

1 JOINT HEARING BEFORE THE NEW YORK STATE SENATE
2 STANDING COMMITTEE ON LABOR
3 AND
4 STANDING COMMITTEE ON ECONOMIC DEVELOPMENT
5 -----

6 PUBLIC HEARING:

7 TO EXAMINE THE MINORITY AND WOMEN-OWNED BUSINESS
8 ENTERPRISES PROGRAM, AND CONSIDER POTENTIAL
9 LEGISLATIVE SOLUTIONS TO CREATE A MORE
10 EFFECTIVE AND EFFICIENT PROGRAM TO ENHANCE
11 NEW YORK'S BUSINESS CLIMATE
12 -----

13 Binghamton University
14 Symposium Hall
15 Center of Excellence Building
16 85 Murray Hill Road
17 Vestal, New York

18 August 13, 2018, at 1:00 p.m.

19 PRESIDING:

20 Senator Frederick J. Akshar II (Sponsor)
21 Chairman
22 NYS Senate Standing Committee on Labor

23 CO-SPONSORS PRESENT:

24 Senator Susan J. Serino

25 ALSO PRESENT:

Senator Thomas F. O'Mara
(at the dias)

Assemblyman Clifford W. Crouch
(in the audience)

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1 SENATOR ASHKAR: Thank you very much for
2 joining us.

3 There's a lot of people in the room. This is
4 very good to see; it's a very important program.

5 Allow me to begin by thanking Majority Leader
6 John Flanagan for keeping this particular issue and
7 program at the forefront of our priorities.

8 I think it's safe to say that everyone in the
9 Republican Majority Conference in the State Senate
10 seeks to create a better business climate in this
11 state.

12 And despite what our governor would have you
13 believe, New York is not open for business, because
14 of programs like this that are fledgling and are not
15 as effective and as efficient as it should be.

16 I think it's incredibly important to note,
17 though, when speaking about the MWBE program, it is
18 not the intention of the Republican Majority
19 Conference to end this program.

20 It is our intention to amend the program and
21 make the program the best it can possibly be.

22 We -- when the Governor sought to extend and
23 expand the program, we knew that -- and I'll say
24 this in my humble opinion -- that the program wasn't
25 functioning the way that it should be functioning.

1 So, we continue to hear stories about how our
2 tax dollars are being wasted.

3 We continue to hear stories about the prices
4 of projects going up 10 and 15 percent sometimes
5 because of this particular program.

6 We continue to hear stories about
7 certification taking upwards of 18 to 24 months.

8 We continue to hear stories about the horrors
9 of recertification, and people not being
10 recertified, and there being no excuse about why a
11 particular company is not being recertified.

12 We continue to invite state agencies to join
13 us and be part of this particular conversation, and
14 we continue to get empty chairs, which I think is
15 discouraging and I think is disheartening, because
16 if the Governor truly seeks to make this the best
17 program it can truly be, I would respectfully offer
18 that those people administering those agencies that
19 oversee this program should, in fact, be at the
20 table.

21 And that is not happening.

22 So, I do want to thank the executive director
23 of the Thruway Authority, Matt Driscoll. He, in
24 fact, sent me a letter and said that he had a
25 scheduling issue and that he couldn't be here.

1 But I did not hear from any of the other
2 state agencies that we invited.

3 So, you know, I would offer that, if the
4 Governor, again, truly wants to change this program
5 and make it the best it can possibly be, why he
6 should be at the table, and/or he and his people
7 should be at the table, to make this a better
8 program.

9 I'm blessed to be joined by
10 Senator Sue Serino from the Hudson Valley, who is a
11 fierce advocate for the people of her Senate
12 district. She travels around the state doing a
13 plethora of things, this being one of them.

14 So with that, I'll introduce
15 Senator Sue Serino.

16 SENATOR SERINO: Thank you, Senator Ashkar.
17 And I'd like to thank you for holding this
18 forum today.

19 And thank you to all the small-business
20 owners that are here as well.

21 I'm a small-business owner myself.

22 So, when we go to Albany, we fight each and
23 every day to protect our small businesses.

24 And we all know that the MWBE program began
25 as a way to empower incentivized diversity in

1 businesses.

2 But, however, since taking office, I've heard
3 from so many business owners, the obstacles that
4 they are faced with.

5 And I know, even for the recertification,
6 I was told that you -- it's every three years. That
7 have you to start when you are a year and a half in.

8 So, right there, that's a problem.

9 So there's so many things that we need to be
10 working on.

11 And so I look forward to hearing the comments
12 today.

13 And, you know, we get our ideas from all of
14 you. So, thank you for participating, it's so
15 important.

16 Thank you.

17 SENATOR ASHKAR: I think Senator Serino
18 brings up a really good point, that, in addressing
19 the MWBE issue, we don't seek to address this issue
20 from the 30,000-foot level. We don't seek to
21 suggest for a moment that the bureaucrats in Albany
22 should be determining how this program is
23 administered and how it's rolled out.

24 As a matter of fact, that's why we're in the
25 situation we're in today, because people in Albany

1 aren't listening.

2 So we've decided to take a different tact.

3 And as I said, we're holding between six and
4 eight of these public hearings throughout the state,
5 and we're taking a bottom-up approach.

6 We're listening to the people who are dealing
7 with this particular issue every single day, and
8 trying to -- trying to make it a better program.

9 So with that, I'm going to ask
10 Mary Murphy Harrison, Christina Pierce, and
11 Katie Whitmore to come down and provide their
12 testimony.

13 We're trying to keep everybody's testimony to
14 around 10 minutes, if we can.

15 We have a lot of people in the room that are
16 going to provide testimony.

17 If you don't take up the whole 10 minutes,
18 that's okay.

19 And, if you have written testimony and you
20 haven't provided it to us yet, please do that and
21 we'll use it.

22 Mary, why don't you start.

23 MARY MURPHY HARRISON: Okay.

24 SENATOR ASHKAR: Just give us a little bit of
25 a background.

1 We have a pamphlet here about where you're
2 from, and what you're bringing to the table.

3 But if you could, just a little bit of
4 background, for all of you, and then just go into
5 your testimony.

6 MARY MURPHY HARRISON: Okay.

7 I'm Mary Murphy Harrison. I'm owner of
8 Barney & Dickenson and Bob Murphy, Inc., two local
9 companies in Vestal here.

10 Bob Murphy's been in business since 1951, and
11 is a steel-fabrication shop, structural steel sales,
12 material building dealer.

13 Barney & Dickenson has been in business since
14 1936, and supplies ready-mixed concrete, sand,
15 gravel, and landscaping materials.

16 We are a family-owned company that has served
17 the Southern Tier of New York with quality service
18 and products for the commercial, industrial,
19 municipal, and residential markets.

20 Barney & Dickenson was first certified in
21 2009 as a WBE. The renewal application was
22 submitted February 2015, and after 2 1/2 years of
23 waiting for the application to be processed, the
24 certification was renewed in October of 2017.

25 Bob Murphy's, however, was first certified as

1 a WBE in 2006. I submitted the renewal application
2 in July of 2014, and waited again 2 1/2 years for it
3 to be reviewed.

4 When I was finally contacted for more
5 information in October of 2016, I sent the
6 information they requested through their fax system.

7 I have confirmation that everything went
8 through okay; however, on their end, they said they
9 only received bits and pieces.

10 So I offered to FedEx, overnight, all the
11 information copied.

12 They said, Don't worry, we've got enough.
13 You know, you're set.

14 However, in January of 2017, I received a
15 letter that I was denied for the renewal. And as of
16 today, I'm still fighting to get my certification
17 back; it is in appeal.

18 Over a year ago I hired an attorney in Albany
19 to assist me in submitting the written appeal, and
20 that alone has cost my company over \$3,000 in legal
21 fees.

22 The appeal was submitted on August 8, 2017,
23 and we are still waiting for that appeal to be
24 heard.

25 For a period of 15 months, we were dropped

1 from the New York State Directory. The reason that
2 was given to me were that, quote, We were so far
3 beyond our certification expiration date.

4 Which, and I remind you, I filed a timely
5 application.

6 During that time, I had contractors who had
7 to look for other suppliers to meet their WBE
8 requirements, which resulted in lost business for my
9 company.

10 And then, out of the blue, about a month ago,
11 for some unknown reason, my name was added back to
12 the directory.

13 To describe the recertification process for
14 Bob Murphy, Inc., as a nightmare and costly process
15 is putting it lightly.

16 I had distributed, for your information, a
17 timeline of events that the process has incurred.

18 I feel the renewal process has unjustly cost
19 my company time, money, sales, and the trust of my
20 customers.

21 When I heard that you were holding hearings
22 around the state concerning the Minority- and
23 Women-Owned Business Enterprises program, I thought,
24 It's about time.

25 I am happy to see that the issues of the MWBE

1 program, whether on the contractors' side or my
2 side, are being addressed.

3 Thank you.

4 SENATOR ASHKAR: Thank you, Mary.

5 Christina.

6 CHRISTINA PIERCE: Thank you for hosting this
7 event, and for the opportunity to share my -- our
8 experience with the MWBE program.

