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# *Commission Meeting*

of

## DISPARITY IN STATE PROCUREMENT STUDY COMMISSION

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**LOCATION:** Committee Room 10  
State House Annex  
Trenton, New Jersey

**DATE:** January 15, 2020  
10:00 a.m.

**MEMBERS OF COMMISSION PRESENT:**

Hester Agudosi, Esq., Chair  
Senator Ronald L. Rice, Vice Chair  
Assemblywoman Annette Chaparro  
Assemblywoman Nancy F. Muñoz  
Maurice Griffin, Esq.  
Erin Rice (for Senator Richard J. Codey)  
Alex Solomon (for Senators Chris A. Brown and  
Declan J. O'Scanlon Jr.)  
Ricky Stevens (for Assemblyman Jamel C. Holley)  
Melanie Walter, Esq.  
Robert Zuckerman (for Assemblywoman Nancy J. Pinkin)



*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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**HESTER AGUDOSI, Esq. (Chair):** Good morning.

At this time we are going to commence the January 15 meeting of the Disparity in State Procurement Study Commission.

By way of legislation, the purpose of this Commission is to assess the procurement of goods and services by State departments and agencies, including independent State authorities and local government units, to determine disparities, if any, between the availability and utilization of small, disadvantaged, and minority- and women-owned business enterprises in particular market areas.

The Commission shall recommend policies, practices, and programs that further the State's efforts to promote opportunities for small, disadvantaged, and minority- and women-owned business enterprises in purchasing and procurement by State departments and agencies, including independent State authorities and local government units.

Now, for roll call purposes, my name is Hester Agudosi, and I serve as Chair for this Commission.

Senator Ronald L. Rice -- the Honorable Senator Ronald L. Rice.

**SENATOR RONALD L. RICE (Vice Chair):** Here.

MS. AGUDOSI: Honorable Chris A. Brown, Senator.

MR. SOLOMON: Alex Solomon, from the Senate Republican Office, representing Senators Chris Brown and Declan O'Scanlon.

MS. AGUDOSI: Thank you.

Honorable Annette Chaparro, Assemblywoman. (no response)

Honorable Sandra B. Cunningham, Senator. (no response)

Honorable Richard J. Codey, Senator.

MS. RICE: I am Erin Rice, Chief of Staff for Senator Codey, representing him.

MS. AGUDOSI: Thank you.

Maurice Griffin, Acting Director, Division of Purchase and Property.

MR. GRIFFIN: Present.

MS. AGUDOSI: Honorable Jamel C. Holley, Assemblyman. (no response)

Honorable Nancy Muñoz, Assemblywoman.

ASSEMBLYWOMAN MUÑOZ: Here.

MS. AGUDOSI: Honorable Nancy Pinkin, Assemblywoman.

MR. ZUCKERMAN: Hi; Robert Zuckerman, Chief of Staff for the Assemblywoman, representing her today.

MS. AGUDOSI: Thank you.

Honorable Nellie Pou, Senator.

I did receive a confirmation that Senator Pou would not be able to attend today.

Honorable Britnee Timberlake, Assemblywoman. (no response)

Melanie Walter, Director of Local Government Services. (no response)

Thank you.

Maurice, did you get a copy of the agenda and--

MR. GRIFFIN: I did; all good.

MS. AGUDOSI: Perfect; thank you.

So now I'd like to open with old business, beginning with the fact that on your agenda we have scheduled meeting dates between now and

the end of February. Those dates are Tuesday, January 28, 2020 -- all meetings, by way of reference, will take place here in this Committee Room 10 -- Tuesday, February 11, 2020, at 10 a.m.; and Tuesday, February 25, at 10 a.m.

Now, for purposes of this Commission's work, I had mentioned at the last meeting -- and I will renew that request -- if there are any members of the Commission who have identified speakers, or entities, organizations, or particular State stakeholders who they believe should appear before this Commission and provide testimony, I would ask that you bring that to my attention so that I can send out a letter requesting their appearance; noting the fact that we have three scheduled dates, as I had mentioned on the agenda, in place to provide them the opportunity to come forward before the Commission.

I have spent the greater part, since we started in February, to date, requesting representatives who have come and testified. My list is now fairly complete, but I'd like to open up that opportunity.

In addition, I have sent -- by way of e-mail this morning to all the Commission members -- the excerpts of testimony that was taken at the Joint Committee on Race and Economic Opportunity-- Is it Equal Opportunity or Economic Opportunity, Senator Rice?

SENATOR RICE: Joint Committee on Economic Justice and Equal Employment Opportunity.

MS. AGUDOSI: Equal Employment Opportunity, that is Co-Chaired by Senator Rice. At the last meeting, that was conducted on January 7, there were representatives who gave pertinent testimony regarding disparities in how financial institutions -- be they asset managers, be they

venture capitalists, and all around minority- and women-owned businesses that attempt to do business with the State -- really outlining their challenges. So that was reviewed separately before that Committee. But I think that the testimony is relevant to the work of this Commission, so I've provided the excerpts that I received today; and I'm sure when a transcript of that is made available I will be providing that to all of the members of the Commission as well.

SENATOR RICE: So Madam Chair, I'd like to have two people invited to come and testify before us.

One is the Honorable former Secretary of State Regena Thomas, and maybe she can tell us about some of the barriers she ran into doing a study before, because she was the Secretary; and some of the things we need to expect, and some of the questions we need to be sure to raise once we get the consultants on board.

The other person, who also used to be Secretary of State, is the Reverend Buster Soaries, who has done a lot in this area as it relates to minority participation.

I think the two of them, if they will come before us, can bring us good information and good history.

MS. AGUDOSI: Thank you. I've made a notation, and I will send out a letter of invitation requesting their ability to appear either on the January 28 or the February 11 meeting date.

Anyone else?

I'm sorry, someone just joined us.

You can state, on the record--

MR. STEVENS: Ricky Stevens, Legislative Director for Assemblyman Holley.

MS. AGUDOSI: Thank you; we have copies of the agenda, as well as the transcript from the last meeting, behind you.

SENATOR RICE: Madam Chair, just for the record, so the staff people who come in for members of the Commission -- do the best you can to keep good notes and make sure you take them back to them, even though they will have the transcript in the future. But sometimes there are things said that are not picked up on and understood, because we prefer having the members here as much as they can be.

This Commission is very, very important to women and minority participation. It may not be to the members, but it's not a traditional, regular-type of Commission that you hit and miss on. We have a time frame on this one to come back with substantive information as to how New Jersey's doing, working with women and minorities in this state, and businesses. We know the answer, but we have to do these studies. And so I know Atlantic City, for example, is always an issue.

And so I just want to, at least, make sure, when you do come, you take corporate notes as best you can. That also is a good test as to what type of staffers you are. I will quiz the Senators and Assembly people by how well you did, and I will grade you, okay? (laughter)

ASSEMBLYWOMAN MUÑOZ: Don't quiz me, though.  
(laughter)

MS. AGUDOSI: Thank you.

SENATOR RICE: Okay.

MS. AGUDOSI: And we also have another Commission member who joined us.

If you can just state your name for the record, please.

MS. WALTER: Good morning.

Melanie Walter, Director of Local Government Services.

MS. AGUDOSI: Good morning.

So we are at the point of the agenda where we're talking about old business.

As we know, this Commission has a -- and I use the term -- *shelf life* of one year, from the time in which it started its first meeting, to wrap up and to make recommendations, based upon our review and findings.

As a result, I believe that we need to really think about how we're going to make those adjustments, in terms of how these meetings go forward, outside of just invited speakers. I think one of the things that we need to do is really start assessing the testimony that we've received, the information that we've received, documentary information; and then working towards producing a report of our findings and recommendations. And so that's something that I would like for us to start working on sooner, rather than later, particularly with some of the areas that we have identified by way of discussion.

So I just want to highlight to you some of the areas that I will be reaching out independently, separately, on for us to bullet point some topics for discussion.

First being Delegated Purchasing Authority. We received testimony from representatives in New York state regarding the raising of their DPA threshold and the impact that that made in increasing

opportunities for minority- and women-owned businesses. We separately had a subcommittee here, where we talked about that. We know that-- Maurice Griffin, who is the Acting Director of Division of Purchase and Property, explained what those timelines are as it relates to DPA--

Melanie, do you have a question?

MS. WALTER: No.

MS. AGUDOSI: Okay.

--regarding the fact that that is something that is up, really, for -- I don't want to say *review*, but the ability to actually make some changes to it in this fiscal year. So I want us to put that front and center as one of the topics that this Commission has to weigh in on, and make some recommendations.

Additionally, we heard from representatives in the financial services industry. And as I indicated at this Committee meeting, the Joint Committee meeting last week, there was further discussion on that. We have legislation in place that provides for the Division of Investment to engage in greater efforts to increase their participation. One of the things that I would like for us to do is -- by way of reference, and further discussion, and recommendations -- is to do a review of emerging manager programs that have been established in other states to facilitate that increase in utilization of these types of firms. I'll be providing you with information regarding that, from some of the states that are leading in that respect. That also came up, similarly, through testimony in terms of best practice models.

I'm sorry; I didn't look to my left. We also have--

ASSEMBLYWOMAN CHAPARRO: Assemblywoman Annette Chaparro, 33rd District.

MS. AGUDOSI: --who joined us. Good morning, and Happy New Year.

ASSEMBLYWOMAN CHAPARRO: Happy New Year.

MS. AGUDOSI: So I'd like for us to look at that, by way of consideration.

We also talked about -- and through the course of our discussions -- the fact that New Jersey has not had a State disparity study conducted in well over a decade. There were representations by myself that the Department of Treasury is actively working to address that. And myself -- I just want to update you -- myself and Maurice Griffin to my right have been working diligently on putting forth an RFP to seek the use of a consultant to actually conduct a statewide disparity study. We anticipate that that will be going out-- In fact, I will be working with Maurice, and some other members from that working group, today and tomorrow. And our target is really to get that out by the end of this month.

So I wanted to update the Commission with respect to that as well.

Are there any other matters that anyone wants to bring up, as it relates to old business, before we begin by taking in testimony? (no response)

Thank you.

