in order for us to have a program, we have to have the findings. We knew what the findings would say. What angered me is that the findings came out and said that *no one* -- that five, or two, or three people have benefited over the course of five years, and there hasn't been an emergency call by the Governor's office or a senator's office or somebody that said, "Let's get this right."

You all have taken up this mantle and we are grateful, and you are doing the work to make -- ensure that we not only have a diverse state, but that we fight and push back against those people who do not want a diverse, multi-cultural, multi-racial democracy. The work you're doing here today is linked to the people who want to ban books; it's linked to the people who don't want to tell history, because if you told history, you would have to right what is wrong.

Thank you so much.

SENATOR JOHNSON: Thank you.

Any questions?

There's a question, James.

MR. GEE: I'm sorry. I'm a staffer in this room most of the time.

ASSEMBLYWOMAN REYNOLDS-JACKSON: And, you can't get away that fast.

Because, I think you raise a valid point. You come from a wealth of experience, not just here at the State level, but also at the Federal level. And, you have a vast knowledge of all across the country, how different types of procurement happens.

Do you have any kind of recommendations in terms of appropriations, and what that should look like for us moving forward?

MR. GEE: Absolutely.

So, I just think that we have to be as creative as possible. I went to a little small school on the west side of Atlanta, and so much-- At the tail end of Maynard Jackson's stay as mayor, I had the opportunity of meeting Maynard Jackson. And, what I learned is that when Maynard was at Moorehouse, his roommate was a guy named H. J. Russell. And, when

Maynard was mayor, H. J. Russell was a painter, and started to do concrete. And, during the building of the airport, somehow H. J. Russell got a small contract to work with the people who were doing the concrete around the airport.

And, if you go to Atlanta today, there are five or six skyscrapers that were built by H. J. Russell. No one would ever consider-- When I heard that H. J. Russell used to paint, was a painter and did driveways, I was shocked. Because H. J. Russell is thought of as we like to think of Turner is here in New Jersey. He's a huge construction company. And, I believe Mr. Russell has gone on to glory, but his son and daughter run the company.

I think that that story tells you that nothing is too small. That we've got to be creative and try to get people in the door, because when people get in the door it has an impact on their future. And, there are several examples of that on the skyline in Atlanta. And, so, I would suggest that, not just in the way we budget-- Bonnie Watson Coleman, my former boss, always said that a budget indicates your values. That we ought to make sure that we budget in a way that ensures that it shows our values.

It's so important for the people who are on this panel to be involved in the process, because you know the things that have to get done and who can do it. It is crazy to me the number of Wall Street firms that we have that are owned by Black people. I know that Gerry Gibbs is going to speak later. But, there are a number of investment banking firms on Wall Street. Yet, when we look at the list of the Disparity Study, none of them invested money of the pension fund, or none of them invested money of these universities.

And, based on our history -- the reason why I referenced A. Philip Randolph -- is that nothing in our history happens without people calling for it to happen. No one just sort of does right because it's right. Someone has to say, "Unless you do this, you cheap out my people. And, we will make noise until you do what's right." And, I think that everybody pays taxes, and everybody should participate.

ASSEMBLYWOMAN REYNOLDS-JACKSON: Thank you so much.

I think you bring up some valid points. We always talk about, I think Gus mentioned it earlier, being the sub to the sub to the sub. When we are primed; we are ready; we are capable; we have the skills, the technology, and the wealth to be able to get into financing, to do those investments.

And, so, I think as we come up with these bill packages, they must be intentional. They *have* to be deliberate to say, "These are folks; these are the categories; we have done our deep dive; we've done our homework; and we know where we are lacking at." And, it's just not in those entry-level positions. We don't need anymore -- we can continue to build, but we have people in organizations who are primed, they are ready to lead and help support New Jersey.

So, I want to thank you for all your historical knowledge and setting the (indiscernible) for us today.

MR. GEE: Thank you.

ASSEMBLYMAN WIMBERLY: Mr. James, you sound very political today, you don't sound like a staffer.

MR. GEE: (laughter)

ASSEMBLYMAN WIMBERLY: I'm very (indiscernible) position somewhere.

But, what can we do to get more (indiscernible) involved? What are your suggestions here in New Jersey in particular?

MR. GEE: Well, I think that there are firms who are around. I think that, as a business person -- I can't believe I'm saying that -- for four years, you are so preoccupied with the survival of your firm. You don't really have the time to try to find or try to convince someone to do what's right. And, I think that engaging minority businesses -- whether they be Black businesses, women-owned businesses, Korean businesses -- I think we have to engage them all the time, and try to make sure that our engagement is sensitive to the fact that you're busy doing what you're doing, trying to survive, and try to make sure that we incorporate them in the process.

One thing I want to say, too, is that in all my research preparing for today, I found that the Number 1 benefit of the affirmative action programs that have happened over the course of time, since the '60s, have been white women. Yet, when we fight and scream and holler about something getting done, I never see now -- and other organizations standing -- white-owned women organizations standing with us. When people think of affirmative action, they think of the NAACP and the Urban League, and they're great. But we've got to diversify the voices of the people who benefit from these programs.

ASSEMBLYMAN WIMBERLY: Thank you.

Any more questions? (no response)

Thank you.

MR. GEE: Thank you so much.

ASSEMBLYMAN WIMBERLY: Next we have Ferlanda Fox Nixon, African American Chamber of Commerce of New Jersey.

FERLANDA FOX NIXON, Esq.: I think we're close to afternoon, so I'll say good afternoon to the Committee leaders and members.

And, I thank you for this opportunity to testify on behalf of the African American Chamber of Commerce of New Jersey.

I am Ferlanda Fox Nixon; I am the Chief of Policy and External Affairs. And, I am here on behalf of our Founder, President, and CEO John Harmon.

What I would like to do is just tell -- talk about -- what our chamber has been doing since the issuance of the disparity study; recognizing the urgency of now with respect to the active and passive discrimination that's been documented in the study. Mr. Harmon formed a Disparity Study Taskforce immediately after its issuance. And, so, what I'd like to do is share what the Taskforce has been doing and recommending.

So, we first started by sharing the information that's in the study throughout the State of New Jersey -- so North, Central, and South Jersey -- in person and virtually. And, then, the task force has been meeting pretty much every other week to come up with recommendations, both legislatively and also the Executive Branch.

So, starting with the Executive Branch, we've drafted a proposed executive order for the Governor to consider and hopefully sign and issue, related to the set-aside act, the Small Business Set Aside Act, and some other issues that we think require immediate attention.

So, with respect to the set-aside for small businesses, we -- in the executive order -- are recommending that the 25% set-aside be increased to

45%. So, that percentage was last increased about more than 10 years ago. So, initially, it was 15%, and then it was increased to 25%, so our recommendation is that it further increase to 45%.

We also are asking that the State contracting agencies make a good-faith effort to award annually no less than 45% of their contracts for construction, professional services, and goods and services to certified minority businesses that would target -- which are the categories targeted in the disparity study. So, that's separate, in part, from the small business set-aside.

We also have recommended some aspirational goals for the groups that were studied. And, so, the disparity study said, with respect to race-based goals, they should be aligned with the population of the state. So, our recommendation as to aspirational goals would be no less than 10% to certified Asian American-owned businesses; no less than 15% to certified Black American-owned businesses; no less than 20% to certified Hispanic American-owned businesses; and no less than 1% to certified American Indian-owned and Alaskan Native-owned businesses. We also are recommending the creation and design of utilization plans by primary contractors, and the enforcement of those utilization plans. If you say you're going to use the sub, you use the sub, and have that monitored. And, then, also, most importantly, that there be some liquidated damages to the extent that it's deemed that you did not comply with your utilization plan.