9 LCP Group is a Vestal-based contractor. The
10 bulk of our sales come from demolition, asbestos
11 abatement, and ironwork.

12 I work full-time at LCP and own 52 percent of
13 the company, and we've been working for over
14 2 1/2 years to become certified.

15 We face challenges with this program on two
16 fronts.

17 As a contractor, the requirements present a
18 difficult roadblock, and as a woman-owned business,
19 the certification process has been slow, biased, and
20 frustrating.

21 I'll discuss the certification process first.

22 I submitted an application on February 1,
23 2016. I was advised that we could get a fast-track
24 because we had ongoing contracts with MWBE
25 requirements.

1 13 months after applying I received a denial
2 letter.

3 There was no site visit, no interview, no
4 phone call; just a denial.

5 The denial stated two reasons for the
6 decision, that both seemed biased against a business
7 owned by a husband and wife.

8 In talking about this with other businesses,
9 I've heard several other similar stories.

10 First, it stated that I had not demonstrated
11 an investment that would justify my ownership
12 percentage.

13 I'm not sure why I need to justify my
14 ownership percentage. I should just need to
15 demonstrate it, which I did.

16 I dug into my archive files to provide
17 documentation that my outside salary funded our
18 startup.

19 They responded that my personal salary did
20 not qualify because it was deposited into a joint
21 account.

22 I then dug up documentation that my family's
23 farm was used as collateral to back our first bond.

24 This was two months ago, and I have not
25 received feedback on whether that will be accepted.

1 The second point of their denial was that my
2 husband's salary exceeded mine, meaning that I do
3 not share in the profit in proportion with my
4 ownership.

5 Salary, to me, is a meaningless measure of an
6 owner's contribution.

7 Facebook and many other companies pay their
8 CEO salaries of a dollar per year.

9 The real net worth comes from the success or
10 failure of the company.

11 This reason for denial is unfair because it
12 was not identified as a criteria for certification.

13 When we know the rules, we can play by them.

14 I've overcome this objection, and gave myself
15 a raise, but this roadblock has caused a significant
16 delay in the application process.

17 One week after receiving the denial,
18 I submitted an appeal to overturn the decision.
19 I waited nine months to receive any feedback on the
20 appeal.

21 After the first month, I started calling
22 about once every two weeks and almost never reached
23 a live person.

24 I called this often because I had entered a
25 number of contracts and let them know that my

1 application was pending. A lot of people were
2 counting on us becoming certified.

3 Once my hearing for appeal was scheduled in
4 New York City on January 16, 2018, I had the
5 opportunity to speak with the opposing attorney and
6 judge.

7 I was advised that if I appealed and lost,
8 I could not reapply again until January of 2020.

9 If I rescinded my appeal, I could reapply in
10 March of 2019 and request a waiver of the two-year
11 bar on my application.

12 I was also advised of other cases where the
13 salary issue had upheld the denial.

14 I elected to withdraw, reapply with my new
15 salary documented on tax returns, and request the
16 waiver of the two-year bar.

17 I submitted that request five months ago.

18 Have called persistently.

19 Attended a one-on-one meeting here, to try to
20 get a face-to-face response, and was advised in that
21 meeting that I just needed to wait my turn.

22 As all of the businesses in the room know, we
23 don't get to wait 13 months, 9 months, 5 months, and
24 counting, to respond to people and still stay in
25 business.

1 Senator Akshar asked whether I'd be afraid to
2 share my experience for fear of hindering my
3 application.

4 I said: Absolutely not. It can't be
5 hindered much more than it already has been.

6 And I don't blame the representatives of the
7 program. They work very hard, and they're generally
8 helpful when reachable. It just sounds like they're
9 dramatically understaffed.

10 I appreciate that they're trying to protect
11 the integrity of the program.

12 I know certified businesses where the woman
13 and minorities do not play any role in the business.

14 It's very frustrating, though, for a
15 legitimate woman-owner-operator, who is being bound
16 by the regulations, but is not being given an
17 appropriate opportunity to work within the system.

18 This program was put in place to help
19 disadvantaged businesses.

20 LCP Group is much more disadvantaged, though,
21 by this program than we are by being woman-owned.

22 This program has consumed a considerable
23 amount of my time and energy, both trying to become
24 certified and trying to reach the goals.

25 The goals are unattainable in this region, at

1 least in the areas LCP specializes in.

2 As a woman in business, I am all for creating
3 an equal playing field.

4 Unfortunately, in this region, it's an
5 equally bad playing field. It hinders local
6 businesses, and causes us to search outside the area
7 for qualified businesses that can perform the
8 specialized work required on our contracts.

9 Because of these MWBE goals, we have had to
10 park our trucks and hire other trucks from a WBE at
11 an inflated rate, only to have non-MWBE trucks
12 arrive on our site.

13 It worked because we met our goals, but it
14 didn't seem right.

15 Because of these goals, I've had pre-bid
16 proposals from MWBEs that could not be honored due
17 to the capacity of the business, and I've had to not
18 meet my goals because no other MWBEs with the
19 appropriate equipment or required skill set exist in
20 the area.

21 As a woman in business who stands to benefit
22 from this program, if I could ever get certified,
23 I would still like to express my opposition to the
24 program as it's currently operated.

25 It is true that there are challenges being a

1 woman in business, and I'm sure a minority as well.

2 I think every municipality in the region
3 knows my children because I'm a working mom and
4 often have them in tow.

5 I have missed bids because I've had to pick
6 up sick kids from school in the middle of my work
7 day.

8 Some people won't leave messages with me for
9 the business because they think I'm a secretary.

10 I've watched equipment dealers and auto
11 dealers give my husband much better deals than me,
12 not because of any lack of negotiating skills.

13 I've had people try to strong-arm me in
14 real-estate deals, and then be reasonable when they
15 speak with my husband.

16 I've seen e-mails where I'm called the "LCP
17 wife," and it's offensive.

18 Even our former bank requested that we carry
19 life insurance on my husband, but not on me.

20 And probably the most frustrating hurdle I've
21 faced as a woman in business has been from New York
22 State, discrediting my involvement in the business.

23 A few things I'd recommend that would improve
24 this program in non-metropolitan areas:

25 Number one: Allow for exemptions from the

1 requirement for specialized work. In some cases,
2 there are zero MWBE firms available that can perform
3 certain types of work.

4 Number two: If a contractor is
5 self-performing work, don't force them to
6 subcontract.

7 Make the goal a percentage of the
8 subcontracted portion of the work, not a percentage
9 of the entire job.

10 On some contracts, we perform most or all of
11 our work in-house.

12 Being forced to sub work puts a compromised
13 position -- puts us in a compromised position and
14 forces us to take on risks from other companies that
15 may not be fully skilled or qualified to perform the
16 work.

17 Provide MWBEs with free access to sites,
18 like ABC, where they can download plans.

19 When I do engage in MWBE, they almost never
20 have plans or specs.

21 Clean up the Empire Development website.
22 About 50 percent of the numbers I call from there
23 are out of service.

24 Improve the good-faith-effort system.

25 I personally make tremendous good-faith

1 efforts, but I don't hear back from New York State
2 on whether they're good enough until my projects are
3 completed.

4 This could be automated and systematized so
5 there will be less guesswork for contractors, less
6 burden for the State, and improved opportunities for
7 MWBEs.

8 Stop allowing MWBE firms to subcontract their
9 work. It seems to defeat the purpose of the
10 program.

11 Either hire more people to help the program
12 or automate it.

13 The current response rate for applications,
14 goal-reduction requests, good-faith-effort reviews
15 does not demonstrate that New York is open for
16 business. It demonstrates quite the opposite.

17 Create a system where subcontract-work
18 opportunities are advertised directly to MWBEs.
19 Let the MWBEs pursue real leads instead of making
20 contractors go on a wild goose chase.

21 Require contractors to submit their
22 opportunities on the system and give MWBEs a fair
23 shot at the work.

24 Let the contractors keep -- and MWBEs keep
25 it up to date and take some of the workload off the

1 State.

2 Give MWBEs a credit on their tax returns,
3 reduce workman's comp, low-interest loans, lower
4 health -- lower-cost health insurance; find other
5 ways to help them, without doing it at the expense
6 of other New York State businesses.

7 I hope my feedback has provided some insights
8 and may help.

9 I appreciate your time and interest in
10 improving the system.

11 SENATOR ASHKAR: Thank you, Christina.
12 Katie.

13 KATIE WHITTEMORE: Hi, I'm Kate Whittemore.
14 I am the newly-appointed president and CEO of
15 Home Central, which is a retail hardware, lumber,
16 building-materials company in three locations in
17 Broome and Tioga counties; Owego, Candor, and
18 Vestal.

19 Our company was started in 1973. It's a
20 third-generation business. And, we have a customer
21 split of about 50 percent residential customers,
22 50 percent contractors.

23 A very small portion of our business is
24 municipal or commercial.

25 And as I took ownership -- majority ownership

1 in January, one of my goals is to diversify my
2 customer base, and part of that is more commercial
3 and municipal sales, which have degraded over the
4 years.