At this time I have invited Carol Fulton, who is the Diversity and Compliance Director for the Associated Construction Contractors of New Jersey, to come before the Commission.

Thank you, Carol.

And I also asked Ms. Julie Harris, who is the Strategic Market Executive for Lu Engineers.

And in addition to coming to speak to us, I think that this is an ideal time to have a conversation that really is going to be engaged between the two of you. Because we have Carol, who represents many of the large prime contractors that do business in the State of New Jersey; and I know that you, Ms. Harris, represent a group of professionals who work on construction projects as well.

So to the extent, based upon your testimony and questions that we may have, I think it would also be helpful to have cross dialogue between the two of you. Because what we are seeking to do is really address any of the gaps that may currently exist, and to be able to make sure that our systems and processes are working better for both of your respective constituencies, so to speak.

Does that make sense?

**CAROL M. FULTON:** Yes.

**JULIE HARRIS:** Yes.

**MS. AGUDOSI:** Wonderful.

So with that being said, I'm going to ask Ms. Fulton if she can begin.

**MS. FULTON:** Well, good morning.

It's a pleasure to be here, and we appreciate the opportunity to speak before this Commission and Commission members today.

As Hester said, my name is Carol Fulton. I am the Compliance and Diversity Director of the Associated Construction Contractors of New Jersey. Our Association is an association of building contractors, construction managers, heavy highway, civil, and utility contractors in New Jersey that employ tens of thousands of skilled union craft workers each year.

Our Association also includes service providers that provide expertise on bonding, insurance, equipment, legal expertise, etc.

As you know, our contractors have been challenged for many years to meet MWDBE goal requirements on construction projects. And despite good faith efforts and rigorous outreach to MWDBE firms, the problems remain.

And so on behalf of our CEO, Jack Kocsis, I'm happy to be here to talk to you a little bit about some of the challenges that our contractors face; and also about the initiatives that our Association has taken to help expand and cultivate relationships with MWDBE firms in the construction industry.

So I'll start with capacity.

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

I'm going to talk a little bit more about the capacity study that we did initiate, that was focused on just two agencies, at the end of my testimony.

One of the other issues that our contractors have is the limited number of contractors that are capable of performing specialty work that is prominent on construction projects. There are subcontracting and supplier opportunities on projects, but there is a shortage of MWDBE firms qualified to perform that specialty work.

And general contractors make every effort to subcontract out work to MWDBE firms, but they can't subcontract it out if they're not capable of performing that work. So sometimes the GC has to self-perform that work; and as a result of that, they're unable to meet their aspirational goals on certain projects.

Several public agencies look at the scope of work on a project-by-project basis, and they set their aspirational goals according to the availability and capability of the subcontractors that would be able to perform work on that project. This is fair, and it's working, and we hope that this becomes a widespread practice. This is where a capacity study would be most beneficial.

Another issue that our contractors face is the inaccuracy of the commodity codes within the various State databases that are available to them. We think that certifying agencies can do a better job of vetting companies. Right now, companies can self-select their categories of work; and our contractors spend valuable time and resources in reaching out to these MWDBE firms, only to find out, once they're hired, that they really aren't capable of performing the work that they're being asked to do.

We know that steps are underway to straighten this problem out, and we appreciate it, and offer our Association's resources to help with that. And we appreciate all the work that's being done to rectify the situation.

Our last issue -- and I think this is another step that the State is taking, which is most appreciated by our industry -- and that is a standardized one-shop database. Right now, contractors are using various databases to make outreach to MWDBE firms. What we need is one standardized database with accurate commodity codes, and/or construction classifications,

so that the contractors have a one-stop shop that they can go to that will list the company information, their certification status, pre-qualification information, and accurate -- just accurate up-to-date information. That's a big problem for GCs right now.

So now I just want to talk a little bit about ACCNJ's initiatives.

Because this has been such a long-standing issue for our members, we wanted -- our Association wanted to better understand the challenges they were facing. So we commissioned a study, a capacity study, with our industry partners that was focused on New Jersey DOT and New Jersey Transit projects. The data taken in that study was from 2010 to 2016, and the results of the study were released in 2017. What it showed was that the State is lacking in MWDBE contractors capable of performing the real bricks and mortar of construction projects; and that's building, heavy and highway, and civil.

The study showed that the greatest capacity was available in the smallest contracting spend for these agencies. So it became evident that agencies and industry -- we need to do more to concentrate on building capacity where it's needed most. And we did present the results of the study to the public agencies and to the State Office of Diversity and Inclusion at its conclusion.

So following that study, our Association recognized the need to increase efforts to help its members and to expand outreach to the MWDBE community. In 2017, we held our first Diversity Conference, bringing MWDBE and veteran-owned firms together with GCs, construction managers, and the public agencies to learn more about the processes for

certifications, pre-qualifications, and opportunities for work in the construction industry; and we'll host our fourth conference this October.

We also established a position within our Association -- which I now carry -- to formalize and guide additional initiatives aimed at targeting firms appropriate for the industry, and to identify ways we can help them grow and flourish.

We have a Council, that is internal, that includes our GCs, our subcontractors, and associate members, to discuss practices, and policies, and ways we can improve outreach to the MWDBE community.

And we also are actively working with the New Jersey African American and Hispanic Chambers of Commerce to expand our outreach and promote opportunities for our industry.

We're also looking to launch a mentoring program, and pair MWDBE firms with our GCs to provide technical expertise in areas of need.

So as you can see, we are doing our part and we support the inclusion of MWDBE companies in the union construction industry; because the opportunities are abundant, and we want to overcome these challenges, and we want to grow that community in our industry.

And so thank you, again, for the opportunity to testify before you today.

MS. AGUDOSI: Thank you, Ms. Fulton.

And I just want to make the Commission members aware that, as Ms. Fulton indicated, and one of the reasons why I had extended the invitation to the Association is to not only share that information, but I will provide a copy of the capacity report to all the members of the Commission.

ASSEMBLYWOMAN MUÑOZ: May I ask a question?

MS. AGUDOSI: I am going to defer from asking questions first; so I am going to open it up. It's a new year, new process.

ASSEMBLYWOMAN MUÑOZ: I just had a question.

When you talked about -- that you didn't have the capacity to have qualified people to perform the functions -- was that because they didn't meet the qualifications -- the actual qualifications -- or because they couldn't meet the standards on the forms? Because what I've seen, over the course of this Commission, is that one of our biggest problems that we have is this block in completing the forms and being qualified as an MWDBE.

So is it an actual shortage of qualified people, or is it simply that they can't meet the qualifications entailed in filling out the forms?

And can you answer that? I don't know if you can answer.

MS. FULTON: It has to do with their performance.

ASSEMBLYWOMAN MUÑOZ: So the actual performance.

MS. FULTON: Yes.

ASSEMBLYWOMAN MUÑOZ: So it's not that you don't have -- that they've been rejected because of the forms.

MS. FULTON: No.

ASSEMBLYWOMAN MUÑOZ: Okay; thank you.

MS. AGUDOSI: I just want to follow up on that; because it did come out that we have business owners who are good at doing their business, but not necessarily good at handling and managing the paperwork that may be associated. So I don't know if that was one of the things that the Assemblywoman was getting to as well, which is-- Actually, I think you answered the question: performance. But I'm going to ask the question, do

you find that just the back work management of paper as subs -- does that become an issue, or has that been raised as an issue, to your knowledge?

MS. FULTON: There are issues with subcontractors not being able to -- needing help with filling out forms, yes. But that doesn't--

ASSEMBLYWOMAN MUÑOZ: You mumbled that into your hands. Filling out forms -- is that what you said?

MS. FULTON: My mouth is so dry right now.

ASSEMBLYWOMAN MUÑOZ: Oh, okay.

MS. FULTON: I need water.

ASSEMBLYWOMAN MUÑOZ: Somebody--

MS. FULTON: I should have brought some.

ASSEMBLYWOMAN MUÑOZ: Mark will get you some water.

MS. FULTON: I'm sorry, what was the question?

ASSEMBLYWOMAN MUÑOZ: No, I just didn't hear what you said; did you say they have trouble filling out the forms? Is that what you said?

MS. FULTON: They do, yes. There are issues with that. I don't think that precludes them from being hired to perform a project, though.

ASSEMBLYWOMAN MUÑOZ: That's interesting.

SENATOR RICE: Okay, so-- And I'm glad you invited the Association here; and I go way back with Jack and them.

Besides the politics, and minorities and women getting work with contractors -- whether they're subs or general contractors -- there are issues. I know we have to build capacity; but there is some capacity out there. The problem is that the contractors don't want to use the capacity because of their

relationship with family members and folks they do business with. And that's a fact.

I also know that subcontractors do have problems -- and some general contractors; subcontractors in particular -- filling out paperwork and keeping up with it as well. Because even if you have an affirmative action program, it's difficult sometimes for them to keep up to date with, you know, how many minorities you have and all of this. And they don't have the revenue to get it done oftentimes. So the owners are, oftentimes, out in the field, trying to keep the job going straight so the contractors that you work with can do a good job. And so we have to look at that.

But I can assure you, if you went into municipalities like Newark and others, you're going to find a lot of minority contractors. They all might not be black, but you're going to find them. And I know, in the past, we tried to marry-- Because I used to work with Tony Gomes Construction Company as his affirmative action person. He's my best friend; I did it more as a favor than anything else. And we were bringing on folks who could do the job. They couldn't do the paperwork, in many cases, or they didn't know how to bid the job. And so they were underbidding a job, and so they couldn't perform. It didn't mean that they-- If we gave them 10 units to do the framing, it didn't mean they couldn't do a quality job on the framing; it meant they couldn't finish the framing because they underbid the job, especially if they were independent contractors. So that needs to be looked at.

But when you talk about *specialty work*, what are you really talking about? Because when it comes to sheetrock, and it comes to framing, and it

comes to some basic things, that's really not *specialty work*. Electrical -- that's really not specialty work, unless it's something totally unique.

So when you say *specialty work*, what are we talking about?