We also are recommending restrictions on the use of non-New Jersey-based businesses; limit that to 10% of businesses not based in New Jersey. And, then, also, requiring that the State contracting agencies use their

best efforts to award contracts to New Jersey-based businesses before they seek to go outside the state.

So, those are the highlights of the executive order that we've proposed and submitted to the Governor for his consideration.

And, then, some other recommendations that we're making -- many of which have been shared already by those who have testified before me -- but we'd like to make sure that the New Jersey-approved contractor list, that that be re-opened, and that it be publicized that it's open for small business owners to be considered for eligibility to be listed on those preferred contractor lists.

It's been mentioned about education and capacity building; we agree with that. We also think it's very important to collect data with respect to the awarding of contracts; making the data collection transparent; monitoring that; and then providing an intervention with a regular cadence than annually. Ideally, we would like for there to be a check-in monthly, but certainly no more than quarterly, as to whether there's improvement with respect to contracting to minority and women-owned businesses.

And, then, also, it's been mentioned about the prompt-pay legislation. We also recognize that there needs to be a fix there so that the subs can get paid and are not feeling as though they're being coerced into signing a waiver with respect to that legislation.

We also would like, in the bidding process, for there to be some creativity as far as perhaps doing a 5% incentive or bid preference for minority- and women-owned businesses. And, then, also, perhaps sheltered bidding process, where the bidding is presented to minority- and women-

owned businesses so that they're bidding against each other and not competing against larger contractors.

So, that's about it for the recommendations that we have.

SENATOR JOHNSON: Any questions from the dais?

We have--

ASSEMBLYWOMAN REYNOLDS-JACKSON: I just have a statement.

SENATOR JOHNSON: Yes.

ASSEMBLYWOMAN REYNOLDS-JACKSON: Thank you so much.

Part of your statement, you talked about reporting now. I was having a conversation with the Assemblywoman earlier this morning, and we were talking about, how do you know when you've improved?

And, I think this reporting that you're asking for does just that. How do you know where you are? How do you know what it looks like to say we're doing better? Good, best type of thing. And, so, I think that's also something that we should be looking at as we come up with some legislation as well.

So, I want to thank you for everything.

MS. FOX NIXON: And, that actually reminded me of something else that we've been talking about with respect to disparity studies.

It's been recommended that we do them with a degree of regularity. Many of them are saying every five years -- we actually think they need to be done more frequently than that, because by the time it's published it's already significantly stale. So, we're recommending that the cadence be

every three years to make sure that we can provide remedies sooner rather than later.

ASSEMBLYWOMAN REYNOLDS-JACKSON: Thank you.

SENATOR JOHNSON: Thank you.

We have no questions or further comments? (no response)

Thank you for your testimony; thank you for your interest.

Next, we have Abby Adams, Government Affairs Director, Associated Construction and Contractors of New Jersey.

Welcome.

ABBY ADAMS: Thank you.

Good afternoon, Chair Johnson, Chair Wimberly, and members of the Joint Committee on Economic Justice and Equal Employment Opportunity.

My name is Abby Adams; I am the Government Affairs Director for the Associated Construction Contractors of New Jersey, or ACCNJ.

Thank you for the opportunity to testify before you today.

ACCNJ represents general building contractors, construction managers, and heavy highway site development and utility contractors in New Jersey who employ tens of thousands of skilled union craftworkers each year. ACCNJ truly has a hand-in-glove working relationship with our union trade partners, who have come up often since the publishing of the disparity study.

For years, the trades have worked hard to make sure that this could not-- Oh, I'm sorry-- Who have come up often as an obscurer of diversity in New Jersey since the publication of the disparity study. For years,

the trades have worked hard to make sure that this cannot be further from the truth.

While many companies talk about diversity, the trades have developed and participated in programs to help build and strengthen diversity. These programs provide access to resources through membership, guidance, networking opportunities, skills development, and much more. Rather than recite all of the programs today, I have left you a copy of *New Jersey Constructors* most recent featured article on the extraordinary efforts our trades -- our trade partners have made over the years to create diversity within the workforce.

But, as a result of the disparity study being published, we have heard a lot about capacity in the last couple of months, and I want to touch on that a little bit. In 2017, ACCNJ, along with other members of the New Jersey Construction Alliance, commissioned the EuQuant study. EuQuant conducted a capacity analysis of certified DBEs -- Disadvantaged Business Enterprises -- in New Jersey, certified by NJDOT and NJ Transit. Capacity estimates remained for 1,046 certified DBEs that operated in six construction-service industries and six professional-service industries.

Capacity -- which is the volume of work a firm can perform efficiently during a given period -- was analyzed by looking at the firm's past contracts and other business fundamentals like revenue, employment size, years in operation, bonding capacity, and others. The EuQuant study found that DBEs had the most extensive bonding -- extensive capacity in sectors where the smallest amount of contracting occurred. In contrast, DBEs had the lowest capacity in the two areas where the most amount of contracting occurred -- heavy highway construction and bridge construction.

The uncomfortable truth is that the capacity of DBEs is not as strong as it could and should be in New Jersey, and this is at no fault of the DBEs. If New Jersey's existing set-aside programs were truly set up for business development and success, we would see -- we would *not* see -- the results that were found in the EuQuant study. More DBEs capable of performing larger jobs would exist, and those larger DBEs would sub-contract to other DBEs, creating a pattern of growth and a pipeline for future projects.

Because of the rigid rules of New Jersey's set-aside programs, established prime contractors are legally prohibited from assisting certified DBEs in their growth. In 2021, ACCNJ prepared a position paper in consultation with prime contractors, both disadvantaged and non-disadvantaged. Firms participated in meetings and interviews to provide their thoughts on ways that set-aside programs could be improved.

A company's development will always hinge on its ability to create meaningful business relationships. Unfortunately, existing set-aside programs do little to promote relationship growth because of a web of complex and outdated rules that leave contractors more focused on checking a compliance box rather than building relationships.

In this position paper -- which I have left for you today -- ACCNJ identifies areas where increased flexibility can promote business development by enhancing the working relationship. The paper identifies 14 changes that could create a compliance environment that allow prime contractors and DEBs to operate more like a traditional prime subcontractor relationship.

I am just going to give you one quick example. If a certified MBE -- Minority Business Enterprise -- is working on a project with a prime contractor and one of their pieces of equipment breaks down, the prime

contractor is not allowed to assist that MBE with replacing that equipment. Even if the prime contractor has a yard full of additional equipment, that sharing is not allowed. However, when a non-certified, non-MBE contractor has the same situation, they would be able to accept the assistance with no penalty. How does this even make sense?

Since the paper's completion, we've met with key State and Federal government officials to personally present the paper and discuss potential changes to help disadvantaged firms grow their business. I've left -- oh, I've already told you -- I've left a copy on each of your desks for your review.

Our efforts continue today to help disadvantaged firms grow, as well as build and help a diverse workforce succeed in the construction trades. We're not here to just point out the problem, but our position paper truly does offer some solutions.

I appreciate your time here today, and I am happy to take any questions.