5 And I attribute that decline to some of the
6 third-party purchasers, and some of the take-away of
7 local purchasing for the State that is now higher up
8 the ladder.

9 So, that diversity of my customer base,
10 I believe, will lead to the stability of my company,
11 and help me continue to grow and foster growth for
12 my company.

13 So that lends me to discuss why I'm seeking
14 MWBE status.

15 A lot of my customers are talking about
16 traveling across the state to source materials.
17 They can't source materials locally. So that
18 automatically is increasing the cost to their
19 customers, whether those are grant recipients or the
20 State themselves, and probably reducing the
21 profitability of those contractors.

22 And as I said before, I think some of our
23 prior sales to municipal -- municipalities and
24 commercial business has eroded over the years. And
25 I think that status will help my company.

1 So I took majority ownership in January.

2 In April I set up an account with the
3 New York contract system, and I submitted my
4 application June 14th.

5 June 15th I attended an expo here, and had a
6 face-to-face interaction with someone from the
7 department. Was told to call back the following
8 week and discuss the status of my file and provide
9 additional information.

10 They knew there was a need in my area that
11 had been made abundantly clear to them, so he seemed
12 like he was ready to handle my file and expedite it.

13 But, my communications with them have been
14 unresponsive.

15 I've talked to one human being, and he told
16 me he would call me back later that afternoon. And
17 I have not had any contact.

18 So I'm still waiting to hear back on my file.

19 My expectations are low, despite the fact
20 that I have a lot of customers that are hoping that
21 we get this approval quickly.

22 My perspective on the application process,
23 because I can't speak beyond that, is that, for a
24 company of my size and 45 years in business, there's
25 a lot of data there, and the application process is

1 fairly in-depth.

2 And if I were a startup, it would probably be
3 easier to supply that information.

4 But, with 6 people over 45 years with
5 ownership interest, and several different people
6 serving as the secretary-treasurer for our company,
7 the records are -- the recordkeeping was handled a
8 little bit differently by each person.

9 And, so, we've had to hire a lawyer to help
10 us compile that information.

11 Secondly, one of the pitfalls of the
12 application process is that the time that we've had
13 to invest in this is immense, and it takes your
14 focus away from operating your day-to-day business.

15 I spent a month, at least, compiling
16 information to submit with my application.

17 If I tallied the hours that myself and my
18 staff and my lawyer put into the process, I think we
19 could have spent 3 weeks of 10-hour days, just
20 providing information.

21 I think that's probably an understatement.

22 Some of the information they're asking for,
23 at least in my case, was not information that I had.

24 Resumes for all of the owners and primary
25 staff.

1 I went right to work from college in my
2 company's business. I never had a resume.

3 My dad never had a resume. He's the
4 retiring -- or, he's now our secretary-treasurer.
5 He had served as a president before.

6 So now we all have resumes.

7 You know, what good does that do me?

8 Contracts; they're asking for contracts with
9 my customers.

10 We just don't operate on a contract basis.

11 We estimate for our customers to help them
12 develop bids, but we aren't creating a contract.

13 And that's part of the application process.

14 They also ask for sales for completed
15 accounts, which is like a project.

16 If LCP has a project, and, from start to
17 finish, how much are we providing for that project?
18 I don't necessarily know, because we don't operate
19 on contracts.

20 I have a charge account for LCP.

21 I hope I keep that charge account open year
22 after year. I'm not closing it out and saying, this
23 is how much we supplied to them.

24 A shareholder agreement was something that
25 I had to upload to the site several times; fairly

1 repetitive.

2 Luckily, I had a shareholder agreement.

3 But I think a lot of companies of my size,
4 and smaller, wouldn't spend the money with a lawyer
5 to create a shareholder agreement.

6 I just happened to decide in 2014 that, as we
7 did a generational transfer, it made sense to have a
8 shareholder agreement. But, it's a big expense.

9 And one of the areas that they talk about on
10 the application is: Who's overseeing every aspect
11 of the business; payroll, marketing, bidding,
12 purchasing?

13 And from what my lawyer had told me, what
14 they're looking for is for me to have my hands on
15 every aspect of my business.

16 And if I'm going to grow my business, I can't
17 have my hands in every decision to buy radio
18 advertising and to hire a sales clerk. It's just
19 not feasible, and it's not sustainable for growth
20 for my company.

21 I do oversee the health and well-being of my
22 business. I have metrics that I'm watching.

23 But -- and I'm going to delve in when I see a
24 metric that's not right.

25 But I am not going to nitpick every little

1 decision that's made in my company, and that that
2 could, potentially, be a red flag for my file.

3 As I said, there was a repetitive nature in
4 the application. I won't go into that.

5 So, since submitting the application, as
6 I said, I have not heard anything.

7 I have called. I have e-mailed.

8 No response to e-mails whatsoever.

9 Despite the fact that I do have a hard time
10 understanding and hearing the person that is
11 handling my file, just have a very hard time
12 understanding him, so e-mail would be preferable.

13 And now I have a bill from a lawyer for
14 \$4,000, and I'm only in the application process.
15 I could be going through years of appeals.

16 Additionally, I would love to pursue more of
17 those commercial sales, and I would love to create a
18 position for that in my company. But I can't put
19 the cart before the horse when I don't know what's
20 going to happen with my file.

21 So just some follow-up insights that I had:

22 The expo was helpful, just to understand the
23 opportunity that's there, whether it's good
24 opportunity or bad.

25 But I saw opportunity for my company that

1 I didn't previously know existed through the
2 program.

3 But some of what was said in the expo really
4 pointed at, start up a business and you can do
5 business with the State, versus, a longstanding
6 business; how can we do business with you? whether
7 it's me as a woman running it or someone else
8 running it.

9 And I think it's important, when we do have
10 these expos, that every authority in our area that
11 has deals with grants, or deals with business
12 development, attend those expos, because the
13 potential, as it stands right now for us to get more
14 business from the State as a small local business,
15 is large. But, the process is in-depth, and I don't
16 think a lot of people understand how in-depth it
17 really is.

18 And, you know, there's been a longstanding
19 sentiment that this process is a farce.

20 And it's gone the other way, and now we're
21 all scared to do it, because it's a huge time
22 investment, and we're, probably, likely to get
23 denied.

24 I know of other customers of mine that have
25 been denied because it's a husband and wife.

1 They own different businesses that do
2 business with each other. But, you can ask everyone
3 in our community, that the wife owns this business
4 and she operates this way.

5 And she's denied and told that, if she got a
6 divorce, she would get approved.

7 And that's -- you know, that's insulting.

8 And I fear the same thing for my company.

9 We have a sister company that is the
10 real-estate holding company.

11 My parents own majority share of that, and
12 I lease those facilities from them.

13 I'm told that that's a red flag to the State;
14 that because I lease from those -- from people
15 outside my own company, that they could have control
16 over my company in the eyes of the State.

17 So I'm concerned about that; I'm very
18 concerned about that.

19 And to just get back to why we're here:

20 It seems apparent that the State is spending
21 money to purchase items through third-party entities
22 that are set up as MWBEs, versus doing business
23 with longstanding local companies.

24 So that's, I think, a really -- I commend you
25 for doing this.

1 So, thank you.

2 SENATOR ASHKAR: No, to your last point,
3 I have long said that this governor has completely
4 abandoned Main Street New York.

5 Right?

6 The people who have been gutting it out for
7 decades, trying to make payroll, pay their taxes,
8 feed their families, we have paid no attention to
9 them, right, despite what he says in a well-produced
10 commercial.

11 Right?

12 And I think this MWBE program is like a shiny
13 onion. And, the moment you start to peel back the
14 layers of the onion, and which is what we're doing,
15 and listening to all of you who are, you know,
16 embarking on this journey into this MWBE program,
17 you see just what a rotten onion it truly is, and
18 that it truly needs to be fixed.

19 We've been joined by Senator O'Mara,
20 my neighbor to the west, of course, out in
21 Chemung County.

22 Senator, thank you.

23 Do you want to offer a few remarks before we
24 ask questions?

25 SENATOR O'MARA: No, I'm good.

1 Just go right to the questions.

2 Thank you.

3 SENATOR ASHKAR: Okay.

4 Do you have any questions?

5 SENATOR SERINO: No, I don't have any
6 questions.

7 SENATOR ASHKAR: So I just want to make sure
8 I understand this.

9 Mary, you're waiting some 2 1/2 years.

10 Christina, you're waiting some 2 1/2 years.

11 You, Kate, are only a few months in; however,
12 it seems like a recurring theme.

13 Right?

14 One thing that we talk a lot about is this
15 "30 percent."

16 And I think everybody in the room understands
17 that nowhere in the original statute does this goal
18 of "30 percent" exist.

19 Do all of you, all three of you, think that
20 that is an unattainable goal, this 30 percent?

21 OFF-CAMERA WITNESS: Absolutely.

22 MARY MURPHY HARRISON: I've had calls from
23 New York City, trying to entice me, bringing down a
24 ready-mix plant, and delivering concrete, which is
25 out of the question.