MS. FULTON: Well, sometimes our general contractors -- you know, they're bidding large jobs. And there is diving involved, or pile-driving, or demolition, or excavation. And there is a shortage, sometimes -- when they're trying to carve out a large portion of a project in order to get to a MWDBE firm, it's hard to do if there are only three available, and they're already working for other GCs.

SENATOR RICE: I got you. I concur with that to some reasonable degree; I really do.

But then there are also some of those out there that can do it, and they still don't get the work. I know Harper used to be out there -- he's retired now; one of the best demolition guys around. But when he came in there, you know, (indiscernible) and the rest of them were getting all the work, okay? And once again it's locked into union relationships, if it's a union job; if it's a contractor job with (indiscernible) wages, it's locked into the old boy network.

When Tony Gomes was doing work, he outbid everybody; so he was getting all the work and hiring contractors to do the work. But the old boy network -- and I can name all these contractors; you know them all, so I'm not going to name for the record -- they got together and said, number one, he wasn't a minority; he had to come to the States. And I was there with him, and they asked him, they said, "Well, if you were born in Angola, we're trying to determine if you're a minority or not. Who did you play with

when you grew up?” “What do you mean, who did I play with?” “What did they look like? Were they dark like that, or were they light like that?”

I said, “Excuse me? You know, I have to switch hats now; I’m not here as a legislator, I’m here with Tony. Why would you ask that question when my mother is as light as you are?” Okay? And that’s what we go through.

And then when he was bidding the jobs, the big boys got together and they got with Housing and folks. And we could never get-- We went to the Secretary of HUD, and they were supposed to investigate what was going on. And they never did; we took the lawyers down there, okay? They agreed that it shouldn’t be happening.

They said he was messing up jobs, when he wasn’t. He would go in as a general contractor, bringing on minority contractors, subcontractors, and they would say, “We want this done this way.” And he would say, “If you do it this way, you’re going to have 156 problems that are going to come back on me. It has to be done this way.” “Well, you do it our way, or we’ll get you off the job.” Do you know what I’m saying?

And I’m saying it’s things like that, that never come up at these hearings and meetings, that the average legislator does not know about. But your organization does, because they are part of that problem. Not all of them; a handful of them.

And so I wanted to, at least, be on record with that, and say that it’s a State problem because the State got away from monitoring these jobs and going to job sites. They wanted to do self-assessment stuff, and they knocked out all the offices, and people like Hester, etc., so we can’t get real investigations, real quality stuff.

If you talk about folks who are not legally here working on jobs for these contractors, when the State did show up -- you know, they didn't have a lot of personnel -- you'll see them hopping over the fence. But yet it was never followed up.

So we have to make sure these kinds of things don't happen in the future, given the history that we know.

And so the specialty work -- you're right. But you also mentioned something else. You talked about the-- And I do believe that you're right in the capacity in certain areas; in certain areas we do have capacity, we're just not utilizing it or we're not bringing it up to where it should be, okay? Because we do have to teach things that people don't know. A good painter can paint, but there are things that he or she just does not know. We can't just say, "We don't have capacity;" we have to bring them into the fold and try to teach them that so we can have capacity.

Because in the future, your organization needs to understand that the workforce is women and minorities, period. They're not going to even survive -- I don't care if it's a white contractor with a lot of money -- they are not going to survive without having women and minorities. And so if they can't perform, then there's a problem with us trying to get New Jersey built and keep it where it's supposed to be.

But you mentioned especially about the commodity study. Talk a little bit more about the commodity, because I know what you're talking about, if we're talking about procurement opportunities in terms of suppliers of goods and services. Is that what you're talking about, when you said commodities, fixtures, and--

MS. FULTON: Yes, when I mentioned the commodity codes; is that what you're referring to -- the commodity codes?

SENATOR RICE: Yes.

MS. FULTON: In the databases that our members work with, where there's a published list of MWDBE firms, the commodity codes aren't accurate. So as an example: You might have a contractor listed for electrical work-- You know, in the building world, an electrical contractor installs the electrical in the building. In the heavy and highway civil world, they may put up traffic lights or airport runway lights. So when this database is standardized, we think it would benefit everyone, if we separated building from highway, first of all, because there's different tasks for different construction categories, commodity categories.

So that's just an example of what I was talking about.

SENATOR RICE: Okay, so I get that.

So your study was done on the big stuff. Was there any study done as it relates to capacity of things, as it relates to just residential construction, apartments?

MS. FULTON: No.

SENATOR RICE: Because that's where minorities can really get the work, and that's where we do have capacity. Now, the capacity, like I said, may be setting the system up where we'll backroom the paperwork for you; you just go get the job done. And that's where -- and that's why it's interesting. We need to do the capacity on that; but I would really request that Jack and his organization do that capacity too, because I don't see why Jack-- Well, I know Jack and all of them, okay? So I know-- I would like to think -- that's the best way to put it -- that they're not just doing capacity for

the big stuff, and don't want to do the capacity study for the other kinds of things because they're going to find out they have capacity, okay? And maybe they don't want to know that, because maybe some of the contract owners don't want to know that. Because we keep insisting, when they come into Newark, and Trenton, and places like that, that their workforce be diversified. And then when we look at people, even on the jobs, when your guys are out on the streets, they don't even have minorities. If they have minorities -- we all try to separate this, because every time I say *minority*, black folks still get left out. They only have black folks out there holding the flag, okay? Now, I know we can do that.

And so my point is that-- And I'm glad you're here, and I just want to thank you for bringing that and sharing that information. I also want to thank Jack and your organization for the studies you're doing, and what you're trying to do to get this in perspective, because that helps us a lot.

The final thing: I'd just like to make a request to bring in -- invite Bill Mullen from the unions, because we have to have some real conversations with the unions. When you talk about the contractors' association -- whether they're general contractors or subcontractors -- a lot of people don't realize the unions will duck the bullet on this minority piece -- okay? -- and they'll say, "Well, we'll just share-- It's a union job, so we're here." The contractor is saying, "Wait a minute. I have to bring in union folks. You're telling me they're giving me five minorities, okay? And I'm the contractor, and you're telling me I have to work with the unions."

So the unions have to understand if the contractor says, "You have to bring me in some minorities," they have to produce some minorities.

They just can't be ducking that bullet -- okay? -- and having the contractor frustrated.

On prevailing wages, it's the same thing. You know, they come in on prevailing wages, and they push the contractors around to try to force the union side, etc.

And so we need to have a conversation as to what they're doing to enhance their side. And we also need to know, from them, what they need from us to help them grow minorities, as it relates to labor. And we also need to get a better understanding of their relationships with these contractors. Because unions always -- and I'm talking about the construction unions -- they're always coming in asking for something; and they beat up particularly on Democrats. And they don't want to come in and put boots against us if we don't say "yes" to what they want. Meanwhile, contractors out there, that are union shops -- and some are non-unions, okay? -- contractors are doing jobs, at least the residential stuff and what we need to rebuild cities.

The bridge work and all that stuff -- we know, as blacks and women, we're not going to get a lot of that work as it relates to the specialty piece, okay? We can still do some of the carpentry work that takes place, and some of the other things; we know that. It doesn't mean we can't build is capacity.

And then where we don't have some folks who look like us on the specialty side, then Jack and them should be encouraging some marriages and bringing some folks from out of town who look like us, and make them New Jerseyans as it relates to relationships. If not, we need to start spending money.

Thank you.

ASSEMBLYWOMAN CHAPARRO: I'm sorry; could I just ask a question, Senator Rice?

Why can't we get the big jobs?

SENATOR RICE: Capacity, in some of the areas-- We can get the big jobs, but the general -- if you talk residential, that's just bias in many cases. Because women and minorities, black and brown in particular, can do those jobs.

And I'll tell you something else. If you really look at the Kramers, and people doing street work, and the unions and people like that, if we said minorities, they're going to do minorities. They'll still try to avoid black people who were born in this country; black people and Latinos, okay? With Latinos, they will kind of skip Puerto Ricans, if you will, and look more, and try to merge it all as one. And they may say Portuguese, and they'll try to combine that, which is really not Latino the way we talk about black and brown people. And I'm not saying they shouldn't participate; what I'm saying is that they're getting around our definitions -- or at least what we think of, okay? And the Federal government, oftentimes, has a different definition of minorities and women than the State government, okay? And I think we know that. And so we're going to have to take a deeper look at that, and be clear as to what our workforce looks like.

What the GEOD Corporation did was knock out the ability to do the set-asides where we would know that the Latinos, and the blacks, and women were competing, and somebody is going to get some work; and there is going to be capacity there if we put the dollars there.

What the GEOD Corporation did not do -- it did not knock out the ability of the State to document participation. But Governor Christie

said, “We don’t want it documented,” because documentation meant that we wouldn’t need Hester and this Commission doing a disparity study, because it would be clear what was taking place, or that we were doing good.

And so we’re moving the legislation; I have a Bill that didn’t get passed. I’m putting it back in -- I put it back in -- where folks are going to have to start documenting, even in these cities, who’s in and stuff so we’ll know what’s going on. If not, you’re going to have Jersey City and places like that that are continuing to be rebuilt -- if you go to the Gold Coast and watch the rebuilding over there, you’re not going to see significant women and minorities. If you see somebody, say, of my complexion or Hester’s complexion, and you speak to them, they’re probably speaking another language, okay? Because when we say *blacks*, we’re talking about inclusion of blacks, whether they speak the language or not; but we’re also predominantly talking about folks who were born and raised here who deserve some opportunities. So they fake us out there, too, okay? You ride by -- “I see five minorities; that brother looks good, okay?” Then you go up and say, “How are you doing, brother?” “I no speak English.” I say, “Oh, okay. You’re okay.” I’m being honest about it.

See, people don’t want to be real about what’s taking place; and people don’t want to be real about what black elected officials, and brown elected officials, and women are talking about or arguing about. And when we argue and be as open as I am with these conversations, they want to call us *racists*, or *chauvinists*, or something. They also find some definition to be a defense mechanism, thinking they’re going to push us back.

So the record is clear, from my conversation, where I'm coming from with this, what I know about this, and hopefully we can move forward in 2020.