SENATOR JOHNSON: Any questions.

Senator.

SENATOR TURNER: Yes, thank you.

I have a concern, and it existed for a number of years. We have passed legislation that was signed into law which says, "New Jersey first." Are you familiar with that legislation? The State of New Jersey will not hire -- unless there is some extenuating circumstances -- someone who lives outside of New Jersey to be an employee of this state.

Why can that not be applied to the business community? I know, in terms of the trades, I've seen firsthand that you go outside of the

state to bring employees here in New Jersey to build our facilities. Is there a reason why you cannot find the employees that you need right here in New Jersey to build the facilities that are being paid for by our taxpayer dollars?

MS. ADAMS: Sorry, so just to understand the question clearly, you're saying why, with this New Jersey First legislation -- which, I'll be honest, I'm not completely aware of at this time, but I'm going to be happy to look into it after this today -- so why we can't have more diverse workforce from the State of New Jersey participate in the building of things in New Jersey? Is that what you're saying?

SENATOR TURNER: Right.

MS. ADAMS: I think that there's been a lot of changes in the last decade or so, if not even longer.

And, like I said, I did leave you that sheet with all of the information about the efforts that the trades make to have a more diverse workforce.

I will say that the trades are more diverse now than they've ever been before, and continue to be growing, so, I think that there's definitely steps in the right direction.

SENATOR TURNER: If it's more diverse now than ever before, are these people minorities who live in New Jersey?

MS. ADAMS: Yes.

And, also, just in terms of the disparity study, I mean the efforts that the trades have made are outstanding, but the disparity that we're seeing is with the companies and the contractors -- at least in our point of view as a contractors' association.

So, the issue here is with the percentage of contractors who are getting the work, not the percentage of skilled craft workers who are getting the work, as they are already involved in the job. Does that make sense?

SENATOR TURNER: OK, thank you.

SENATOR JOHNSON: No further questions here? (no response)

OK, thank you.

MS. ADAMS: Thank you so much.

SENATOR JOHNSON: Thank you for your testimony.

Next we have Michele -- Michele--

MICHELE N. SIEKERKA, Esq.: Siekerka?

SENATOR JOHNSON: Yes, that was -- I was about to say that.
NJBIA.

MS. SIEKERKA: I thought you had that down to a science by now. (laughter)

SENATOR JOHNSON: I should have it down.

MS. SIEKERKA: No worries.

Good morning.

SENATOR JOHNSON: Thank you for coming.

MS. SIEKERKA: Thank you so much.

Co-Chairs and members of the Joint Committee, thank you for the opportunity and the invitation to present this morning on the findings of the diversity study.

NJBIA represents, give or take, 7,000 businesses across the State of New Jersey -- the overwhelming majority of which are defined as small business. And, as we know, small business is the fabric of our New Jersey

business community. And, I would suggest that the state procurement should reflect the diverse makeup of the business community *always* -- like each and every day.

When I use the term today as “diverse minority business,” I am talking about the plethora of organizations that are speaking today, and I’m talking about everyone who is referenced in the diversity study, so that I don’t have to keep repeating each and every aspect of that.

And, you have a copy of our testimony, each of you.

So, NJBIA is proud to be part of the New Jersey Diverse Business Advisory Council. And, we know that lifting diverse businesses lifts all businesses and catalyzes our economy. As a state, there’s much we can do to help our small businesses build capacity. We’ve heard a lot about capacity building today; that is at the heart of much of this. But, then, in turn -- so they can be best prepared to benefit from procurement opportunities as they arise.

To do so, I think that we would suggest and approach the diversity strategy for the state and that *you* do so -- pursuant to what we would call the three-legged stool.

So, the three legs of the stool. Number 1 -- continue to conduct and know and use data in real time. You’ve heard a little bit about this this morning. The disparity study revealed a wealth of data, both hard research and anecdotal -- both of which are significantly important. Understanding the data and maintaining real-time data that addresses real-time realities going forward, will make the State much more agile at addressing ongoing changes needed to be in the procurement system.

The recent statewide web-based supplier Diversity Management System is a great example of a good place to start to collect that real-time vendor contract and diverse spending data, but what we do with it is equally important in making sure that it's up to date. We must ensure that data collected is used in real time.

Collecting data also on best practices-- You heard some examples this morning, perhaps, of practices from other states. Let's collect and use best practices that can be learned from other states, and even from New Jersey's private corporations, who have, over the past many years, worked tirelessly on their own to improve their own procurement for more diversity.

NJBIA worked recently, a few years ago, with the African American Chamber of Commerce of New Jersey. My colleague is here today. We conducted a learning lab with a few of our larger New Jersey companies in order to help those companies and ourselves find a way to increase vendor pool; assist in making potential small and minority businesses qualified for their own bids, meaning the company bids; and ease the procurement process. I am proud to note that BIA set our own vendor goals as a result of that process, and we know many companies across the State of New Jersey are doing that now as well. We should understand what they learned as they went through that process and try to adopt some of those findings.

The second leg of the stool is make proactive investments to build capacity for New Jersey small and minority-owned businesses. Early education *must* include a process to assist small business and pre-qualification. Regular meetings, fairs, classes, etc., to walk those small businesses through the process is key. This can be done through direct State assets or through grants to business groups who are already equipped to provide technical

assistance -- many of which are in the room today and have already testified before you today. These organizations, in fact, exist to be a resource to their members. Let's enable them to best assist their members to be procurement ready.

Consider, perhaps, tax credits or other incentives for larger companies who are those prime contractors that can handle those larger contracts to have an incentive to sub-contract with smaller companies to be part of the bid. There was a prior legislative bill addressing this opportunity that didn't make it to the finish line. I would suggest that we re-visit that, and, get to better know the small businesses and minority-owned companies that are part of this critical pipeline. Better engagement with the State trade associations by the different agencies and increased education and continued support for procurement fares through and including these associations is a way to do that.

Finally, the third leg of the stool. We can remove barriers that are holding New Jersey's small and minority-owned businesses back. Here's an example: Let's roll back the 2019 apprentice requirements. While the 2019 law was well-intended to increase training opportunities in the building trades, it has had the unintended consequence of severely limiting the ability of small businesses to bid on public works contracts unless they had the resources to participate in an aggregated apprenticeship program. For example, following the creation of the apprenticeship program requirement in 2019, more than 1,900 potential contractors were initially denied bidding on public contract works in 2020, with most of them losing out on a contract for failing to participate in an apprentice program.

Last December, Senate Bill 3635 was considered, which would have removed registered apprentice program requisites of public work contractors and set apprenticeship standards for prevailing-wage projects -- another opportunity that didn't make it across the finish line. And, there's opportunities for small business exemptions in there as well. By removing the apprentice requirement to bid on public work, competition in the market will improve, resulting in lower-cost projects for the State and, of course, less burden for the taxpayer in the end.

Contract language is another way we can remove barriers. The report showed evidence of tailoring language to enable known bidders to have an edge through that contract language. More general language and broader definition will yield a more diverse pool of bidders. Allow me to provide an analogy to illustrate this.

In the world of job recruitment, many hiring employers today have removed certain limiting language from job specifications and job descriptions, such as the need for a higher education or advanced degree -- by way of example. As a result, employers have found the pool of candidates to greatly widen and be more diverse. As such, life experience and work credentials were, in many instances, substituted for a formal degree, and employers were finding qualified candidates without the need to seek higher education degrees exclusively. We can look at that as an example for a way to take out tailored language that may be minimizing or causing others to feel limited that they're not qualified for that type of a bid.