1 I know contractors, I get e-mails every day
2 from contractors throughout the state, wanting a
3 bid, and I just can't do it.

4 I can't mobilize that amount of equipment to
5 do that job. It's not worth it.

6 SENATOR ASHKAR: Here's the other amazing
7 piece, is that, this goal of 30 percent, this
8 arbitrary number that the Governor's picked, really
9 is too low if you listen to this disparity study
10 that he's conducted.

11 He would have you believe that the number
12 should be 52 percent, 51 percent, something like
13 that.

14 We know that, clearly, can't be the case.

15 Right?

16 And I think we'll hear some testimony later
17 from others that will talk specifically about the
18 waiver process and, really, just how terrible this
19 disparity study was.

20 Christina, would you just talk a little bit
21 about the bias that you had mentioned, and why you
22 think biases exists in the current program?

23 CHRISTINA PIERCE: So I -- being a
24 husband-and-wife-owned business -- I -- my husband
25 owns the other 48 percent of the company -- that's

1 just created a red flag for them.

2 That the two reasons for the denial are
3 really ludicrous to me.

4 The fact that my payroll is lower than his.

5 We both make less than everyone else in our
6 company because they all make prevailing wage rate.

7 And most of our payroll kind of goes back in
8 to fund the business when it needs help, and then we
9 pull it back out when we're -- you know, when
10 it's -- the bills are caught up.

11 So it's such an irrelevant piece of
12 information. And it's not cited in the application
13 process.

14 So had I known that the woman-owned -- you
15 know, the woman in the business needs to have
16 X amount of payroll, I could have done that.

17 But it just seemed like a card that they were
18 holding back to use, as needed, in the denial.

19 In my conversation with the attorney who was
20 going to be opposing me in the appeal, it was
21 very -- I don't want to say derogatory, but it was
22 pretty close.

23 And I don't remember if someone directly told
24 me to get a divorce and then apply, or implied that.

25 But that was certainly -- when she mentioned

1 that, that was certainly a suggestion how I could
2 attain this certification.

3 And that doesn't seem right.

4 SENATOR ASHKAR: You know, I think what is
5 sad as well, is that, you know, we've heard from
6 many others in other hearings, but we've heard it
7 from you guys today too, that we're sending our work
8 elsewhere, right, throughout the state, which
9 I think is highly problematic because, clearly, we
10 have people here --

11 I'm going to talk specifically about the
12 Southern Tier because that's who I represent and in
13 where we are today.

14 -- but have had to go to Western New York or
15 the North Country, or, Mary, in the description you
16 just gave, send a ready-mix plant to New York City
17 to fulfill these goals, which is, in my humble
18 opinion, very problematic.

19 We have people here that want to work.

20 There are people in the North Country that
21 want to work, that are capable of working, and in
22 Western New York, capable of working.

23 We're not doing that, because they're -- we
24 created these loopholes. And, you know, having to
25 send people to other parts of the state to fulfill

1 this obligation, which I think is incredibly sad.

2 And you told the story about, you had to park
3 your trucks and hire somebody else to do the work
4 that you were perfectly capable of doing.

5 So --

6 CHRISTINA PIERCE: I'm still not
7 understanding, they were not MWBE trucks.

8 They were -- it was just another --

9 SENATOR ASHKAR: Okay.

10 CHRISTINA PIERCE: -- I mean --

11 SENATOR ASHKAR: Anything else, guys?

12 SENATOR SERINO: Yeah, I just -- I want to
13 thank all of you for coming here and being brave and
14 telling your stories.

15 You know, as a small-business owner, and also
16 as a woman, I liked what you had to say, Christina,
17 because I can relate.

18 You know, I own my real-estate company.

19 I can't tell you the countless times that
20 people have gone up to my husband and say, Oh, you
21 own a real-estate company too.

22 So, uhm, it's just an image that we need to
23 work on.

24 Even in the Conference, right, I think we
25 have seven women now. I was the fifth out of

1 thirty-two.

2 So, it's just pretty interesting, but we keep
3 on plugging along.

4 And I have to tell you, the stories that
5 you've told are so similar to stories that I've had,
6 where -- and when people have been told to appeal,
7 I had a particular case, it was relatives also, that
8 were told to appeal.

9 And then when I spoke to somebody at MWBE,
10 they said that they win 98 percent of their appeals.

11 So -- and here you're giving out that
12 information.

13 It's absolutely horrific.

14 God forbid we ran our businesses the way the
15 MWBE program is run.

16 So, thank you very much for all of your
17 comments, and good luck, and we'll keep on fighting.

18 SENATOR O'MARA: Well -- well, Sue, if they
19 never make a decisions on those appeals, it's not
20 counted as a loss.

21 So that's part of the problem, is the length
22 of time that this process takes.

23 You know, we want to encourage, as a
24 Legislature, women- and minority-owned business.

25 And I don't think anyone disagrees with the

1 stated motivation of our governor and his
2 administration to move forward on this.

3 The goals that are set are unrealistic to me,
4 particularly for our region here in the
5 Southern Tier, and regions like the North Country,
6 where we had a hearing a month ago up in Watertown
7 for that.

8 But, you know, we want to encourage you to
9 continue in this process, but it's very frustrating,
10 and we hear the stories over and over again.

11 We heard them in Watertown.

12 I hear them in my office in Elmira and in
13 Bath on these.

14 And it's almost like they look at you and
15 say, Well, you're a woman. You couldn't possibly
16 own this business.

17 So it's just completely the opposite of what
18 we're trying to encourage here, and to foster the
19 growth of these businesses.

20 And I also agree with the sentiments, and
21 I know we'll get into this more, of our regional
22 economic-development dollars having to be sent out
23 of the region to find qualifying entities, when our
24 qualified, competent, and ready-to-work businesses
25 in the region are being bypassed for that reason.

1 So, I really appreciate your testimony here
2 today.

3 SENATOR ASHKAR: Thank you very much.

4 MARY MURPHY HARRISON: You're welcome.

5 CHRISTINA PIERCE: Thank you.

6 KATIE WHITTEMORE: Thank you.

7 SENATOR ASHKAR: Thank you.

8 Next we'll call LeeAnn Tinney, Jane Jack, and
9 Bruce Nelson, please, to provide testimony.

10 Before you start, I just want to make one
11 other point about -- I think it's important for me
12 to stress this, because I think there's a belief by
13 some in Albany that we seek to end this program, and
14 we seek not to make it better or do what's right.

15 When we were asked, Senator Ritchie and I, to
16 co-chair this Task Force and travel around the
17 state, and we put this task force of people
18 together, I thought it important to bring a
19 New York City perspective to the table.

20 And Senator Jim Sanders from New York City
21 was one of the original authors of the MWBE program
22 in the city of New York.

23 He happens to be a Democrat.

24 And I was insistent that Jim Sanders sit with
25 us and be part of this Task Force and be part of the

1 solution.

2 So this really is, while Senator Sanders is
3 not with us today, he was with us in the
4 North Country and spent a couple days there.

5 He's committed to trying to amend the program
6 and not end the program.

7 So while some may try to bill this as the
8 Republicans trying to shut this program down, you
9 know, to the contrary, it's the farthest thing from
10 that.

11 Senator Sanders is, you know, blessing us
12 with his presence, while not today, throughout this
13 discussion as we travel around the state.

14 So just another point, I think that's
15 important.

16 So with that, Miss Jack, if you wish to begin
17 your testimony.

18 JANE PETERS JACK: Okay.

19 SENATOR ASHKAR: Thank you.

20 JANE PETERS JACK: I want to thank you for
21 inviting me today.

22 We are a full-service janitorial supply house
23 based in Elmira, New York.

24 We have been in business for a total of
25 101 years, and have owned the business for 8 years

1 now, my husband and I.

2 It was a family-owned business.

3 My father owned the company. And I ended up
4 purchasing it in 2010, and we've been plugging away
5 at it.

6 When we were first issued our MWBE status, we
7 were very excited about the potential we had to
8 become a larger and stronger company, as we were
9 told that the Governor has mandated that SUNYs and
10 other agencies spend at least 30 percent of their
11 budgets with MWBEs.

12 We were told by many people from
13 New York State that this will open, mainly, many
14 doors for you and, basically, guarantee you more
15 business, which being in the Southern Tier, business
16 is very hard to come by.

17 Well, to this date we have not been very much
18 in line of business drive our way due to our WBE
19 status; rather, we have heard of companies much
20 larger than ours who are not WBE-certified, using
21 other WBEs to go through and gain or keep the
22 business they had because they can offer better
23 pricing or they are larger companies.

24 And I'd like to kind of queue in on that.

25 There's several companies that are probably

1 \$50 million-plus, that are going into areas where we
2 could be getting business, and they're telling them
3 that they're a woman-owned business.

4 What they're doing is, they're using another
5 woman-owned business and doing a pass-through, and
6 this is the way they're getting their merchandise
7 shipped from our competition.