MS. AGUDOSI: Thank you.

Ms. Fulton, a couple questions for you.

As it relates to capacity -- and maybe you can just, for my benefit and for others who may not be aware as well -- you have certain goals that are placed on projects, correct, for participation -- MBE, WBE, VOB? Can you tell us, generally, what is the process in which you determine the scope of services and work to be done on a project, how you identify the areas in which you're going to try and meet those goals, based upon capacity?

MS. FULTON: Well, the contract will take a look at the scope of work, will take a look at the contractors that are capable of performing that kind of work, and will cut a portion of that work and give that to a contractor that is capable of doing that work.

The goals are specified in the specifications. So they have a percentage that they have to work off of, and they just-- If there's landscaping work, they can give 5 percent of that to a landscaper; demolition work, maybe 3 percent -- until it all adds up. Sometimes it's cut into 10 percent to a minority firm, 5 percent to a women firm. The composite is different on a project-by-project basis.

So that's what our GCs have to do -- take a look at that work and say, "How much of this can I give out to these minority firms?" and outreach is done. And sometimes there's no response from a subcontractor; sometimes there's a response, and they meet, and they find out that this

contractor really isn't capable of performing that kind of work, so they have to start over again.

So that's kind of the process that takes place with GCs in looking for capable firms to work on their projects.

MS. AGUDOSI: So thank you for that.

And I ask the question because, once upon a time I worked in the Department of Environmental Protection. And so there were, for environmental water infrastructure projects -- there were goals set on those projects as well. And it just was not clear to me, in the entirety of the scope of services -- let's say it's going to include electrical, it's going to include plumbing, and a variety of other areas -- that sometimes I would see that the GC, so to speak, would, when it came to electrical, have a non-minority contractor; when it came to plumbing, have a non-minority contractor. And then when it came to, maybe, the specialty area that you're talking about, saying, "Well, we looked, and we can't find an MBE in this area."

And that is fair; but the truth of the matter is, that there are other areas, in terms of the total scope of services, where there may be capacity.

So I guess what I'm trying to get at is, in looking at the entire scope of services or work to be performed, does the GC, by way of practice, look at where did we have MBEs, or WBEs, and VOBs that have capacity in these levels, and then try to meet the goals there? Or is it some other type of process? Do you understand my question?

MS. FULTON: No; it is just as you stated -- it is what the contractors do.

MS. AGUDOSI: So they look--

MS. FULTON: At the scope of work, and then they look in the various databases for contractors that can perform that.

MS. AGUDOSI: Okay; and so in all of those areas. Okay.

MR. GRIFFIN: Hester, can I--

So thank you for joining us, Ms. Fulton.

I wanted to go back a step to-- You mentioned several databases. Could you -- if you know; or if you don't, later could you provide, through the Chair -- could you outline for us what those databases are you're talking about? Because I think most of us up here are only aware of the State database, which is SAVI. So I'm trying to get a sense of where you're getting these other databases from and how they comply with statutory requirements.

MS. FULTON: Well, New Jersey SAVI lists all of the certified firms. So whether they're certified as WBEs, MBEs, VOBs, DBOBs, that's where you go. That's probably the most expansive of the databases.

But there is also the UCP, the Uniform Certification Program, I think it's called, which are contractors that are certified to do work for DOT, New Jersey Transit, and the Port Authority. The Port Authority has their own certification, so they might have a firm that is a DBE under DOT; but they're a DBE under the Port Authority, and an MBE or a WBE. So if it's a Port Authority job, then you go to the Port Authority database, and you might see a firm there that is a woman or a minority firm.

DPMC has their own classification, and SDA follows that. So SDA -- because we also represent commercial building contractors -- we use the DPMC SDA database as well. So we're sort of going into three different databases to find work -- contractors.

MR. GRIFFIN: So when you mention the three databases, or the several database, is it because each of those agencies that you mentioned -- DOT, Port Authority, Transit -- has its own database, or series of databases, that would comply with their needs? Is that what you're saying? Therefore, they're not -- it's not one-stop shopping.

MS. FULTON: No, it's not.

MR. GRIFFIN: Okay.

MS. FULTON: You might see a contractor in the UCP that you won't see in the SAVI database.

And I just want to say that, internally, one of our initiatives is to create our own database for our contractors to tap into. So the database that we're creating has, "Contractor *ABC* is qualified to work for DPMC, SDA, but not DOT or Transit." So it would be just one big database for our members to use.

MS. AGUDOSI: So thank you; thank you for that.

And we're in the process -- when I say *we*, the State is in the process of implementing a dashboard. And one of the features and components of that is to be populating it with our certified MBEs. And we also have regs that are in place right now, that are under review, in how we can make things a little bit easier as it relates to certification.

So that being said, we understand that Transit, the Turnpike Authority, DOT, and the Port Authority all handle Federal projects as well. And so, therefore, their requirements are going to be different than in SDA, which is simply State. So as it relates to the certification process, we understand that that has to be a little bit different because of the fact that they're not looking at just in-state, which we would call *MWBEs*, but they're

also looking at Federal DBE programs. So those certification processes would be different; and unfortunately, we can't marry those two. But I'm curious if there's -- if you have some recommendation of how you think it would be useful for a general contractor, knowing that we have these different systems, of ways that we might be able to make life easier for you and marrying them in some kind of way.

MS. FULTON: I appreciate that opportunity, and I would like to talk to you further about that.

MS. AGUDOSI: Okay.

ASSEMBLYWOMAN CHAPARRO: I'm sorry; could I ask a question?

I was going to ask a question, but I think it touches on is all these databases. And if you have to go to one and the other, I'm not sure why we just don't have all one, and you get to just check off what you qualify under. Because it kind of seems that-- How do you get on those specific databases? Is it, like, a membership only? I don't know. So why wouldn't it be just all in one, and you just kind of know who qualifies for the State, Federal?

I just have other question, because I'm kind of curious.

This information that you're getting from the database to see who qualifies-- But then when they get the job, they don't qualify; I guess they don't do a great job. And the reason why I ask is because for a municipality-- Like, we had our whole Main Street, a big contract; and it seemed like at every Council meeting they had to go over budget. And they kept saying *subcontract*. And, of course, I didn't get it until I started doing this. I was saying, "What are they talking about?" You gave the contract to

people, and it's always like, "Well, we can't stop now, because now, we're like \$3 million dollars over the budget."

So how do you avoid that? Because if you're going through all the qualifications, it seems like you just get the job and then, "We'll deal with it later;" but the person got the job. I mean, you can't stop -- right? -- because then you would have to do this whole other process.

So looking at names and saying they qualify-- I mean, I guess there should be another step, because that's a lot of money that you're kind of putting out there. And if they don't really qualify, then something has to happen.

MS. FULTON: In your scenario, the contractor that they hired was on the job, and then could not finish the job. So the owner, or the prime, had to finish the job. Is that the scenario that you're -- is that why it was over budget?

ASSEMBLYWOMAN CHAPARRO: No; we hired someone, and they hired someone else to do the job, and they messed up the job. So therefore they have to keep going, and fix it, and it's like, "Oh, we didn't do it; the subcontractor did."

SENATOR RICE: Change orders.

ASSEMBLYWOMAN CHAPARRO: I said, "But you hired them, so--" That's what I'm talking about.

MS. FULTON: Yes, I think within those commodity codes, they need to be a little bit more precise. They need to be vetted better.

ASSEMBLYWOMAN CHAPARRO: Right; thank you.

SENATOR RICE: Madam Chair.

So in your scenario -- I don't know it, but it sounds as though you had a contractor that hired some subcontractors. They didn't have capacity or, like in the conversation we just had, they didn't price the job out, but they were held liable.

So my point is, (indiscernible) a bid, but they may have underbid it, or they may have bid it low expecting change orders; but they bid it low to keep us from getting the job. See, all these little games are played in that industry there--

ASSEMBLYWOMAN CHAPARRO: There should be consequences, though.

SENATOR RICE: Right. Or it may have been they weren't getting drawdowns or payments quick enough -- which we did some bills on that -- therefore, they couldn't build capacity, or get materials, or pay their workers, etc. Those are the kinds of things that the contractors do.

And so we need to make sure that contractors have the capacity -- general contractors, etc. -- to help carry that job a little further. But we also have to make sure there's prompt payment and things like that.

But I do think we need to look at-- When we talk about capacity, it's not only looking at how many entities we have that can do the job; capacity has to be, can they really perform, okay? And we have to be honest about that, particularly when it comes to women and minorities where we can't perform.

ASSEMBLYWOMAN CHAPARRO: Right.

SENATOR RICE: Just like when it comes to white folks who can't perform, we need to say, "You can't perform, and we're going to help you grow. But in the meanwhile, we need the A-Team in here."

ASSEMBLYWOMAN CHAPARRO: Right.

SENATOR RICE: Because that's the only way you're going to save dollars.

So I needed to say that, because that's what we're talking about.

And there needs to be just, maybe, classes and things, on a regular basis, just with this kind of a conversation that we're having. And sometimes in these classes-- We don't need people like Jack Kocsis or Bill Mullen giving the class. Sometimes it means that people who look like you and me and speak the language, we have to say, "Look, we're going to be honest with you, brothers and sisters, and you ladies, okay? This is what has to happen, and here's what we're going to do to help you make it happen. So don't tell us that you don't want to keep an accounting record; you have to do that, okay?" I'm being honest about that, okay?

So we can open doors, but people have to be adults and be serious about it.

One quick thing: When we talk about all the invites and we talk about the things that have to be done, the capacity study -- because it keeps staying on my mind -- is, when we do -- when we start to get into the real, hardcore data that has to be presented to the Legislature, that consultants and others are going to be doing, that needs to be built in there. They may not necessarily do the capacity study right away, but I know it's going to probably come back -- it should come back as a recommendation for the State. Because I believe it came back in the last report that we did -- disparity study, okay?

MS. AGUDOSI: Thank you.

So to get back to recommendations as it relates to codes-- Because that's one of the things that we're looking at as well. We have the NGIP code; can you just let us know what codes do you generally utilize?