Other specific barriers noted in the report were cost-basis approval requirements; the existing contract thresholds; and a payment process that results in majorly delayed payments that can stifle a business'

ability to even keep their head above water. These types of procedural challenges should be able to be reviewed and revisited in terms of their role in the overall bids and process.

In conclusion, the business community stands ready, as we always do, to assist with targeted outreach and messaging to ensure good communication on availability of opportunities for our small, minority-owned businesses. Setting and attaining procurement goals for small and minority-owned business will achieve positive results. When you have more competition in the bidding process and increased participation from bidders, this fosters competition and ultimately leads to cost savings for the State and the taxpayer in the end.

Thank you very much, if you have any questions.

SENATOR JOHNSON: Any questions?

The Co-Chair.

ASSEMBLYMAN WIMBERLY: Thank you.

If you could give us some specific recommendations as far as the changes in the language-- Do you have any recommendations?

SENATOR JOHNSON: Contract language.

MS. SIEKERKA: So, we could certainly provide that, but I would say, for now, we were reacting to the comment that said that oftentimes bids are tailored to meet a certain person or company on the other side who is able to meet that bid. And, therefore, tailored language is basically limiting those who would be deemed qualified to even bid on that.

So, certainly, there's timeliness of the bids, but there's the language of the contract itself. We would certainly be open to going back and looking at that, but we know that there isn't a one-set type of contract

across all the agencies, and, oftentimes, there's a unique opportunity that comes up for a certain project. And, it's the issue in that where the language may be very tailored because the agency that is putting that project out to bid knows that there is a particular company that they have dealt with in the past, and they may write the bid in a certain way that makes that company the most qualified on paper to be eligible-- Got it? OK, thank you.

ASSEMBLYMAN WIMBERLY: Assemblywoman.

ASSEMBLYWOMAN MORALES: Thank you so much.

In your statement here, you mentioned that there were about 1,900 potential contractors that were initially denied bidding on public work contracts in 2020 because they failed to participate in an apprenticeship program.

Out of that 1,900, do we know the percentage of if they were minority- women-owned businesses?

MS. SIEKERKA: I specifically -- I can't answer that today, but I can get you that information. I know we do have that information, but I don't have it readily available today.

ASSEMBLYWOMAN MORALES: Thank you.

MS. SIEKERKA: Yes.

SENATOR JOHNSON: We'll get that for you, through the Chair.

Any questions? (no response)

Thank you.

MS. SIEKERKA: All right, thank you very much.

Have a great day.

SENATOR JOHNSON: You're always supportive; thank you.

Gerry Gibbs.

Mr. Gibbs, with the Capital Impact Group?

G E R V I L L E “ G E R R Y ” G I B B S, Jr.: Yes, sir.

S E N A T O R J O H N S O N: OK.

M R. G I B B S: Good morning Chairman Johnson, Wimberly, members of this Joint Committee.

Thank you for providing me an opportunity to testify today.

My name is Gerry Gibbs; I am a Principal with Capital Impact Group, a public affairs firm based here in the City of Trenton.

And, I sit before you today very hopeful that this marks the beginning of a sustained legislative effort to address the systemic disparity and inequity in the State government’s contracting and procurement of goods and services. This is an effort that started almost 22 years ago when the State was forced to address this issue head on.

I’ve heard from many of the previous presenters this morning and many of them covered a lot of areas within my testimony today, so I am going to go off script a little bit and try to address some of the things that I’ve heard within the hearing today -- particularly questions from members of this Committee.

The history of the disparity study really started in 2002, when we were forced to suspend the minority business enterprise program for the State, because we were about to get sued. And, at the time, when I was a public official along with other folks from the Attorney General’s Office, Treasury, and other departments, we felt that if we went to litigation we would lose. And, rather than completely hamper the State’s ability to right

size this issue with a devastating court loss, we settled and created an SBE program in its place.

We immediately shifted towards putting together our first disparity commission, which was formed in about 2003. And, those recommendations from that study were available in 2004, sent to the Governor's office with recommendations. And, unfortunately, that report was never acted upon and languished.

Fast forward to a couple of years ago, a new effort to study statewide disparities, state contracting, was undertaken by the current administration. And, unlike 2004, this study employed a far more comprehensive and holistic look at the utilization of MBE, women, and veteran businesses. As a result of this study, you now have the data needed to craft legislation to create a more open procurement process.

I urge each of you to disregard what I've heard rumblings, in terms of concerns about what the courts may do in response to whatever procurement reform legislation that we pass here and send to the Governor's desk. The study shows clear justification for what you're getting ready to embark upon, and the data, in my opinion, will hold up in a court of law.

In my conversations with various stakeholders on this issue, we've heard several common-sense proposals, but I'd like to just highlight one that I think is important in order to ensure that there is accountability and a real, clear look at what is happening in terms of efforts by the State to promote a more even-handed procurement process. An office of diversity that's fully staffed, fully funded, that has the ability to collect data across State government, is critical.

It is not an easy task to collect this data. Many departments have computer systems that don't talk to each other. Many agencies have totally different ways of procuring goods and services. There's a lot of work that would need to go into presenting data that the Legislature can take and use and consider in future studies to make sure that this program is effective. I think that department will be of great importance in terms of how we move forward from here.

One of the things that was talked about earlier was New Jersey First legislation. And, though I'm not familiar -- Senator Turner, you brought that up in a question before -- though I'm not familiar with that law in its entirety, there is things that the departments can do and commissioners can do, even now in the absence of a full package of reform legislation. You can certainly create bid scenarios where there is scoring that is given for Jersey-based companies. You certainly can give preference to certain companies that employ Jersey residents.

Commissioners, heads of authorities, have-- They have latitude. I think what's important for this body to consider is creating the necessary framework that allows these various procurement officials throughout the departments to feel that they can be bold. Speaking as someone who worked for State government -- albeit it a long time ago -- my biggest frustration was working with procurement officials who wanted to do the right thing, but frankly were petrified of being sued; of being held into account for a decision that did not address the exact letter of regulation or practice or even what the Commissioner may have stated, in terms of what their goals and objectives are. I sit here before you now to tell you that commissioners, department

heads, they have a lot of latitude in terms of creating the type of atmosphere necessary for minority, women-owned, and veteran businesses to participate.

I can go back to examples of when I was working in the Treasurer's Office, where we did bond deals where there was stated participation by minority- and women-owned bond firms. And, we stripped away some of the roadblocks that typically are put forward that makes it difficult for them to participate. We did an all-minority bond deal for EDA back in 2003 for a billion and a half dollars. We -- the Treasurer at the time -- when we started doing alternative investments, we needed outside council in order to approve and go over all of these agreements between the private equity, real estate, and hedge funds that we were getting ready to invest in, and the state. We created an RFQ process that made sure that we brought in competent legal advice and assistance, but we were intentional about making sure that that was diverse.

The result, in conjunction with the Attorney General's office, to make sure that they were comfortable with the direction we were going in. The result of that was a pool of qualified lawyers, which was 45% minority or women-owned law firms that had experience in that area, and they would get work on a rotating basis. There was no preference, we just kind of went around the circle and if it was your time to do a deal, you were up. And, the work was done with no issues; nobody raised any objections.