8 I have also heard that the WBE invoices out
9 the bill, and she actually charges 5 percent to --

10 Excuse me, I'm nervous.

11 -- she actually -- they charge 5 percent to
12 our competitors, to let them drive all the business
13 out, which intends -- kills us, being a small-owned
14 business, and we got our certification. And yet
15 these big \$50 million-plus companies are coming in
16 and taking away, you know, what we tried to get.

17 I could name names if you wanted them.

18 SENATOR ASHKAR: Love to hear them.

19 JANE PETERS JACK: Granger.

20 Hill and Marks out of Albany. Right in
21 Cuomo's area.

22 SENATOR ASHKAR: Who, Ms. Jack, I'm sorry?

23 JANE PETERS JACK: Hill and Marks.

24 SENATOR ASHKAR: Senator, I'm sorry, what?

25 SENATOR O'MARA: Do they bid these jobs

1 and -- those names you mentioned? Or --

2 JANE PETERS JACK: This is my husband, Jeff,
3 who --

4 SENATOR O'MARA: Yeah.

5 -- do they bid them in their company name or
6 in the name of the WBEs there?

7 JEFF JACK: (No microphone.)

8 The way it happens in our world, we call on
9 the end user.

10 We sell janitorial supplies. There's, very
11 seldom, any bids that go out for this stuff.

12 This SUNY is one of those places.

13 We'll go in, we'll make the rapport with the
14 customer. We'll say, Okay -- they'll ask us for a
15 price. Can you price this, can you price that?

16 We'll price it out for them.

17 And then we'll come back and say, Well, you
18 were being (indiscernible) because of, price. They
19 said they were a WBE.

20 I even sat with the person that was in charge
21 of minority spending for this campus, and,
22 basically, he told me, it's up to the person sitting
23 behind the desk, what they want to do. That he
24 can't make them do anything they want.

25 And then I looked him in the eye and I said,

1 Then why do you have a job if you can't make
2 somebody do something that you're told to do?

3 And he said, Mr. Jack, I'm sorry, but that's
4 just the way it is.

5 JANE PETERS JACK: Yeah, I --

6 JEFF JACK: And we get that answer quite a
7 bit.

8 Our world is different than a lot of the
9 people I've heard here so far.

10 We're not in contracting business.

11 We sell towels and toilet paper.

12 We get more bids come across my desk to do
13 contracting than we do for towels, toilet paper,
14 whatnot.

15 I don't want to take her thunder.

16 JANE PETERS JACK: You are.

17 JEFF JACK: We're -- I'm signed up with many
18 of the agencies that will post bids, is the school
19 districts, whoever does.

20 And even though I go in and pick what I want,
21 the majority of the stuff that comes through is for
22 services, not for supplies.

23 So our MWBE, to me, means nothing, because
24 the customers tell us, and look at us right in the
25 face: That doesn't mean anything to me. I don't

1 have to.

2 You know, so it was, like, why did we go
3 through, back then it wasn't electronic, we had to
4 do it all by mail. You know, I had to send an
5 8-pound package to Albany with my -- our
6 application.

7 And, you know --

8 JANE PETERS JACK: Months and months.

9 JEFF JACK: Yeah.

10 -- to this day, it's really not given us
11 anything back for what we've put into it.

12 JANE PETERS JACK: The thing that's
13 frustrating is, our sales reps will go to many SUNY
14 campuses, which we think should be buying from a
15 WBE, but they're, basically, tell the sales rep,
16 Nope, we don't have to buy from a WBE.

17 And it's told -- told that to our reps
18 constantly, to the point where they don't even make
19 that stop there anymore.

20 But I don't want to give up any business
21 I can, but, it's just a slap in the face to us.

22 It wasn't easy.

23 So I do understand -- I'll continue now.

24 I do understand that the mandates by the
25 Governor are -- for the department to spend WBEs are

1 not directed toward specific MWBEs. But the
2 majority of the spend that we see happening is in
3 the construction area, like Jeff said, and as far as
4 that, the bid process.

5 It is nice that the Governor has mandated
6 that more is done with MWBEs, but I feel it needs
7 to have more direction, such as a portion spent on
8 construction, services, and supplies.

9 My main concern for being here today is the
10 fraud that is happening with WBEs, because you go --
11 I can sympathize with these women that talked
12 earlier on what a long process it is.

13 It took, probably, a year and a half,
14 two years, by the time I finally got certified.

15 And then my recertification, they told me
16 I was certified, but I never even got notified I was
17 certified.

18 And then I started seeing all of this fraud
19 going on with my competition that don't even qualify
20 in a WBE status. And they just go out and do all
21 this stuff, as far as trying -- you know, trying to
22 undermine the real WBE that works so hard. And then
23 they allow these other people to do it fraud.

24 And I turned them into the fraud department,
25 and they would do nothing about it.

1 They sent me one e-mail.

2 And then I actually called the woman at the
3 fraud department, and she said, Oh, we're working on
4 it, we're working on it.

5 And months later go by, Yep, still working on
6 it.

7 So, obviously, they don't care if some
8 certified WBEs do this.

9 I think it's horrible.

10 If I was -- if my company did it, we'd get in
11 trouble.

12 That's the way I feel.

13 JEFF JACK: I was approached by one of our
14 competitors to do it for them.

15 JANE PETERS JACK: Oh, yeah, we've been asked
16 to partner to do this, and we've bowed out every
17 time.

18 And I know specifically of a WBE in Tulley,
19 New York, that does this. She's doing it with
20 Granger and with Hill and Marks in Albany.

21 And that's the basic reason I'm here, is I,
22 of course, would love to do more business.

23 And any entities I've -- I've asked for help,
24 where we could go with our janitorial, you know, to
25 drive more business into the company, because the

1 Southern Tier, the small businesses are getting hurt
2 so bad.

3 And nobody wants to help you.

4 I -- who could I go to?

5 Who will buy from a WBE?

6 It's, like, who am I supposed to ask now?

7 I don't know.

8 It is frustrating. Nobody has an answer.

9 I was told once, "Well" -- and it was out of
10 Utica -- "you just have to get your niche. You just
11 have to go -- excuse me -- you have to go out and
12 find it."

13 But, apparently, I haven't found it?

14 I don't know.

15 SENATOR ASHKAR: Well, that's why we're here;
16 we're here listening.

17 JANE PETERS JACK: So, that's --

18 SENATOR ASHKAR: So we appreciate your
19 testimony.

20 JANE PETERS JACK: -- thank you very much.

21 SENATOR ASHKAR: Miss Tinney.

22 LEEANN TINNEY: Good afternoon.

23 SENATOR ASHKAR: Thank you.

24 LEEANN TINNEY: I'm LeeAnn Tinney. I'm
25 director of economic development and planning for

1 Tioga County.

2 And thank you for affording me the
3 opportunity to address you today.

4 Clearly, you've heard our concerns, and
5 I thank you for gathering this Committee to review
6 this important issue facing our communities.

7 First, I will be clear that I support the
8 need, and even the requirement, for the use of
9 MWBE-certified businesses for State-funded projects.

10 I applaud making this requirement a top
11 concern and priority; however, the required
12 percentages that may easily be attainable in urban
13 areas, in fact, act as a detriment for development
14 in rural areas.

15 The State-mandated percentages requirement
16 represents a great challenge to rural communities.

17 To gain an understanding of the impact of
18 this requirement, one must first understand the
19 demographic of the area.

20 The total population in Tioga County is
21 48,578.

22 Of our 48,000 residents, 96.6 percent are not
23 African-American, American-Indian, Asian, Latino, or
24 Hispanic.

25 96.6 percent, this is who we are.

1 So when you ask the question, Is there
2 discrimination against minority-owned businesses?
3 I have to say, in the definition of the word
4 "discrimination," are we actively choosing not to
5 use a minority- or woman-owned business?

6 When you understand the opportunity to do so,
7 I think you can realize the answer to that question.

8 I put a map in your folder.

9 The map is of a visual representation of this
10 demographic.

11 The map is based on construction-related
12 businesses only. Couldn't map all certified
13 businesses, but, construction-related, and I chose
14 to show this field because it is the one that we are
15 the most impacted by.

16 As you can clearly see, there are exactly
17 zero minority-owned construction-related businesses
18 located in Tioga County.

19 I suspect it might be because of our
20 96.6 percent.

21 Now, I know that not 96.6 percent of our
22 population is male, but we've talked about the WBE
23 situation already.

24 The map shows the radius and available MBE
25 businesses located within 30-, 60-, and 120-mile

1 buffer.

2 We are looking for either purple or yellow
3 dots on the map. And as you can see, they are
4 limited, with a few more options as you get farther
5 out from Tioga County.

6 The second map I put in is to show that, due
7 to Tioga County bordering PA, there are even greater
8 limitations for opportunities to employ
9 New York State-certified minority businesses than
10 other areas the state might experience.

11 So what does this limited pool of certified
12 MBEs mean to Tioga County?

13 The requirement not only calls for our
14 projects to be farmed out to businesses not located
15 locally, but it also drives the cost of a project up
16 by unnecessary and unwarranted amounts.