MS. FULTON: Commodity codes.

MS. AGUDOSI: And is there a particular-- Is it NAIC? Is it--

MS. FULTON: The NAICS codes.

MS. AGUDOSI: And to answer your question, Assemblywoman, one of the things that, with this dashboard, we hope that we'll be able to do is, not only list who the certified businesses are, but you'll actually be able to see -- and I think that would be a benefit for GCs as well -- if I click on this, let's say, company A, what projects throughout the state is company A working on? So then it's not just a matter of -- we have a name; but we have a name, and we have a name actually associated with jobs that they're working on. So that then you would be, like anything else, able, actually, to better see what their abilities and what their capacities are.

So I think that that would absolutely be a value add-on to the things that we're looking to address.

So when you said *standardized one-stop database*, you were talking about as it relates to MWBEs and commodity codes?

MS. FULTON: Well, the database-- If you go into the SAVI database right now, you'll see company A and you'll see all of the codes that they are qualified to work. So this database would still include that information. So the GCs could go in, look at company A, and know that they do fencing and guide rail; you know, any of those construction codes that are appropriate, if they're vetted and able to do that kind of work.

MS. AGUDOSI: So I'm sorry, I'm confused. How is the current system-- When you go into SAVI, how does it not allow you to do that? Or what is--

MS. FULTON: It does allow you to do that. I was just reiterating that that would be useful to be in the State; that information should be in this standardized database as well.

MS. AGUDOSI: Okay.

Ms. Fulton, we received testimony previously from some of the agencies and larger authorities in New York state that have a more robust supply chain in really utilizing and meeting their MWBE goals.

And so one of the things that I want to find out from you is that -- I would imagine that some of your members do work not just in New Jersey, but do work in New York as well.

MS. FULTON: That's right.

MS. AGUDOSI: Would you be able to give us any insight as to what is the difference, as it relates to your ability to source and meet those MWBEs goals in New York state versus New Jersey?

MS. FULTON: Well, I can say that our members are having difficulty meeting the MWDBE goals in New York City right now. They're pretty much, across the board, at 30 percent.

MS. AGUDOSI: Now, New York-- I want to make sure, because there's a distinction in my head between New York state and New York City.

MS. FULTON: I'm talking about the City: MTA, Port Authority, City (indiscernible).

MS. AGUDOSI: Okay, that would be -- the MTA would be state.

MS. FULTON: State; oh, okay.

MS. AGUDOSI: New York state has a 30 percent goal. I know that New York City, in terms of where they are, they're trying to get there. So I'm not going to really put them as the best practice for right now. But for New York state-- So for instance, that would be your MTA; that would be the DASNY, the Dormitory Authority of the State of New York; that would be Port Authority projects that take place on the New York side.

MS. FULTON: Right.

MS. AGUDOSI: How are your members faring in meeting the New York state 30 percent goals for MWBS on their projects?

MS. FULTON: They are having difficulty meeting the 30 percent goal. I can't -- the GCs could probably address the specifics of why and how, better than I can. But there's difficulty there.

MS. AGUDOSI: Okay, thank you.

I'm going to ask -- unless there are any other questions, I'm going to ask if you just remain seated, because we're going to have Ms. Harris provide some testimony. And then we may get just, as I indicated, a conversation going back and forth between the two of you, depending on the questions that come here that would be helpful to the Commission.

Thank you.

SENATOR RICE: So we're going to invite Bill Mullen in, and his people. Why don't we invite some GCs, as well from-- And they have a list of GCs; but we could also get GCs, who may not be on our list, in terms of general contractors. Because all the GCs and subcontractors are not members of these associations. I always tell them they should be, and they don't participate; they just pay their dues because they get the information

in the newsletters and the lobbying that takes place, okay? But we need to do that, I believe, so that we can get -- we can ask them questions, so we can hear from them too. Because your GCs -- some of them are game players, believe me. They are making big, big money -- okay? -- and they play games.

MS. AGUDOSI: So I have Bill Mullen's name; I just need to get his contact information. I just have a name; I don't have what he's tied to, or the union that he's associated with.

And in terms of--

SENATOR RICE: Well, he's the CEO, or the President, really, of the construction trade, kind of statewide, county groups, okay?

MS. AGUDOSI: Okay. And in terms of general contractors, we can -- I'd be happy to follow up with Ms. Fulton. And that was one of the reasons, frankly, that I thought it would be helpful for ACCNJ, in fairness to the conversation -- that all stakeholders need to be a part of the discussion and part of the solution.

So thank you.

So Ms. Harris, sorry about that.

MS. HARRIS: Good morning, and thank you for having me here to testify today.

I have two hats that I wear. I work for Lu Engineers; that's my day job. But my dream job is as Co-Founder of the Council of Black Architecture and Engineering Companies.

And one of the reasons that we came together as an organization is to address some of these issues that we hear every day. One of them -- the main one being they can't find us; there's no capacity, there's no one out there to do the jobs. And one of the things that I think -- if we have the real

discussion -- as I listened to the Senator and some of the things you say, is there is a financial incentive for these companies not to meet the goals. Why do I say that? It means they keep all the money.

How do we have this culture of losing, and can't do it, and can't find it only when it comes to making subcontracting goals? Why? If they come across a job, as the Assemblywoman said, and they mess up, that's a problem. If they don't perform anywhere else on the job, that's a problem. But contractually, they signed it, they say we're going to meet these goals, but, "Oh, we can't do it." Why is that not looked at as they can't perform there as well? That's an issue that we need to bring up and put there. And one of the things that we sit around and we talk about, *capacity*, day in and day out -- opportunity builds capacity.

And when we look at these programs, and how they structure them, and how they decide what they're going to put their goals in, I think they -- what you said. Because, let me also state that I was on the other side of the table, the same table that you sat at. And I looked at the way that these companies wanted to make their goals. They know where they're not going to find people. And if we look at the MWBE program as a whole, and look at the way that we structure it, and systemically figure out how we're going to get people to do the jobs, we have to look at it from that end, at the agency. And look at, if they can't make the goals because they can't find us -- the subcontractors -- they're looking under rocks or in trees; I don't know where they're looking, because in 2020, there are a lot of people that can do work. And there's a big miscommunication between those who want to get the job done, and all of us out here who can do the jobs.

I represent a coalition of firms that have primed up to \$100 billion dollars' worth of projects, when you look at us collectively. We've built airports, we've built highways, we've built bridges, we've built tunnels. We even have divers. We manage all this, but yet the GCs can't find us. And I think that they're not looking for the qualified folks to do the work, because we're here. This is 2020; go to any college or university, any high school or technical, you see a diversity of folks attending. That means there's a diversity of folks who are learning; we take the same courses, we sit in the same classrooms, we get the same licenses. Yet we're still -- we're unqualified, based upon what? There's only one obvious thing; I think it's race. That's why I represent the black architects and engineers.

Or women. I have a background in higher education. I ran the Engineering Diversity Program at LSU, where I looked at the women, the minorities; from the Hispanic engineers to the black engineers with NSBE; SWE, Women in Engineering. I had a whole bunch of engineers; there's a whole bunch of us out there. There's a whole bunch of architects; there's NOMA. If you really want your jobs done, there are places you can find folks, despite what the databases say.

Now, when we look at some of the things that we want to talk about -- the inaccuracies in commodity codes -- as a practitioner on the other side, working for a government agency, I work with primes. If they came to me and said, "I can't find anybody," I think the system needs to -- as a person in diversity and inclusion, as an officer, I found the folks for you. I did not sign a waiver; because there are people out there who can do the job.

Capacity can't be based upon the number of folks out there because, to be honest with you, there may be not that many of us when you

look at it from a numerical standpoint, but our cup is empty. We don't have work. So capacity needs to also be defined as: What can the available pool of folks do? And I think that we never look at it that way; we always look at it, "Oh, there are only 12 firms, so obviously there's not capacity there." But if 9 of those 12 firms don't have work, that's 100 percent capacity within that firm. And I think that's some of the things that we have to challenge.

And also, the self-performance. When we look at these jobs, they want to perform the things that they know there are a lot of people who do. And the self-performance thing is killing a lot of us. There are a lot of companies that don't get the opportunity, based upon the contractors and the GCs doing the work that there are a lot of people out there able to do. So as agencies -- or as we look at this disparity study, we need to look at, where do they spend their money in terms of where they put their percentages on these projects? That's important.

As we look at this infrastructure-enriched economy, we're in a boom. But all too often, companies that look like me aren't part of it. And there's-- We have to sit here and understand why. Why do they not want to find us? Why can't they find us? That's why I say, it's a financial incentive for them not to find us. Because if you fine them for not finding us, guess what? We're going to have all these GCs with 25 folks who they are putting forth. Because that's -- they have to find us.

And then I hear this *aspirational goal*. I hear these words, and right there you're saying, "Well, that's almost a disclaimer that I'm not going to do it, because it's not -- you don't have to do it. It's an aspirational goal."

So those are the things that we look at, day-to-day, and try to figure out why we're not making it, and why we're not doing what we're supposed to.

And I go back to Ralph Ellison's *Invisible Man*. I'm not invisible because I don't exist; I'm invisible because you don't want to see me. And that's the truth of the matter.

As I said, the group that I represent -- we can do anything you need us to do, from top to bottom. And if you come to some of the Affinity agencies, you'll find us, if you really want your job done. And we have to start looking at that on the other side.

And I don't know why we are still having this conversation in 2020. New year; we have to do new things, new thoughts. And I don't like it in the atmosphere where it's created that you say *minority* and it's *less than*; or you talk about it and -- what we can perform, the types of work. We can do anything that you need us to do on a job -- heavy civil, roadways, tunnels, surveying. We can do every single part of the job.

And there are markets, as you said, Hester, that we have to look at. Why is it working in Atlanta? Why do they work in other places? Why does it work in Chicago? Why is it that we cross over into New Jersey, New York in the Northeast, and all of a sudden the ability to do work ceases to exist, when we know that in these other markets -- like St. Louis, different markets like that -- there are companies that are \$350 million a year of people that look like me.