The point I'm making is that departments have to be given the space and latitude to do some of these -- do some of these things that they're not used to doing in this state. And, I ask you to create the necessary framework in the legislation, but then also, just as importantly, create a regulatory framework that gives these procurement officials the confidence

they need to lean in and do more. There's a lot that the State can do, even now in this current construct. But, I think with the reform legislation and the proper regulatory environment, coupled with aggressive oversight -- or, I should say consistent oversight by the Legislature -- I feel that we will arrive at a new paradigm in New Jersey that I'm very much looking forward to.

Happy to answer any questions you may have.

Thank you.

SENATOR JOHNSON: Any questions, comments?

ASSEMBLYWOMAN REYNOLDS-JACKSON: I do, I just have a quick one.

Mr. Gibbs, can you tell me how many noes did you go through before you got to your first yes in doing contracting? Doing your work?

MR. GIBBS: I think-- That's a great question.

I think that, for us, we had a lot of reasons why there were barriers. And, what I tried to do in my role-- At the time I was Assistant State Treasurer and I had oversight over the Division of Investment, the Office of Public Finance, Taxation, and the Division of Property Management and Construction. And, I would make it a point to just go into meetings and talk to division heads and just listen. And, I would get the laundry list of reasons why there were barriers to entry, and I would take those under advisement, go back, talk to our senior team in the Treasurer's Office, and make a determination whether there was a way around that, or where there were certain barriers that really didn't make sense.

I'll give you a specific example. In a bond deal, we created a pool of co-managers across the board; majority firms; minority firms. And, there was a requirement that the division was requiring for insurance, a certain

amount of insurance that you had to carry in order to participate in State deals. Well, that number was insane; it was disqualifying to even large-bracket firms were complaining about it. And, the question was, "Why was this necessary?" So, I think if you have a track record of doing deals in states all around the country, if you prove certain aptitude towards these transactions and you can show that, that's a requirement that just wasn't necessary.

And, I can tell you, in Treasury there's a lot of requirements like that that well-intentioned but create exclusion, that I think that you need to have the right framework and the right people to understand that they have room to maneuver within these goals that you outlined, and they're not going to be afraid of reprisals if they move accordingly.

ASSEMBLYWOMAN REYNOLDS-JACKSON: Thank you so much.

And, you said Treasury. Did you do any work with DOT?

MR. GIBBS: I do some work with DOT, working with contractors. At one point in time, I worked with one of the largest construction -- women-owned -- construction companies in the country, McKissack & McKissack, and they were able to bring forth real common-sense proposals to the table.

We're going to get to talking about the unbundling of contracts, making a list of qualified firms that you can do right up front, before you even consider a project. What we like to do in Treasury, back then, we would just create an RFQ and just pre-qualify a certain set of firms. Because, at the time, things were moving so fast we just didn't have time to go to a bid process every time we wanted to do something.

So, we just found that the RFQ process was just a lot more efficient. And, that's something that, again, if commissioners are intentional, you can create a process where qualified firms, Jersey-based firms, have an opportunity to compete. Because, at the end of the day, that's all they really want.

One of the-- One last thing that I heard recently, I know we're getting ready to increase the bid threshold, I think, I believe, to a quarter of a million dollars, where, by context, New York City is a million. So, I mean, we're moving forward but we're-- People right across the river from us are doing much more, and have done it over a period of years.

ASSEMBLYWOMAN REYNOLDS-JACKSON: Thank you.

Thank you, Chairman.

ASSEMBLYMAN WIMBERLY: Senator.

SENATOR TURNER: Thank you, Gerry, for your very, very insightful testimony.

I think what it points out to us, like you said, it depends upon who is in the room making those decisions or having input in those decisions. Because, wherever there's a will, there's a way in order to conduct business rather than having business as usual. And, I think that we need to look at that and make sure that we are in the room when those decisions are being made as to who are going to be the people getting those contracts.

And, I know from personal experience when we had the greatest -- what we were told, anyway -- economic boom here in the State, and that was when we built new schools. And, it was told to us that this was going to help the urban areas and put so many people to work because of the building of these schools. And, I found that the people who were building the schools

were people from Pennsylvania; New York; Connecticut -- not the people who lived in New Jersey or even who lived in those cities where the schools were being built.

And, they had all kinds of reasons as to why -- when I was questioning -- why we weren't hiring minorities to build these schools in their communities. They had all kinds of reasons. They didn't have a driver's license; they couldn't pass a drug test; they had a record. So, they had reasons to justify business as usual to make sure that the people got the contracts who they wanted to have the contracts.

MR. GIBBS: Senator, you are absolutely right.

I think that, look, where there's a-- We all know, where there's a will, there's a way. And, I think that when it comes to large development projects, I think it bears noting that there's so many ancillary businesses that spawn out of that one development from the person who's bringing food and water to the worksite from the landscaper, the painter. There's ways, again, if there's intention and there's an understanding of how to create diversity within the State framework. There's a path to get there.

I would say it's really important to make sure that as we're putting forth laws, as we're doing regulations that we make sure that there is enough latitude; that, one, Deputy's Attorney Generals understand clearly that there's a runway here and it's not just black and white, that there's areas of grey that we can operate in. And, more importantly, that there are procurement officials who are well-versed in that and know that they have an ability to move and be creative and not worry about reprisal or worry about getting in trouble, because they do.

SENATOR TURNER: Thank you.

ASSEMBLYMAN WIMBERLY: Thank you, Mr. Gibbs.

I appreciate your testimony.

If you would be kind enough to give anything in writing through the Chairs, your recommendations, I think that would be so helpful towards it, in particular your expertise of being on both sides of administration and now as a business owner, minority business owner here. It would be appreciated.

MR. GIBBS: Chairman, I absolutely will follow up.

Thank you.

ASSEMBLYMAN WIMBERLY: Assemblywoman.

ASSEMBLYWOMAN MORALES: That was my question, just the list of recommendations.

SENATOR JOHNSON: OK.

ASSEMBLYWOMAN MORALES: Thank you.

MR. GIBBS: Absolutely.

Thank you.

ASSEMBLYMAN WIMBERLY: Next, we have Samantha DeAlmeida Roman, President of the Associated Builders Contractors of New Jersey.

She had to leave?

Adam Guziejewski from Katz Government Affairs, Chamber of Commerce of Northern New Jersey -- Southern New Jersey.

A D A M S. G U Z I E J E W S K I: Good afternoon Co-Chairs and members of the Committee.

For the record, my name is Adam Guziejewski; I am Senior Vice President at Katz Government Affairs. I am here today on behalf of the Chamber of Commerce of Southern New Jersey.

The Chamber of Commerce of Southern New Jersey -- which, with your indulgence, I'll just abbreviate as the Chamber as we go through this testimony -- appreciates the opportunity to provide remarks on the recent findings of the New Jersey Disparity Study.

In September of 2019, the Chamber was preparing for its first leadership change in 25 years. And, as part of that, a new strategic plan was passed by the Board of Directors that reflected our desire for a more community-driven and inclusive organization. The Chamber's mission and vision were changed to reflect that shift, and five strategic priorities were approved that make clear our desire to assure equitable access to economic opportunities for all of our members. The new vision resonated with many who commended the Chamber for their honest recognition that the organization at that time did not look like the community it served, and for the commitment to making diversity a priority.