17 This is due to the fact that the certified
18 companies must add on charges for the cost of
19 travel, and they are also aware of the supply and
20 demand of limited pool of certified businesses.

21 Thus, in order for Tioga County projects to
22 access State funding, we must take our business away
23 from our local contractors, we must pay more to
24 complete a project that is actually needed.

25 WBE, again, the availability of certified

1 women-owned businesses, are limited. Still zero in
2 Tioga County, although we're working on it.

3 We have been actively seeking women-owned
4 businesses to become certified, but as you've
5 already heard, many have opted not to do this
6 because of -- the process is too difficult, costly,
7 and time-consuming.

8 We have experienced that the expedited review
9 does not necessarily meet the definition of "to
10 accelerate the process," as you've heard from Kate
11 and others already today.

12 Finally, I will comment on the rumored and
13 pending additional disabled-veteran-certified-owned
14 business requirement to be included along with these
15 MWBE requirements.

16 Although these percentages are currently
17 noted as a suggested threshold, please remember that
18 this is how the current MWBE mandates began.

19 I do not anticipate there will be a high
20 probability of an ample number of certified
21 disabled-veteran-owned businesses within our 30-,
22 60-, and 120-mile radius, and rural communities will
23 again be challenged to meet the additional suggested
24 and/or required amounts.

25 Ultimately, the unrealistic and unattainable

1 requirements placed on rural communities acts as a
2 deterrent and prohibits rural communities from
3 accessing State funding that would otherwise allow a
4 project to move forward.

5 These requirements place us at a disadvantage
6 for potential development.

7 Although I understand the intent and
8 importance of supporting our minorities-, women-,
9 and veteran-owned businesses, I respectfully request
10 that our state leaders address these unforeseen
11 impacts the mandates place on rural communities.

12 Please find a way to provide for an equitable
13 method to allow for the employ of certified
14 businesses in a user-friendly, timely manner to
15 obtain a certification.

16 Thank you.

17 SENATOR ASHKAR: Let me just ask you a quick
18 question about that equitable piece.

19 So there's been some discussion in Albany
20 about regionalization.

21 And I advanced a piece of legislation this
22 year, that my colleague supported, that would look
23 at the established regional economic development
24 councils.

25 And, you know, you've provided a great map.

1 Right?

2 So, say, in the Southern Tier REDC region,
3 that the number of certified MWBEs in the
4 construction arena was 11 percent.

5 Right?

6 Why, then, that would be -- that would be the
7 goal to try to obtain.

8 I'm just curious as to your thoughts on that
9 particular piece.

10 LEEANN TINNEY: Yeah, I certainly would be
11 agreeable and support something like that, that
12 seemed to be more realistic according to what's
13 existing in our region. I mean, that seems to make
14 sense to me.

15 If you -- again, if you look at the map, and
16 if you look at the cluster of certified MWBEs
17 around the more urban and metropolitan areas, you
18 know, clearly, I can see why you might look to a
19 larger percentage.

20 But, when you see the disparity in the more
21 rural areas, it just makes it -- it's unattainable.

22 SENATOR ASHKAR: Great.

23 Mr. Nelson.

24 BRUCE NELSON: Hello. My name is
25 Bruce Nelson. I'm the owner of Nelson Development

1 Group. I'm a group of one.

2 So my business is, we do historic
3 preservation. We kind of specialize in that.

4 And we purchase buildings; design, renovate,
5 and obtain the historic preservation benchmarks and
6 guidelines, and so on. And then we own and manage
7 the buildings thereafter.

8 I only have a few employees, but we
9 subcontract the majority of the work.

10 Right now we're doing a project in
11 Tioga County that has some of these requirements.

12 And I found it very difficult, if not
13 impossible, to meet the requirements that are put
14 upon these projects.

15 In rural Upstate New York, there are few, if
16 any, certified construction companies.

17 Tioga County, like LeeAnn says, has zero.

18 And reaching out across the state to try to
19 and find contractors that are certified or qualified
20 to do the work has been time-consuming and
21 difficult, and with little success.

22 The larger metropolitan areas, you know, to
23 bring people in, is kind of counterproductive to
24 what economic -- local economic development.

25 I mean, it seems kind of backwards.

1 One example I'll give is, we've had a real
2 problem trying to come up with a drywall contractor.

3 And we did have a guy in from The Bronx come
4 in and actually quote the job, which I commend him
5 on that. But, he was \$100,000 higher than what
6 I had in my budget.

7 And I don't have \$100,000 just to hire
8 someone because their skin color is different.

9 We did find a guy out of Binghamton, and --
10 but his experience was poor, at best, I guess.

11 And I need to be careful what I say here,
12 maybe.

13 So we've been struggling along with this
14 contractor. And we've had to remove part of his
15 contract because he has a hard time keeping up with
16 the work and the quality is falling behind. And,
17 it's kind of a long story.

18 The WBEs, you know, I found -- I mean, we
19 normally use some women-owned businesses in our
20 work. And -- but it's a reoccurring story, how,
21 well, it's too much of a hassle to apply for the
22 small, you know, startup businesses. They don't
23 have time or people or resources to get lawyers and
24 go through this whole thing.

25 And, you know, my one painting contractor, we

1 would help her do it.

2 And, you know, it's just like beating your
3 head against the wall.

4 And so we have three women-owned contractors
5 that we're working with, but none of them have "the
6 certification" (indicating).

7 We did have one certified contractor that --
8 Dan Lynch (ph.), that would be an excellent choice
9 for the work that we had, a portion of it. But,
10 I needed to have a minority.

11 And I guess you have to have the minority
12 percentage and the woman percentage, and they can't
13 balance each other off.

14 So -- anyway, you kind of get caught between
15 a rock and a hard place on some of this stuff.

16 You know, when I'm planning a project, and,
17 you know, I'm a lifelong construction guy, a lot of
18 this stuff we're talking about doesn't help us get
19 the job done.

20 I mean, we're trying to build buildings, make
21 quality, value. You know, so when we're planning,
22 we're looking for skill, capacity to perform, to
23 bring in quality, to do timely work, a good
24 reputation, you know, a good value.

25 And, you know, this is how maybe we get the

1 work, because we're looked at on these same issues;
2 we're evaluated on how we perform.

3 If we aren't performing, there's not another
4 job for me.

5 But when we look at these WMBE (sic)
6 requirements, you know, those considerations are out
7 the window. I mean, that's not filling the quota.

8 So, yeah, I mean, my opinion, it's a broken
9 system, and it's just -- it's hindering progress
10 here, at least on my side of the fence.

11 LEEANN TINNEY: Can I just --

12 SENATOR ASHKAR: Are you done, Mr. Nelson?

13 BRUCE NELSON: Yeah.

14 SENATOR ASHKAR: Okay. Great.

15 Yeah.

16 LEEANN TINNEY: -- could I just say,
17 regarding Mr. Nelson's project, there's been a -- on
18 River Row in -- on Front Street in Owego, there has
19 been a missing building on River Row for over a
20 decade.

21 And as you might imagine, to build something
22 like that really takes -- it takes a lot. I mean,
23 money and expertise and consideration of the
24 historic value of it, and all of that, which
25 Mr. Nelson does take into consideration.

1 But the cost, too, to put a project like that
2 together.

3 Even, when you're looking at it, and as he
4 said, when he was putting his numbers together, what
5 he's able to -- his return on investment; what he's
6 able to charge for rent for the apartments and the
7 commercial space, versus what he would have to -- if
8 he didn't have assistance, what he would have to
9 spend to put that building up, didn't make sense.

10 We weren't going to get somebody to build,
11 fill that hole, on River Row in the village --
12 hadn't happened for over a decade -- without some
13 sort of assistance.

14 And, thankfully, there are programs out
15 there, through the State, that we can access to be
16 able to make a project like that happen.

17 But to hear him come to me in a weekly
18 meeting and say, "I'm not going to do this again.
19 I can't. We can't -- I can't operate my business
20 like this," so I know that we're going to be losing
21 opportunities for somebody like Mr. Nelson to come
22 in and make a difference in our community, because
23 he just can't meet, and take the time and the
24 effort, and everything, that it takes to put this
25 together, is frightening for me, because that means

1 that the people, like Mr. Nelson, who you would look
2 to to bring development to your community, is just
3 going to say, you know, I'm not going to do it
4 anymore.

5 SENATOR ASHKAR: So all the more reason why
6 we're doing this.

7 And why I wish those from the state agencies
8 were here, to listen, because this, in fact, is
9 reality.

10 Albany is not reality, the things that go on
11 there and the conversations that are being had about
12 this particular program.

13 This is reality, and that's why I wish the
14 Governor and his people were listening.

15 For all I know, they are, from Albany in a
16 private room.

17 Senator, do you have any questions?

18 SENATOR O'MARA: I have a few comments based
19 on what you just said.

20 But, first, I want to thank the three of
21 you -- four of you for being here today.

22 Bruce, I'm familiar with some of your
23 projects throughout Tioga County and Skylar County,
24 and you do excellent work. And I appreciate the
25 investments that you've made in our rural

1 communities with the quality that you do.