You go to Los Angeles; there are companies that are \$200 million a year that look like the Assemblywoman -- and me too, because I'm Latina X as well.

So those are the things that we have to understand. Why doesn't it work here; and why do we resign ourselves to understand that it's not going to work, or let it not work. But we can do anything, from building the pyramids as we have proved, to building a roadway.

In upstate New York, there are a lot of companies that are in our coalition that prime 70 percent of their work, from top to bottom, any project. Build a bridge, a road; design it, build it, and get it done.

So what we need to do, Commissioners, is look at those best practices in other areas, and figure out why they are getting it done and why we can't. And also, give the opportunity to our firms here, so that they can have the capacity to do the next job. It's not that hard, y'all; and coming from an agency and having that perspective, that's how I look at it.

I attended a football game on Monday night, where the underdog, with a quarterback nobody wanted-- And look, he won a national championship, and he's the greatest ever. That exists at our companies as well. We have to take that attitude everywhere we go, and stop this "I can't find nobody; they can't do it." Because I'll bring you 20 folks in my coalition who can do anything you want them to do. Give us a call; we have them.

And as we move this conversation forward, and as you guys prepare for your disparity study, understand what it means to our communities; what it means to STEM education, giving those kids the opportunity to do real and meaningful work. People go to engineering/architect school or construction management school because they want to solve problems. That's how they're built, they're wired. But when you give the work to an MWBE, and you want to give them the -- I call it the *undesirable work*-- I mean, all work is good; don't get me wrong with that. All

work is good, but they want to solve problems. They want to build the programs, they want to manage the programs. And that's the stuff that we are shut out of because there's some type of -- I don't know, it's a racial bias that because we're MWBE, we're slotted to this kind of work, and we don't get to do that kind of work.

So as we have this discussion and we work toward our future, and getting our kids to want to aspire to be what we are, to build things -- we're going to rebuild almost every single bit of infrastructure in this state -- I want to make sure that we are all part of that. We all drive on the same tollways, we go through the subways on the New Jersey Transit and pay our tolls, and yet we're locked out of the economic opportunity that arises from being able to build those things. So we want to look at it and make sure that we understand, economically, what this really means to our states and our communities.

SENATOR RICE: So if I can, through the Chair, I agree with you; and I'm so happy that she invited you.

I know-- He may be a part of your Association; I know people like Chuck Woodridge, who started at Essex County College, who could never get a lot of work. He told me recently, when I saw him, he said, "Finally, after all these years, I'm doing pretty good. They found me, okay?" So he's doing big projects.

But you're right. I think the record needs to reflect the conversation of the speaker, because what she said -- it's 100 percent true. It is race; we know it's race, that's why we call this a *disparity study*. We know it's bias, as it relates to men and women. We get that, okay?

And the record should also reflect -- one reason we know it's race is because when we start to raise hell about -- whether it's in the city or state, or one of the counties -- about women and minority participation, they claim they can't find people who can perform. When we say, "You're not going to get any work," the big majority entities go out and hire a black, or a Latino, or woman. Then they come back to us and say, "Well, this is our person." So if the person that's working with you on the project is good enough, because you hired them, why can they not be good enough by themselves?

How do you build capacity? Capacity can be built in a lot of ways. Let me tell you why they used to get upset with Tony Gomes; and then they would start the jobs, knowing that if you start the job it's pretty much finished; he's going to have the vandals going in, etc. Then they claim that he didn't do the job right after it got destroyed; and it wasn't even true. He built a whole project, then they would find little things to pull him off, because he would build capacity.

The other GMs would come and say, "Tony, this is our old boy network. You did a good job, but they took you off of it because you're not playing right, okay? Because, what are you doing?" "Well, I'm building capacity for minorities because, coming from Angola, when I learned this stuff in the streets, I used to get pushed back. So I understand it. I understand you guys are also over-bidding. You're ripping off the city, so I'm bidding the right number, so you guys are losing the jobs. And I'm getting my job done on time."

Because I learned in the business, working with Tony, that when you do construction work, it's quality and speed. That's how you make your money. So what Tony would do is say, "Well, wait a minute. You're telling

me you can't find a black, or a woman, or a Latino company to do this?" "No." "Okay; well, Hester can do it, and she's good at it." "Yes, but she can't do it by herself."

So Tony would say, "Well, Hester, let me ask you a question. How many people do you need to put that frame up? How come you're not an independent contractor?" "Well, I don't have the money to become an independent contractor, and I don't know how to go about doing it." He said, "Well, let me ask you a question. You're really good at what you're doing. I watched you lay bricks, and you should be running your own company. So if I were to get you incorporated and set your company up, how many people do you need to do that? Two, three, four?"

So she would tell him. He'd say, "Well, I tell you what--" So he would set the person up, and say, "Go get me the two, three, or four people that you need to put your team together, and I'll give you this unit to see how well you do, and then we'll build on your unit."

So contractors were getting angry with him, because that's what they should be doing too -- not you personally, but the contractors that you work with and those who are not in the Association -- they should be building capacity by recognizing that this is the fastest bricklayer around. This dude is good, he knows his stuff. But he can't -- he doesn't have a company. "I'm going to keep you with me, but I'm going to make you an independent contractor. I'm going to set you up in the business. I'm going to do the paperwork. I'm going to pay for the filing at the State to get you the LLC," or whatever it's called. And that's what needs to happen.

But we can always have these front businesses; and we're going to have to tighten the law as we go through the disparity study. I hope some

recommendations come back when they do look at the laws, and the people who do the study know enough about this throughout the country to recognize that people front businesses; and recommend that we have laws to make sure we're going to destroy your life if you put a black in front of a company that's not a minority company and claim it's minority, and you put a woman in front of a company -- I don't care if it's your wife or who; you know you're not a minority, okay? -- just to fund it. Because that's the stuff that's happening, too.

So if you do have one or two minority companies, they get excluded because this company is now identified and documented as minority, when it's really a front. And we have to tighten those things up.

MS. HARRIS: I'd also like to say -- if you look at it this way, why is there monumental growth between women- and minority-owned businesses? When you look at it, from a historical time frame, they all started about the same level. But the women are growing faster and have more opportunity than the minority businesses. And I say women- *and* minority-owned businesses. I can honestly say that happens; it's the opportunity.

And most of our businesses -- when we look at the Council of Black Architects and Engineers, we all work for all the big heavy civil companies. We've worked for them all. We ran \$200 million job portfolios for them. Then, all of a sudden, the demarcation is-- We own our own business; all of a sudden, we don't have the capacity because they're measuring it -- I don't know what the measurements are, and that's something that needs to be looked at.

Because if I ran a billion dollar portfolio for you, and I had my five staff members, I have the capacity to do the work as a sub on what you're giving me. But you're saying, "Oh, your company is small."

So people do the work, not necessarily the companies. And I think that's important -- to make sure that we recognize that.

SENATOR RICE: Presently, it's being measured on black and white. I know this; I'm old enough to know this. And it's not just in New Jersey, it's other states too. Other states are doing better, and some states are doing worse. But it's measured on black and white. But it's also measured on male and female, okay?

And so it's interesting the way the game is played. The old boy network traditionally are men; they don't want women doing these jobs. But women have learned -- have shown that they can do the job. They have credentials to get the job done. So they're kind of working them in slowly. But it's still a man's thing -- kind of the mindset, and this is the reality that I've observed, okay?

Then it comes down, "Okay, if we have to do women, then let's keep it in the family, okay? So then it becomes a white thing. And you'll see that white women don't grow much, but they grow a little bit better than other minority women, okay?" And that's what it is. And unless we understand and break it up as legislators-- But if you have legislators in the majority who don't look like me, or who are not women, or not Latino, you're going to have these networks, because they go to the same country clubs. If you look at unions and you look at contractors, "Well, my father was the president of this union that I'm the president of now." And it trickles down, and that's real. And I'm not saying that-- It's bad because it's doing harm to

inclusion. But I'm not saying that it's something that we should be ashamed to call out and want to fix.

Now, if folks tell us they don't want to fix it, who don't look like us, then I think that Joe Citizen should be strong enough to say, "Then we're going to start shutting down things."

So that's why we have to have a disparity study, and that's why I think that when the Association talks about capacity, that's very real. We have to be able to put on paper that there is capacity, and give the definition to capacity. Because you gave a good definition: Capacity doesn't always mean that we have the number of contractors we have. It means that we have contractors that are not doing anything. That's capacity too, as you indicated.

And so we may have to go back and take a look at how we define capacity as well, and what that really means. But I'm giving you the Civil Rights, the reality; coming from the segregated South, I know what it looks like, etc., and I've seen it New Jersey for a long time, working -- when I left the City Council -- with Tony Gomes, and he asked me to come in and help them out with their affirmative action piece. Because everybody was working for companies with minorities, but he really wanted black folks -- because he's from Angola -- but he wanted blacks to subsidize what the minorities had. And I watched what happened; I learned so much working with him. I learned that someone told him, "I'm not going to pay you, because I don't like you." "What do you mean you're not going to pay me? I'm doing a (indiscernible), and now you're not--" "I don't like your conversation," he said. "You can't legally do that, okay?"

I mean, this is the stuff that takes place, and that's why this disparity study cannot only focus on the procurement as it relates to the soft costs, and the insurance entities, and Wall Street bonding. It has to pay attention to the construction side of things, too. Because even on that side, even if the Association of contractors say, "We're doing good with diversity," then the question becomes, "Okay, where are your contractors buying their materials from?" "Who are the CPAs, who are the accountants behind the scene, who are your soft cost people?" And the question becomes, "Well, is there capacity there?" because we're right back where we started.

So there are truly contractors who want to do this right; and they need help from us, because they can't identify. And they're not going to sit in an office all day, trying to identify who in the country can do the job, while in the meantime the job has to be finished by tomorrow.

MS. AGUDOSI: So to follow-up on some things, and in the interest of time, I'm going to just focus on three things: One is local hire; second is solutions -- and that's directed to you, specifically, Ms. Harris, because I got a lot of what the challenges are, and what the state of things are on the ground.