Since that time, the Chamber's membership has grown from approximately 850 members to over 1,200, with the largest growth from women- and minority-owned businesses. Specifically since January of 2020, the Chamber has seen a 300% increase in minority-owned businesses; a 153% increase in women-owned businesses; and a 366% increase in veteran-owned businesses within our membership.

It is for this reason the Chamber was and remains extremely troubled by the results of the New Jersey Disparity Study, and appreciates the opportunity to provide suggestions as to how the State can change course

and assure that diverse-owned businesses have an equitable opportunity to bid on and procure state contracts.

As it relates to bills or policy measures that could help assure more equitable rewarding of state contracts, the New Jersey Diverse Business Advisory Council has a full list of actions that the Chamber strongly supports. And, through the Chairs, if you would like, I can send that to you along with our written testimony.

But, there are some other important actions that can be taken, and I will provide five of those, sort of in general thematic concepts here. And, they include, Number 1: Setting inclusive procurement goals. We believe establishing specific and measurable goals for procurement from small and diverse businesses will create a framework for tracking progress and ensuring a commitment to inclusivity. In addition to legislation or policies that can be considered, we also believe that this is something that could be accomplished through executive order.

Number 2: Creation of a diverse supplier database. We strongly support creating and maintaining a comprehensive database of certified small and diverse businesses in New Jersey. This database would serve as a resource for government agencies and contractors seeking diverse suppliers. There is a current state database, the NJSAPI, but we believe that it's antiquated and not particularly user friendly.

Promoting technology adoption. We would strongly support embracing technology solutions that make it easier for small and diverse businesses to access and respond to procurement opportunities. Online platforms, as we all know, and digital tools can streamline and -- streamline the procurement process.

Unbundling of State contracts is our fourth recommendation. We suggest analyzing the current State contracts to see if they can be broken apart so that small and diverse businesses can compete as a prime vendor, or to see if the contract could be set aside for small and diverse businesses.

And, lastly, providing incentives for prime contractors to engage with small and diverse subcontractors. This can include preferential treatment and bidding processes or recognition for companies that actively support diversity in the supply chain.

So, with all those recommendations, the Chamber once again thanks you for taking up this important issue and for allowing us to provide remarks. And, again, if there's any-- I have some written documentation and those actions that I would love to send through the Chairs.

ASSEMBLYMAN WIMBERLY: Thank you very much.

Any questions? (no response)

Members?

SENATOR JOHNSON: No?

ASSEMBLYMAN WIMBERLY: Thank you very much.

Next we have Janna Williams.

Janet -- Janna Williams? I apologize.

JANNA WILLIAMS: Good afternoon, everyone.

Just, thank you for allowing me, an African American woman, minority and disabled veteran, the opportunity to speak about the challenges that I face while trying to enter into the State procurement and construction industry.

I own a certified disabled veteran company, and my main goal is to advocate for veterans. I provide support for minority women and veterans

to (indiscernible) back into civilian life. Transitioning from military to civilian life is already an obstacle, so while facing opportunities outside in the civilian world adds more stress to those individuals.

The State provides resources, but I still see more support going towards non-minority and non-women-owned companies. Less than 2% goes to minority, and less than that goes to minority-, disabled-veteran-, women-owned companies. I have been in rooms where I have done the work, but my company gets overlooked because I am a minority, a minority woman, and a veteran. I have tried to reach out to some of the veteran-owned support groups, but I still fall short because I am a minority and a minority woman.

My company has been in business since 2009, and I have partnered with other minority-owned companies like the National Association of Black Women in Construction, ABC, and others to shed light on that issue.

Today, I am asking for support of women, minority-owned women, and disabled veteran companies like mine. Even though I appreciate the gesture of “thank you for your service,” I would just appreciate more opportunities.

My request today is, in addition to a lot of those who testified before me, I just ask that maybe some individuals that say they offer the opportunity to minority and minority-owned women businesses, maybe have some follow-up to make sure that they are offering those opportunities and they’re not just saying it, because those are the ones that’s really getting the contracts.

I am also asking for representation like myself to be at some of the tables, or even the discussion, or even just be in the room so that we can

make sure we hear full representation of those who the bids are supposed to go to.

I thank you guys for this opportunity, and have a good day.

Thank you.

SENATOR JOHNSON: Thank you, Ms. Williams.

MS. WILLIAMS: Yes, sir.

SENATOR JOHNSON: What do you do? What's the company do?

MS. WILLIAMS: So, I actually have a nonprofit and I have a consulting veteran firm where I'm bringing minority women into the career field to partner up with apprenticeships so they can learn, so they can be in the construction industry.

The two-fold part of what my nonprofit does is -- to piggyback off of what the Senator said -- that sometimes individuals are not there, they don't have the credentials to bid on the opportunities. So, my nonprofit helps those who may have gotten a less-than-honorable discharge out of the military upgrade their discharges for free so that they can go and participate in these bid opportunities and they don't have little obstacles that they're facing.

SENATOR JOHNSON: OK, thank you.

Assemblywoman.

ASSEMBLYWOMAN REYNOLDS-JACKSON: Ms. Williams, what's the name of your two businesses?

MS. WILLIAMS: VET4U is the nonprofit, and All Around Services is the disabled veteran company.

ASSEMBLYWOMAN REYNOLDS-JACKSON: Can you tell me what type of certifications you need to compete for State procurement projects?

MS. WILLIAMS: So, the top one, to participate in the set-asides, is make sure that you're a minority woman.

The problem that I find with that -- and, I hope I'm not overstepping myself -- that minority women falls in a lot of categories, so we have a lot of our individual companies who may not fit the minority women; they'll go add their wife onto the deal, so then they take away from us Black and brown individual women who would like to bid on those deals, don't get to -- the opportunity.

What sets me aside from those who may not be able to is I can add another category to mine, which is veteran. But, then I can also add another category to mine, which is service-connected veteran organization.

But, I'm here speaking just not on myself but as also all Black and brown women who may not fall into those other categories of certification that just may need the opportunity to bid on those minority women-owned bids that are not going to the African American or Black and brown individuals in that category.

ASSEMBLYWOMAN REYNOLDS-JACKSON: Have you been-- Have you had the opportunity to be awarded a contract yet?

MS. WILLIAMS: No.

ASSEMBLYWOMAN REYNOLDS-JACKSON: And, what are some of the barriers that exist for you? The opportunity?

MS. WILLIAMS: The opportunity or just the representation. Like, I can be in the room, but sometimes I'll just get overlooked. Just not

being even given a chance, even if I present the package, it's just not even getting presented the opportunity to even do that.

ASSEMBLYWOMAN REYNOLDS-JACKSON: Thank you.

Thank you, Mr. Chairman.

SENATOR JOHNSON: Senator.

SENATOR TURNER: Yes.

May I ask you a question? You indicate that you, I guess, advise or counsel those people who are not getting the contracts, and you listed a number of categories, but I did not hear you mention if you're a veteran -- that's a category -- but if you're a disabled veteran, then you go to the top of the list. Does that apply for getting contracts with the State?

MS. WILLIAMS: It does, but what knocks me out is it doesn't go to minorities. So, even though we-- We've had a lot of people testify today and said that they're giving out veteran contracts, but we really need to ask the question, "How many of those veteran contracts are going to minorities?" Or even the women minorities, even Black and brown minorities. Even the veteran disabled contracts -- how many of those are actually going to minorities or to Black and browns?