2 You know, I agree with Fred, that it's
3 disappointing that the Governor and the Governor's
4 agencies have not participated in this hearing.

5 They did not participate in the hearing we
6 had in Watertown, despite being invited.

7 And they've been invited to this one here.

8 And, frankly, I'm a little more -- as I said,
9 in Watertown, I'm a little more than disappointed.
10 I'm insulted by the fact that they don't participate
11 in this process.

12 Each and every one of you here should be
13 insulted that the Governor and his administrators
14 won't take the time to be here to listen to your
15 concerns directly.

16 There's a participatory process in this
17 government; separation of powers equal, but separate
18 branches of government.

19 We do what we can with the Legislature, but
20 it's up to the Governor to administer these
21 programs; to be the executive and direct these
22 programs.

23 And, frankly, these quotas, or mandates, of
24 percentages that are involved are pulled out of thin
25 air. And they may work along a thruway corridor in

1 Long Island and the New York City metropolitan area.

2 We are not on the thruway corridor, and we
3 have struggled in the Southern Tier for many
4 decades, as the North Country has as well.

5 And to have one size fits all is a constant
6 struggle that we deal with in our work in Albany,
7 particularly those of us that represent more rural
8 areas of the state on these broad-brush approaches
9 that require us to meet the same standards and live
10 up to the same rules and regulations that
11 metropolitan areas do.

12 It's not fair. It doesn't foster
13 competitiveness or economic growth in the regions
14 that we represent.

15 So it's very important that we get to hear
16 from you directly.

17 Your information will be taken back with us,
18 certainly to our leadership in the Legislature.

19 And, hopefully, while not being present, that
20 at least the information is -- this is being
21 followed by somebody in the Governor's
22 administration, and taking a serious look at making
23 changes to these programs, because, frankly, we've
24 found a deaf ear and a brick wall in the Governor's
25 Office on our approaches to make changes that make

1 sense to this program.

2 So, thank you.

3 SENATOR ASHKAR: You know, and here's the
4 interesting thing:

5 During last year's budget process, we agreed
6 with the Governor to extend this program by only one
7 year in its current form, because I'm sure many of
8 you know what the Governor wanted to do to the
9 program, the existing program.

10 So, to Senator O'Mara's point, I would think
11 the Governor would want to be engaged with the
12 members of the Legislature, because I know I've
13 heard enough from the three hearings that we've had
14 to date, to not extend this program again even in
15 its current form.

16 So if the Governor wants to make this program
17 better and wants to see it go down the road, I would
18 suggest that he become involved in the conversation
19 about the program and how it exists.

20 Senator.

21 SENATOR SERINO: And I just have some
22 comments.

23 I just want to say, thank you all for coming
24 here today.

25 And, Bruce, thank you for the historic work

1 you do.

2 I live in an old 1800s house. In fact, when
3 I think about it, my real-estate building is an old
4 1800s building too.

5 And that's how I got involved in politics,
6 was all government getting involved in me restoring
7 my building.

8 But, you know, when you think about it, like
9 our chamber has a saying, "Think local first,"
10 because you know the people that you're working with
11 and the quality of work that they do.

12 So, there's so many issues that everyone's
13 been discussing today, but we're taking it back to
14 Albany with us.

15 And I just want to say, thank you again for
16 coming here and telling us your stories.

17 SENATOR O'MARA: And a specific question for
18 you, Bruce, have you pursued the waiver process at
19 all in the contracting that you've done?

20 BRUCE NELSON: Uhm, yeah.

21 Uhm, yes, we have. It's through the
22 agencies.

23 And, you know, through one of the
24 organizations there, we were told that -- you know,
25 because we've been doing this good-faith effort.

1 I mean, this whole process takes, you know,
2 we're into two years now, but, you know, only a year
3 of construction.

4 You know, the first year is trying to get it
5 all put together.

6 Right?

7 And during that time, we're reaching out,
8 we're doing our good faith, and on and on.

9 And, you know, we're just not finding it.

10 Well, you'll get that waiver. You'll get
11 that waiver, don't worry about it. Just keep doing
12 your good faith, and -- you know.

13 But, I mean, you can't get blood out of a
14 stone. If it's not there, I mean, how you gonna
15 draw them in?

16 I mean, the example of the guy from
17 New York City, I mean, he spends us -- he comes up
18 from New York City to bid a job and, you know, it's
19 100 grand over budget?

20 I mean, the numbers, I mean, the budget, is
21 done.

22 I mean, I don't have that -- I mean, just to
23 say, well, here, I don't know where it's coming
24 from, but --

25 SENATOR O'MARA: Have you had any waivers

1 approved?

2 BRUCE NELSON: Uh, no.

3 KATIE WHITTEMORE: (No microphone.)

4 (Indiscernible) waivers, (indiscernible). We
5 had to apply (inaudible). And we were working on a
6 demolition project on a condemned building over
7 safety issues.

8 And we were faced with the challenge of,
9 either, stop the project and wait, we would still be
10 waiting, or, proceed and -- with their funding the
11 risk.

12 So we elected to proceed (indiscernible) and
13 we still don't know (indiscernible).

14 SENATOR ASHKAR: Miss Jack, did you provide
15 written testimony?

16 JANE PETERS JACK: I do.

17 SENATOR ASHKAR: Did you provide it to us?

18 JANE PETERS JACK: Yeah, I sent to it
19 Jessica --

20 SENATOR ASHKAR: Yeah, great.

21 JANE PETERS JACK: -- through e-mail.

22 SENATOR ASHKAR: Thank you.

23 I just haven't seen it yet.

24 JANE PETERS JACK: Okay.

25 SENATOR ASHKAR: I'm just curious, did you

1 highlight the areas of fraud, or perceived fraud,
2 that you speak about, in your written testimony?

3 JANE PETERS JACK: I can redo it.

4 SENATOR ASHKAR: Yeah, if you didn't address
5 that in your written testimony --

6 JANE PETERS JACK: Okay.

7 SENATOR ASHKAR: -- I was intrigued by what
8 you said here today --

9 JANE PETERS JACK: Okay.

10 SENATOR ASHKAR: -- specifically, in terms of
11 the fraud that you think are apparent in the system,
12 I just wondered if you would go back and send us a
13 follow-up e-mail about that specifically.

14 JANE PETERS JACK: Sure.

15 And I also have, probably, e-mails that
16 I sent to the fraud department.

17 SENATOR ASHKAR: Good, send them. Send them
18 to us.

19 JANE PETERS JACK: And I can send you their
20 replies.

21 SENATOR ASHKAR: Yeah, that would be very
22 helpful.

23 JANE PETERS JACK: Just to kind of frustrate
24 you.

25 SENATOR ASHKAR: Great.

1 Okay. Thank you very much.

2 JANE PETERS JACK: Thank you.

3 SENATOR ASHKAR: Can we have Ernie Hartman
4 and Kelly Cook next, please.

5 Thank you.

6 On deck, George Slavik, Nick DeVincentis,
7 and Jim O'Brien.

8 So, we have six more testifiers after the two
9 that are testifying now.

10 Kelly, go ahead.

11 KELLY COOK: Okay.

12 My name is Kelly Cook, and I'm here to speak
13 on behalf of WBE Painting, a paint contracting
14 company based out of Elmira, New York.

15 We have been in the process of applying for
16 our New York State WBE certification for a little
17 over a year, which I've been hearing a lot of
18 similar stories, and that doesn't seem like so long.

19 I would like to thank you for providing us
20 with this platform to share our experience.

21 My partners and I decided to branch out and
22 start our own company in September 2015 as it was
23 not a feasible option to join our existing family
24 business.

25 Over the years, having spouses in the

1 industry, we continued to see a lack of female
2 representation in the field and saw an opportunity
3 to go into business for ourselves.

4 For us it seemed like a natural progression.
5 We had knowledge of the business, we had community
6 connections; we thought it would be a pretty easy
7 process.

8 To date, I have found the application process
9 to be very frustrating, repetitive, and
10 paperwork-heavy.

11 We started our application process on May 16,
12 2017. Submitted all required electronic documents
13 on May 18th, and the required paper documents were
14 sent out via certified mail on the same day.

15 Using package tracking, I was able to see
16 that they were delivered to the address on May 23,
17 2017.

18 There was no visible activity on our
19 application on the New York State contract website
20 until the application was marked "received" on
21 August 18, 2017.

22 On September 21st, and October 13th,
23 I received requests for more information via the
24 website, and responded to both requests within
25 five days.

1 In these requests, I was asked to provide
2 information I had already provided with our initial
3 application.

4 On October 20, 2017, I received an e-mail,
5 asking for the best day and time to conduct a phone
6 interview.

7 I promptly responded with that information.

8 After not receiving a call or being
9 contacted, I made several e-mail and phone attempts
10 on October 26th, November 1st, and November 21st to
11 reach someone on set up the interview.

12 On December 1, 2017, I received an e-mail,
13 apologizing for the delay and late response, citing
14 they needed to delay the phone interview until
15 further notice.