But before I ask you to respond to that, I had the opportunity, even before I took this seat as Chief Diversity Officer, to attend the first -- I believe that was the first Diversity Summit that the ACCNJ held. And so as it relates to outreach, I personally know that they have that. I see ACCNJ out at a lot of different events, as it relates to outreach.

And what I also see, and what I saw at that first event -- it was not well attended; to the extent that we say that we have folks here, you know, where are they? So it could be a number of different reasons.

However, I'm focused on -- to the extent that we have organizations, be it the ACCNJ, be it agencies that want to do their external outreach -- how that actually results in-- Now we know who you are, we know what you have the ability to do. And as a consequence of that, we are now seeking you and soliciting your information for these bids.

Can you talk a little, specifically in terms of attending outreach engagements -- yourself or members of your organizations -- and what value, if any, has that made in terms of your ability to be able to get work. To the extent that there are some recommended changes, if you can let us know about that, as well as overall what are some recommended changes.

And then I'll go back to local hire.

MS. HARRIS: We're tired of going to outreach events that don't net any opportunities. So a lot of us are choosing to not go, because we spend a lot of time, and as we-- You know, that's a day out of your work day -- even if it's half-a-day you're spending -- to go to an outreach event that tends to net zero. And you can look at the goals being met and understand that they're not working. And I think when we look at the year 2020, we have to figure out how to do it differently. If we're going to have a 19th century way to do it for a 21st century problem, we have to change it. I mean, look at the way dating is done; you know, we have to change what we're doing. And I think that's part of the problem.

All of us have attended all the outreaches. We've called every single prime contractor. I mean, I have no cartilage left in my knees; I have scabs and everything. We ask to get on these jobs, and it's not happening. So I think we just need to look at the way outreach is done, and figure out how to do it better -- I mean different. I won't say *better*; different. Because

we do -- we attend all these; and then it's to the point now, we're not attending, because why? Why? What are we getting out of it? Other than going, and we shake all the hands, we get the cards, we exchange information; and nothing happens from there.

MS. AGUDOSI: So to the point, in terms of recommendations, what are some ways or some things that you think would be helpful? And I open that up, not just to you, but also to Carol. What are some ways that you would put forth that you think would be helpful, in light of the fact that we want there to be that matchmaking, we want there to be that connection.

MS. HARRIS: Well, I think if you're making an investment, and this is new, I would do like a *match.com*, where you go in and you have a dashboard. Say you're an agency; all the firms put their information in. If there's an opportunity that comes out, everyone that looks like that opportunity, from the contractors to their potential subs, gets it. So if they're interested, they push the dot or swipe right. And then all of a sudden you, as an agency, or the person who has the job on the street, sees the list of folks who, by code, are matched up to that opportunity. And then you can automatically monitor it and say, "Okay, these got the opportunity. These said 'yes, they're interested.'" Then it's on the owner to say, "Well, why can't we engage these folks?" We have to have a 21st century solution to this, because we're still doing the same -- go to outreach, sign a sheet, and then rely on that prime to say, "I contacted everybody," only they've not. They know who's not available; as you said, the gamesmanship is on. They know who's not available; they're playing these, and I've seen it.

So we have to come up with a unique way. And she addressed it, by saying we need a new database. Why don't we take it to, like dating; the way they do it now -- is match and pair our firms electronically.

MS. FULTON: Can I answer that?

MS. AGUDOSI: Absolutely, absolutely.

MS. FULTON: For this year's conference, we're talking about changing it up. Because I understand the viewpoint here, that there are so many diversity conferences now, and everybody is at the same ones. I'm at almost every one; I go into New York City. So yes, I understand your point.

We have started to collect capability statements from these firms. We have them up on our website so that our GCs can access them. So we're trying to do a little bit more. But we're looking at more of a matchmaking program for next year that will be at nighttime -- 5 p.m., not in the middle of the day -- so that it's more convenient for MWDBEs.

And as I mentioned before, we're establishing a mentoring program so that we can match up certain MWDBEs with GCs, according to their needs, and have them mentor them.

And you said something earlier that opportunity builds capacity, and that's what we're trying to do. We're trying to create more opportunities for some of these firms and grow them so that they have more opportunities to do work with our people.

MS. HARRIS: And, as a rule, I think MWBEs need to look at -- why do we try to create the opportunity, or meet all our goals, based upon subcontracting? Why is it trickle down, to where our companies can't lead and manage projects? And I think as we look at MWBEs as a whole, we have to change that because we're not getting the desirable work. You can't really

grow your firm through that; just like she said, 5 percent here, 10 percent there. What can you do with a \$100,000-something piece of a job, really, in some instances?

So I think MWBEs need to-- When you make a solution, it's from agency-wide to statewide. If you're going to do 30 percent, 20 percent goal, it should not all be met through subcontracting; because you can't grow folks and get them to learn what they need to grow, to be able to build this economy or participate in this infrastructure economy that we have coming in front of us.

And we're going to need a lot of firms ready; we're going to need a lot of individuals ready. And as we talk about workforce, we never talk about the professional workforce. We're always talking about the construction or the tradesmen. The engineers, and the planners, and the architects who design these projects need work too; they need viable work, they need to grow their muscles and their aptitude as well. As we move into a design-build economy, architecture is going to be big because the architects lead the design-build teams. And so as we look at that, how are we going to get ready for that if our MWBE firms are relegated to subcontract work?

MS. AGUDOSI: Thank you.

So as it relates to local hire -- and I want to back up a little bit -- because the State of New Jersey did not conduct a disparity study, we don't have a set-aside for MWBEs. However, we do have a small business set-aside, and we know from the data that we get that we're meeting and, in many instances, exceeding the SBE goals. That doesn't necessarily trickle down, as we discussed, into those categories of minorities, women, and veterans

comprising that SBE. But nonetheless, there is an SBE set-aside. And on these projects, across the board, we're meeting and exceeding them.

We also know that, based upon not just our State law but Federal law, that when you're talking about doing a set-aside that is race-based, that that's a stricter scrutiny and that's a harder set-aside to establish. And you do have to have that documented evidence that's produced from a disparity study in order to sustain that. And when I say *sustain that*, sustain that via a legal challenge.

So the SBE was one of the ways, after we had that GEOD consent decree -- I'm going to ask Senator Rice to just stay on ice for a second -- that was one of the ways that it was intended to address the fact that we were no longer going to have an MBE set-aside; but we were going to have a small business set-aside, and that's going to capture, hopefully, MBEs, WBEs, and VOBs under the small business. We get that; and I understand--

MS. FULTON: It hasn't.

MS. AGUDOSI: Right; I understand that dynamic.

However, I'm also aware -- because I look at best practices -- that across the Hudson, what they are doing on some of their contracts is they are including contractual language about local hire. And in light of the fact that now you have to, as a general -- and again, I'm just going from general and subs -- you have to now pull, or there's a preference for pulling, locally. That's not race-based; but to the extent that we're doing construction projects in Newark, or if we're doing construction projects in Camden, or we're doing projects that when we look at where these businesses are, there tends to be more density of MWBEs there.

My question is, do you see local hire being an advantage to infusing MBEs into the supply chain, so to speak, on these projects?

MS. HARRIS: Yes, I think it is an advantage. Because-- I'm just going to throw it out there. I look at -- you guys are building an airport in Newark, and I looked at the first terminal. When you look at the professional services, there are very few of us on there that are local. And I know four or five companies that are located in Newark that got very little participation on that. So I think that is important that we add that element to it, because most of those companies -- when I look at their compositions, they hire local. Their professional staff went to NJIT, Seton Hall, and things like that; and they're all local. So they all live local, so their tax dollars that they're paying into these projects come back right back into the communities.

And that's one of the things that we don't look at from an economic standpoint. We talk about economic development with these projects; it infuses money into our communities. If our people who live there are hired, they can go to the pizza parlor, they can go to the coffee shop, and the dollars circulate. So that is a very important component to these projects.

And I think what's across the Hudson -- they're being pretty successful with it, because those companies that wouldn't get the opportunity to work on these big infrastructure projects are now getting them because they're on first. Now, if they're not qualified, they do move on; but they make these concentric circles and at least they start in those areas, and they try to source the firms there, then they move out.

MS. AGUDOSI: Ms. Fulton, do you have any comments, in terms of what you're seeing in terms of local hire, and it being successful in allowing you to utilize MWBEs?

MS. FULTON: All I can say is that our members do their best to hire in their communities.

We have members that sit on boards of nonprofit organizations that hire from those nonprofits organizations, whether it be related to homeless people or abusive-- So yes, there's an effort there to hire right out of the communities. And those communities are from Paterson, down to Camden, to Atlantic City. They're all over the state.

MS. AGUDOSI: Now, were you-- I'm sorry; are you referring to local hire workforce, are you referring to local hire in terms of sub--

MS. FULTON: Suppliers, workforce; all of those things.

MS. AGUDOSI: Okay, the whole gamut. Okay, great.

Thank you.

MS. HARRIS: Well, one feeds the other. If you hire local companies, they tend to have a local workforce.

MS. FULTON: Yes.

SENATOR RICE: So will you--

MS. FULTON: She has a--

SENATOR RICE: Oh, I'm sorry.

MS. WALTER: Thank you, Senator.

I have two quick questions.

First, something we've heard from both of you -- speaking about the rate of growth and the need to increase capacity and opportunity. I was wondering if there is any historical data available, going out 10, 15 years, about firms that have grown up within the industry, where you can track the progress of young firms that are coming in with newly qualified individuals, people coming out of the trades, and tracking their progress to see whether

women-, minority-, and veteran-owned businesses are matching the progress of other businesses through the industry.

MS. HARRIS: Qualitatively, you can look at certain firms that started at that time, from non-MWBE firms, and see how they've grown substantially. And you can look at the MWBE firms and see where they've not grown, or they're out of business. Thirty percent of MWBE firms go out of business in the first three years because of lack of opportunity.

MS. WALTER: Thank you.

That may be something that we should evaluate as part of the disparity study.

Another question -- this is a little bit off of the topic you're discussing right now with local hire, but what it pertains to, really, is building capacity within growing firms.