Because, most people know in the military, most men join the military; we're kind of outnumbered. So, there may be more veteran-owned companies than women veteran-owned companies that are getting awarded the contract.

SENATOR TURNER: Well, I know with the State of New Jersey, with civil service, if a veteran passes the test they go to the top of the list, and if you're a disabled veteran you get additional credit for that.

MS. WILLIAMS: Yes.

SENATOR JOHNSON: OK.

OK, thank you.

Any other questions from the dais? (no response)

Thank you for your testimony.

MS. WILLIAMS: Thank you.

Thank you for the opportunity.

SENATOR JOHNSON: I have a list, a list here -- a slip here from Katz Government Affairs. Katz--

SENATOR TURNER: I thought they--

SENATOR JOHNSON: They testified earlier--

SENATOR TURNER: --testified already.

SENATOR JOHNSON: OK, yes.

My assistant let me down.

Rob Barea. Are you here, Rob?

R O B B A R E A: I am.

SENATOR JOHNSON: Chief People and Equity Officer, Apex Solutions Group.

MR. BAREA: Yes, sir.

SENATOR JOHNSON: Mr. Barea, the microphone is yours.

MR. BAREA: Thank you, sir.

Good afternoon Chairmans, esteemed guests, and esteemed members of the Committee.

My name is Rob Barea, and I am Principal and Co-Founder of Apex Solutions Group. We are a minority business entity, small business entity, diverse -- sorry, disadvantaged business enterprise, as well as service disabled veteran-owned business. So, we have pretty much many of the

designations that we're speaking about today. Our organization primarily provides workforce development; however, we do provide other professional services for our clients and our customers.

We are honored to be invited here to share our organization's collective thoughts on the significant disparities in the State procurement contracting for minority-, women-, and veteran-owned businesses, as highlighted in the study.

Additionally, on a personal note, I previously served as Senior Executive of Diversity, Equity, Inclusion roles in *Fortune 500* companies, as well as Big Four accounting firms, where I led DEI initiatives, removing systemic barriers to access as well as influencing supplier diversity.

One more factoid about Apex Solution Group is that we are comprised of seven former and current military officers, all with advanced degrees, career professionals, including one of our leaders having a Ph.D. in business. And, the reason I state this is not to boast about our collective brainpower, but even with that collective brainpower, our networks, and our relationships, we too have the same exact challenges in navigating the system in which we are trying to attempt to find business with the State of New Jersey.

Now, our organization has had some success in contracting with the State of New Jersey, which may be a testament to those classifications and certifications, as well as our network that we built. However, we recognize that minority- and women-owned businesses continue to face significant challenges in navigating the government contracting system as well as acknowledge the fact that the vast majority of MBEs and WBEs are unsuccessful in being awarded State contracts.

So, what I would like to do, just share with you -- just from our consumption of the study, as well as some of the things that stood out to us, as far as some of the challenges we've experienced in one point -- at least offer maybe some high-level solutions, and I'm more than willing to go deeper into these solutions at the conclusion of my testimony.

The first one was exposure to opportunities, which you heard many times today. The process and the way we navigate towards finding opportunities is very cumbersome. Many MBEs and WBEs are fully unaware of not just procurement opportunities, but also where to find these opportunities. And, one of the solutions that we propose is we need the State to advocate for more networking events, expos, and MBEs and WBEs that can meet these prime vendors, city, and business-procurement officers and learn about becoming proficient in these grant portals.

Now, I understand that you already do a level of that; however, what we're really talking about is not just the event itself, but the post-event activity that reinforces what we're attempting to ensure that the masses as well as how do you provide support to the individuals once they make those contacts into, again, submitting a proposal and hopefully winning the grant -- the grant or the contract.

The second challenge that we like to highlight is the mentorship and guidance status is pretty much absent. I know we had many of the chamber of commerce individuals who have testified today, and I'm sure there are a lot of great mentorship and guidance programs there, but we believe we need a holistic one that leverages these individual opportunities to partner with stakeholders in order to truly ensure that individuals who are seeking to do business with the State of New Jersey actually have either the

scar tissue or the understanding and knowing of how to actually navigate these systems. Because, again, it's been very challenging to understand at what point we navigate through.

The third and fourth, I'll just combine together. This is access to funding and access to capital. We do know that it's a lengthy and complex funding process that also hinders the time and execution of contracts which is, again, a negative towards the actual contractor, as well as the access to capital of securing the loans is very difficult for small business owners, especially ones who are young in their business journey.

One of the solutions that we came up with is, since we're all veterans and we probably have leveraged that VA loan, what can the State do to have a similar program where the State of New Jersey can partially or wholly secure loans from banks, making them more willing to, again, lend to MBEs and WBEs, but also simplify the overall application process to make them less daunting again for those small businesses?

The fifth topic I will share with you is the set-asides and MBEs and WBEs. Again, we talked about that a little bit with some of the previous testimony. There is a very limited visibility, limited variety, and, more importantly, limited lead time once the set-aside opportunities are known. So, we can't find them, and, by the time we find them, we don't know whether or not we can actually meet those-- The scope of that work, and the time, the lead-in time in order to actually submit a proposal is somewhat challenging.

And, lastly, which I think I could satisfy at least three of these pillars, is encouraging joint ventures. I'm not sure if we've tried that in the past, but because of the predominance of sub-contractors as well as the

dominance of non-minority males who are getting repeat awards, how do we use that information to create joint ventures and create incentives so that non-WBEs and MBE businesses want to form joint ventures and could include things like tax benefits, additional points and point evaluations, or even financial bonuses for, again, having successful joint ventures. And, it's about incentivizing without reducing quality, so we want to make sure it's incentivizing, again, bringing more people to the fold, who perhaps cannot do that on their own.

So, my final thoughts are this. And, you heard, again, many of the testimony today says the same thing. Small business owners have limited resources -- time and money being one, the primary one. And, they face challenges associated with running a for-profit business. The current process for government contracts is cumbersome, ambiguous, and overwhelming. And, you have to make a choice between doing this that you don't know if it was successful or not or going to, again, some other opportunity that has less resistance as part of the path. Again, what would you choose? And, again, because of the process -- it's so cumbersome -- many people even opt out before they even attempt.

As an experienced DEI professional who has removed, again, barriers and dismantled systems of inequity, my first recommendation is to thoroughly examine the process. And, when I say examine, I really mean interrogate. Because, again, to understand the experience of each of your MBEs and WBEs -- and, again, you've got some anecdotal evidence within this particular study that was actually four years ago, so, again, what's the current engagement, what's the current culture, what's the current belief of the operation and procurement for MBEs and WBEs? How do we

understand again what their experience is, where they enter, and what point in where they exit the procurement pipeline? Because, if we have that understanding and then do another deep analysis at those particular points, you probably can -- again, in my experience being in DEI -- you probably can at least get to an 80% solution while you're getting (indiscernible) rest of the activities in order to meet your goals.

Now, this work, again, requires time and collaboration, and some of my previous testimony -- individuals -- talked about many other challenges. So, again, I'm not saying that this is the end-all-be-all. But, again, it does take time, collaboration with stakeholders, and a true commitment from the State to ensure, again, that there's a goal to increase diversity to spur innovation, especially for, as we know, that small business is the backbone in America. New Jersey is missing out on a lot of the backbone of small businesses, especially from diverse business practitioners.