We've heard from several groups that access to loans and access to bonding are inhibiting progress for MWDBE firms. And I was wondering -- is there anything that the industry is doing to encourage expansion of those resources and opportunities for firms, to ensure that they have the chance to grow?

MS. FULTON: Well, I can say that the State of New Jersey's doing a lot for these firms. The EDA has a grant, and they have a bonding readiness program that minority and women firms are invited to apply for. ACC, just recently, was involved; and we were able to have the opportunity to nominate companies that were eligible for those bonding readiness funds.

And as I mentioned earlier, our Association includes service providers that have expertise in bonding and insurance. So they are ready,

and willing, and able to work with some of these firms to help them with any bonding or insurance issues that they might have.

MS. HARRIS: And that's another result of problems. If you don't have jobs big enough to be able to get the bond, no one's going to give you a bond. And it's the same with insurance. They want you to have had a project at certain -- demonstrate that you had a project of a certain size to insure you. But then there also needs to be a proportionality, as it relates to insurance and bonding as well. Let me bond, or get my insurance on my portion of it. But so often, on the insurance, they make the subs have the same amount of insurance for the whole project; and it doesn't make sense to me. If I'm doing \$100,000, why do I need to have insurance for \$40 million? It's almost cost-prohibitive for you to do that job. And those are some of the things we have to look at as those *unintentional barriers* to participation.

MS. WALTER: Thank you.

MR. GRIFFIN: I'm sorry; follow-up on that question.

Who is the *they* you mean? Do you mean the State agency is requiring that the subs have the same amount of insurance? Is the GC requiring that? Who is requiring-- Where is that requirement coming from, is my question.

MS. HARRIS: It comes from the agency, or the owner. They'll have their insurance requirements, and then it'll go to the prime contractor. Then the prime passes it down to the subcontractors. And they'll pass the whole amount, versus the portion that they're doing; or uniquely, sometimes if you're not going-- Like with maritime insurance at the Port, everyone has

to have it on the jobs. And even if I'm putting up sidewalk barriers and not going near the water, I'm still required to have that.

So we have to look at some of those issues and some of those instances and see -- is this really required? Because it is a barrier; because I can't have \$40,000 worth of insurance and my contract is \$52,000, or I end up getting \$100,000. I'm talking about the cost of my insurance.

SENATOR RICE: So I really believe that the record needs to reflect, and we need to make note, that the comments you made should be part of this disparity study.

I also want to ask a question, but I want to just indicate -- we ask for information. We asked people from-- The Joint Committee on Economic Justice and Equal Employment Opportunity asked the people from the Administration to come over from Treasury to talk to us about the process of getting work as managers and co-managers doing bonding. On two occasions, they didn't show; they say they will come in the future. But they keep sending us reports, and they want to remind us about how they have made certain that more women and minorities have gotten underwriting work. And the reason I'm raising this is based on what you were saying. I keep talking about managing and co-managing. Underwriters don't really make money, per se. So it's easy to increase that, when people aren't making money in the first place, okay? They usually take it just to be a part of an active portfolio. And that's the kind of stuff we get; when we do ask, they don't give us what we want up here.

So I think that the Governor has indicated, in his speech yesterday, his message -- and this is why he's so supportive of the things we are doing -- that he wants to enhance all of this, not at the lower tier, but at

the top tier as well. And that's the implication that I got in those conversations I have with him.

The Senate President has assured me, as Chair of the Legislative Black Caucus, in our conversation and our members at our retreat, that he's interested in making this stuff happen.

And so it's important that members make the Disparity Commission -- and that's why I tell the staff to take good notes -- because some of this stuff may require legislation. And I am going to be somewhat upset if legislators on the Commission understand what we're doing, then oppose good legislation once we get it; and we should put that legislation together collectively, okay? And so I need to say that.

And I'm going to ask a question in a moment -- whether or not -- what legislation do you think is necessary, if any at all.

When it comes to local hiring, I've had a local hiring bill in, for I don't know how long, to do some stuff at the State. But it never went any place in Committee, and I'm going to put it back in. And it may need massaging and things like that, but we had folks come in -- who we brought in, I brought in -- who worked with the Mayor of Newark, but I brought them in from California. And our good friend Greg Williams, over in OLS, worked with them because local hiring -- what happens is that you get into "these union fights." But in California, there was a lot of pushback from organized labor; and eventually they settled down, because they know it works for their benefit too, and they started to do it. So they are models of local hiring, so we need to take a look at what that means.

And then, also just for the record, I've always said -- and I have a bill in; and it has been in before, but we're going to try and move it -- where

local government needs to be doing these disparity studies every five years. For example -- and this is for you, as Chief Diversity Officer -- I believe that we-- And Senator Singleton and I are sponsors of the Bill, that requires entities at every level of government to conduct periodic studies of racial and ethnic disparities in public contracts. You know, they should be doing that. That's the only way you're going to keep up, once we get there. Do you follow me?

And by the same token, I have legislation that requires State agencies and local government units to report certain information concerning bids on public contracts by minority- and women-owned business enterprises, and prohibits discrimination against such enterprises.

So we're going to need legislation, I believe, on some of this stuff. Because if not, we're going to get rhetoric from folks, maybe in the Administration that's doing policy and advising the Governor one way, versus what we say. We're going to probably get some pushback with legislators who-- And we're definitely going to get pushback from contractors, and unions, and other folks. Because I rode this horse before; every time you raise it, it's like, "No, why should we do that?"

And so, once again, your testimony is very important. And what I want to just make certain is that everything that we're talking about today really gets pulled out of the transcripts and reviewed again. Because I think it's going to be necessary.

Now, the question to the two of you: Is there any legislation you're aware of that other states may have -- that you think may benefit you and your organizations, but also benefit us -- to bring that compromise, or to

bring what we're trying to accomplish collectively together, that we should be doing, etc.?

MS. HARRIS: New Jersey Transit just did their new disparity study, and they now have 21.87 race-conscious goals. Their last disparity study produced race-neutral goals. Local Law 1, in New York City, has race-based goals that they don't use; but if you look at Local Law 1, you'll see that there are definitely goals based upon black American, Hispanic, women, Asian, and then other. So there are places that are doing that. Are they following and monitoring it? No.

But here in your state, New Jersey Transit's new disparity study is now race-conscious. So that says that there is a disparity versus -- for races. And as you look toward your disparity study, if you say you can't, because it's going to be narrowly tailored and have scrutiny-- They can scrutinize it so we don't have work, at this point. So we're to the point where we need to fix something in the system to make sure that we all benefit from these taxpayer-funded projects. We're all paying taxes here; we are. But we are not benefiting from it, when it comes to these jobs.

Eighty percent of it -- we know off the top, before you look at any type of goal -- is going to male-owned white companies. I think that's outrageous, when we look at the composition of our communities. And something has to be done. We're not going to be able to hire folks, we're not going to have our engineers and architects if we don't do something about that. That's what's at stake here -- is our future, and what we need done in this community for us to have folks who are able to point to a bridge and say, "I worked on that; I designed that." Nobody like us can do that up here.

MS. FULTON: I am not aware of any legislation at this point.

MS. AGUDOSI: Well, I want to thank both of you ladies for coming and presenting important information and testimony for this Commission.

Please know that you can reach out to me, after the fact, to supplement any other comments that you've made; and that this is something that we're looking to address comprehensively, which is one of the reasons why you've been invited here -- because we want to make sure that all stakeholders are a part of this process.

So on behalf of the Commission, I thank you.

MS. FULTON: Thank you.

MS. HARRIS: Thank you.

SENATOR RICE: Excuse me; did either of you have written testimony?

MS. FULTON: I do have--

SENATOR RICE: And if so, can you make sure that, through the Chair, we get your written testimony?

MS. AGUDOSI: And the transcriber needs that as well.

SENATOR RICE: Right.

And also, I'm really interested in -- maybe you can send us some recommendations about these codes and the standardization of this database stuff, where it's clear to us. Because I think we need to take a look at that now. And we don't have to wait to do legislation on that, we just have to know what it should look like, okay?

MS. FULTON: I'd be happy to do that; thank you.

MR. GRIFFIN: I don't think you need legislation for that portion.

SENATOR RICE: Well, I found out, in New Jersey, if you don't codify, it gets changed. But that's only 34 years; I may be wrong.

MR. GRIFFIN: I will defer to you on that.

But what I would caution is that you don't want to codify a specific thing, and then it changes later. And then you're stuck with it. So if you're going to codify it, we need to make sure there are mechanisms -- some mechanisms, so that you don't have to go back again and try to fight to get it changed.

SENATOR RICE: And that's why I want it sent to us -- what you think it should look like, or what you think we should be doing. And then before we do codification, we're going to share it with the folks who can put it in perspective for us.

MS. AGUDOSI: So having said that, we are now done with our new business portion of today's meeting, and we're open for just discussion and any other matters that anyone would like to raise at this time. (no response)

There not being any, we are adjourned.

And as I indicated, I will be reaching out to Commission members, through e-mail, in terms of just amplifying some of the information that we have, focusing on some of the areas that we said we were going to highlight for discussion for recommendations.

And I also will separately be looking to identify the persons that Senator Rice has identified, to invite them to attend one of our last three remaining meetings.

Thank you.

SENATOR RICE: Just for the record, I just want to-- Because I'll forget things, you know; I'm getting gray hair now. And I (indiscernible) so many wars.

So to the Chair -- just flipping ahead now, to the Chief Diversity Officer. When we get the folks who want to do the due diligence on collecting real data for us, can you make sure and insist that, in the contract, that they have to read every transcript that we have, and understand what's been said at these meetings, okay? Because I think some of the things that we're talking about here -- those consultants are going to tell us that in New Jersey we're not doing well. We need to look at all the information that's being distributed here. Rather than just going out on their own, based on their cookie-cutter way of doing things, we want them to know what we are saying and what people are saying to us.

Thanks.

MS. AGUDOSI: So noted, and we'll bring that back for our discussions later today for the RFP meeting.

Thank you.

We are adjourned.

**(MEETING CONCLUDED)**