So, thank you for allowing me and Apex Solutions to provide this testimony and our thoughts on the study, and we would love to field any questions.

I believe I'm the last speaker, so I'm probably holding you up before lunch, so I don't want to rush it. But, again, anything that I can help, Apex Solutions can do to really, truly support this initiative and make it happen, we appreciate it.

SENATOR JOHNSON: We saved the best for last.

Any questions from the dais?

Assemblywoman.

ASSEMBLYWOMAN MORALES: Thank you so much for your testimony today.

You mentioned something about exposure to opportunities that is so cumbersome. Can you give some examples of what that looks like?

MR. BAREA: So, if you just do a search on-- First of all, there's no centralized database of opportunities. So, that's-- You don't know where to specifically look.

The second is, once you get there, I can-- If anyone has ever read the *PMBOK Project Management Book*, it's a brown book; very technical. And, there's an orange book that is not technical.

The reason I want to share this example is that one speaks more about spirit and one is more technical language. The way that opportunities are written has so much technical language that, again, dissuades an individual from moving forward because they're not understanding what the ask is; they're not understanding what the in-state goal is; and, more importantly, they don't have a clear indication that they are (indiscernible) to be competitive.

So, again, as small businesses with limited resources and time, if I'm looking for opportunity and it sounds like there's too much and I don't have the time to do that, or I don't have the teammates to knock that out for me, I'm going to move on.

So, the cumbersome piece of it is really understanding, "Can I do this?" and not having a clear feeling that I can as a small business. And, as a result of that, now I'm going into tangents that I don't need to. Or, I can't find the actual solution which (indiscernible) giving me the indication I should be proposing and submitting a bid for this.

SENATOR JOHNSON: Yes, I think we've heard that to contract with the State of New Jersey we have, like, 19 different departments in the

state; like 50, over 50 agencies; and each one has its own way of procuring services or products and that should be centralized or somehow put into a database where they're all together, where one could find if they have an opportunity to provide a service--

MR. BAREA: And, if I can add another thing--

SENATOR JOHNSON: --or product--

MR. BAREA: --to that, Senator.

You know, the -- to add to your question -- even when we find an opportunity that we think is worthy of our time and effort, as we get deeper into the process with all of the qualifications and administrative needs, we get tired out; we have to take a knee or we actually just tap out. Because, again, it just tumbles too much in order to-- And, think about the size of the grant. So, now we're doing a math calculation to find out, "Is this worth my time?"

And, again, these are small business owners and a lot rides on what it is that we are doing for not just our organization, but also our families. So, we definitely have to be more deliberate in where we play. But, again, if we're not sure where we're playing is going to have the fruits of our labor, we go someplace else.

SENATOR JOHNSON: Apex has been doing training -- I guess training -- providing guidance for those who want to get involved in this procurement process. And, you've been somewhat successful with this?

MR. BAREA: So, we have, like, a formal network. Once you win something, some people find out, and then you have a conversation. So, we've actually shared our experience with other individuals attempting to break in, and it's helped, because they won. But, even when they win, they

still need help in executing a contract, which, again, we provide based upon, again, our collective brainpower and our network.

So, that's the exposure piece and that mentorship and guidance piece that I spoke to. That even when you win, there's still some ambiguity out there and fear. So, you have to figure out, again, who can you bring into your fold in order to truly-- Because you're worried about your performance. It's one thing to win it, but you have to perform well enough so that you can actually win it again. So, if you just get to the point where, OK, yes, winning is just the start; it's not the finish.

SENATOR JOHNSON: So you have a structure, a foundation so to speak, to provide this information to--

MR. BAREA: It's informal, but, sometimes informal works better than formalized.

SENATOR JOHNSON: Yes.

MR. BAREA: But, I think a formal process, a formal program that the State of New Jersey can -- including all, again, the stakeholders that we have today as well-- I definitely agree with one of the comments about bringing incorporated and private businesses, being part of large firms that I've been in, as well as being part of the social responsibility efforts.

There's a huge desire to do exactly what we're trying to, again, solve for here. However, if we're not bringing the right problems in to help with that expertise; we'll have the same results.

SENATOR JOHNSON: OK, sir.

Yes, Assemblywoman.

ASSEMBLYWOMAN MORALES: Yes, just another question.

So, your program -- Apex Training -- is a capacity-building organization?

MR. BAREA: Yes.

ASSEMBLYWOMAN MORALES: And, so, for your organization, have you learned any best practices through your training program that can be shared in regards to you getting some of your -- these businesses getting contracts?

MR. BAREA: So, I misunderstood the question.

Our training is for workforce development for either construction -- actually, right now, tomorrow, we're graduating from NJEDA for clean energy, so we have a workforce-development program there. So, we're taking specific skills with a goal of individuals getting either their PNP, their OSHA 50, OSHA 30, OSHA 20. Think those types of certifications; those kinds of certifications we, again, train towards and more importantly we have business partners and organizations at the end ready to hire.

ASSEMBLYWOMAN MORALES: OK.

MR. BAREA: So, it's one thing to teach, but, again, we're just trying to ensure that we're changing lives by actually providing careers, not teaching them what they need to do.

ASSEMBLYWOMAN MORALES: And, so, your program, I'm assuming, is very successful?

MR. BAREA: Currently, yes. (laughter)

ASSEMBLYWOMAN MORALES: OK.

And, do we see these types of programs across the state, or are they very limited?

MR. BAREA: We do have competition out there, so we do know-
- We are aware of other individuals who are doing this.

I would say that what we bring that's unique is that military training side, but the military execution side. We've ran these types of programs for the State of New Jersey and the National Guard; we went to the national level where we just take individuals from the street and teach them to be soldiers right there -- that huge, huge turnaround. So, those principles in the spirit of what we do, we're applying how we deliver the course and not just teaching a specific skill but also teaching teamwork, leadership, communications, ethics, and the like.

So, this program that we're doing is not just, "OK, at the end, you'll get a certification." We are actually working towards ensuring that these individuals have a holistic understanding of where our careers, and, more importantly, where they need to -- where they are today, where they are going tomorrow, but also helping them get along that way. And, a lot of times, we're working closely with NJ (indiscernible) and some of our probation officers as well, so we're actually trying to give second chances to individuals in addition to other minority and underrepresented communities.

ASSEMBLYWOMAN MORALES: Thank you.

SENATOR JOHNSON: I guess that's it.

MR. BAREA: Thank you.

SENATOR JOHNSON: Thank you.

I have slips here from Michael Nam, Korean Community Center, who is here but doesn't want to testify. But, is among us.

And, Kevin Tsay, President of the New Jersey Taiwanese Chamber of Commerce, who is here and doesn't want to testify. But they're here.

And, I think that's it.

So, in closing, I'll have my Co-Chair say a few words.

ASSEMBLYMAN WIMBERLY: I just want to thank everybody who came out and the staff who helped prepare for today's hearing.

I look forward to coming back again in the fall with, hopefully, we'll have more departments involved in this to answer some of the questions and issues faced in the cumbersome process for minorities to attain many of these contracts.

I think it was very informative, and I thank you, Co-Chair and members for taking part today.

SENATOR JOHNSON: I will say ditto to that for those who are here.

Also, for those individuals who could not be here today but want to be heard or to be willing to testify, we might try to schedule another meeting sometime down the line.

So, thank you for coming, and I think we are adjourned.

(MEETING CONCLUDED)