16 I never received that phone interview, and we
17 received our denial on December 5th.

18 To date, I have still never had a verbal
19 conversation with anyone from New York State in
20 regards to our application, even though I have made
21 several attempts to reach individuals at phone
22 numbers listed on correspondence.

23 A few of the reasons we were given for our
24 denial, all of which we were either upfront about
25 from the beginning of our application process, or

1 that I felt would have been better answered or
2 discussed with a phone or in-person conversation
3 rather than on paper.

4 What the construction industry looks like in
5 the Southern Tier is not necessarily what it looks
6 like in Albany or New York City, which is where all
7 of the offices are located that I have received
8 correspondence from.

9 After receiving our certification denial, we
10 consulted with legal counsel and decided to pursue
11 an appeal, and are currently in that process.

12 This has obviously been a financial burden
13 for a new company, but we felt it was our best
14 option.

15 Our appeal paperwork was submitted on
16 May 31st, and we are awaiting a response from
17 New York State.

18 Our personal frustration with this process,
19 is we feel we have done everything in a timely
20 manner and by the books, yet we keep hitting
21 roadblocks.

22 Again, as I stated above, I feel that many of
23 the questions and concerns our reviewer had would
24 have been better discussed with a conversation as
25 opposed to all communication being conducted via

1 paperwork.

2 Thank you.

3 SENATOR ASHKAR: Thank you, Kelly.

4 Ernie.

5 ERNIE HARTMAN: Thank you, Senator.

6 My name is Ernie Hartman. I'm currently an
7 international representative for the International
8 Brotherhood of Electrical Workers, with a
9 jurisdiction of New York State representing 36,000
10 men, women, minorities, and veterans that chose
11 construction electric -- to be a construction
12 electrician in New York State.

13 I took this role about a year ago.

14 Before that I was a business manager of IBEW
15 Local 139 in Elmira.

16 I've also been honored by Governor Cuomo to
17 be appointed to the New York State Apprenticeship
18 Council, and the Southern Tier Economic Development
19 Council, so I have a firsthand experience on what
20 the MWBE initiative is doing to the rural counties,
21 and, specifically, the Southern Tier.

22 Allow me to preface my comments with this:

23 I am completely supportive of the Governor's
24 initiative to assist small businesses to thrive.

25 That being said, I do need to express to the

1 panel, the statewide goal of 20 to 30 percent is
2 problematic, not only to established employers in
3 the rural counties, but to the existing workforces
4 in those counties and to the apprenticeship programs
5 that are in place to provide men and women of these
6 communities with lifelong careers.

7 I feel that the rural counties in
8 New York State should be better -- would be better
9 served by the implementation of regional goals
10 instead of a broad-brush approach.

11 In the Southern Tier and in the
12 North Country, these MWBE employers just
13 aren't there.

14 Speaking specifically of the electrical
15 industry in the Southern Tier, there was only one
16 electrical contractor listed on the MWBE list.

17 That contractor was later found to be a
18 fraudulent WBE, and later removed from the list, but
19 this only happened after that employer took a large
20 project from our local contractors just because they
21 were on the list.

22 Now general contractors are being asked to
23 reach out as far as New York City and Buffalo to
24 meet these prescribed goals.

25 What does that do for the local employers

1 and, in effect, the local workforce?

2 In terms of the promotion of apprenticeship
3 programs, the Governor has been at the forefront in
4 the country in being supportive of apprenticeship as
5 a career-driver.

6 The problem is, in the rural counties,
7 recruitment in the building-trades apprenticeship
8 programs is difficult, at best.

9 The only way to keep these men and women
10 continuing in their apprenticeship is to have
11 employment available while they learn their craft.

12 But if their jobs are being outsourced to
13 out-of-area contractors that bring in their own
14 workforce, there is no incentive to continue their
15 learning because their work opportunities aren't
16 there.

17 What makes matters worse is that many
18 contractors simply won't bid projects with MWBE
19 goals because it's futile for them to spend
20 resources on projects where they have no chance of
21 being awarded the bid.

22 My suggestion is this:

23 The Governor has broken the state up into
24 10 specific regions through the Regional Economic
25 Development Council.

1 Let's check the demographics of these
2 10 regions and set MWBE goals accordingly.

3 That way, there will be an obtainable goal
4 put in place and the need to outsource local jobs
5 would cease.

6 We can cultivate local MWBE businesses and
7 preserve the work for our apprentices at the same
8 time.

9 Thank you.

10 SENATOR ASHKAR: Tom.

11 SENATOR O'MARA: Yep, thank you.

12 Thank you both for your testimony.

13 Kelly, at what point did you appeal, roughly?

14 KELLY COOK: We started our -- we submitted
15 all of our appeal paperwork on May 31st.

16 SENATOR O'MARA: May 31st.

17 And what have you heard since then?

18 KELLY COOK: Nothing.

19 SENATOR O'MARA: Ernie, you know, let me just
20 say, I appreciate your work, both, on the regional
21 council, and the other areas that you mentioned,
22 your leadership for IBEW in the state, and your
23 former work as the business manager in Elmira.

24 It's been a pleasure to work with you through
25 the Chemung County IDA over all these years, and

1 I appreciate your input on that.

2 Based on your experience with the
3 Southern Tier region, and not the state as a whole
4 at this point, what is the demographics of your
5 membership in IBEW, roughly, as it comes to women
6 and minorities?

7 ERNIE HARTMAN: Diversity?

8 SENATOR O'MARA: In the Southern Tier region.

9 ERNIE HARTMAN: I can only speak for the
10 electrical industry, Tom, because --

11 SENATOR O'MARA: Yeah, that's all I want to
12 know.

13 ERNIE HARTMAN: -- yeah.

14 It's low.

15 I mean, probably, the -- at Local 139, which
16 is a small local in the state, with 220 members,
17 there -- we usually have 10 to 15 women, and
18 probably the same minority interest, in the
19 apprenticeship program.

20 But, as a New York State-certified
21 apprenticeship program, we have to meet
22 affirmative-action goals set by the State for
23 diversity.

24 So we're doing everything we can to bring --
25 to diversify the workforce.

1 But, you start bringing out-of-town
2 contractors in because they're on this list, what
3 good does it do to diversify our apprenticeship if
4 we can't put them to work?

5 SENATOR O'MARA: Yeah, so they come in from
6 out of the area with their own workforce?

7 ERNIE HARTMAN: Oh, absolutely.

8 SENATOR O'MARA: Yeah.

9 ERNIE HARTMAN: Absolutely.

10 SENATOR O'MARA: Have you had any success
11 from the Elmira local in sending your workers
12 elsewhere?

13 ERNIE HARTMAN: Only if there's a call for
14 workers. You know, if an area is having trouble
15 manning their work, they'll reach out to the other
16 areas.

17 But, listen, our people want to work where
18 they live and where they spend their money. They
19 don't want to have to go up and travel three hours
20 one way to work, when there's work here.

21 Just let us do it.

22 SENATOR O'MARA: Yep.

23 ERNIE HARTMAN: You know?

24 SENATOR O'MARA: Thank you.

25 SENATOR ASHKAR: Ernie, are you familiar with

1 any of the work going to out-of-state contractors?

2 ERNIE HARTMAN: Not so much out of state yet,
3 Senator.

4 I don't know if I'm familiar with any
5 out-of-state contractor being awarded a project
6 because they were MWBE.

7 SENATOR ASHKAR: Just out of the region?

8 ERNIE HARTMAN: Out of the -- yeah, yeah.

9 I mean, we have employers that have tried to
10 get waivers, and they're being told that "you're
11 just not trying hard enough to find somebody that's
12 on the list."

13 SENATOR ASHKAR: And, Kelly, just help me
14 understand, why -- why were you -- why were you
15 denied?

16 KELLY COOK: They gave us a bunch of
17 different reasons.

18 And one was being, that we don't own our own
19 equipment, which I think in the construction
20 industry, we provided all of our rental contracts
21 with United Rentals.

22 I think, as a small business, that's only,
23 you know, less than three years in existence, not
24 many construction companies would own their own
25 materials; that we have close proximity

1 relationships with, you know, a competitor, which we
2 were very forthcoming with on our initial
3 application.

4 And then the third reason was, that we share
5 employees with other companies.

6 But, again, we have a very small labor pool
7 to draw from in Elmira, New York. It's not uncommon
8 for someone who works for one company one week to go
9 work for another company the next.

10 You know, they go where the work is.

11 SENATOR ASHKAR: So all you wanted was an
12 opportunity to explain yourself.

13 KELLY COOK: Uh-huh.

14 SENATOR ASHKAR: And the very government, the
15 very government that is supposed to be helping
16 minority- and women-owned businesses, wasn't there
17 to listen?

18 KELLY COOK: I have not had a conversation
19 with a human yet.

20 SENATOR ASHKAR: So those in this current
21 MWBE program failed you?

22 KELLY COOK: Uh-huh.

23 SENATOR ASHKAR: Is that accurate?

24 KELLY COOK: Yes.

25 SENATOR ASHKAR: Thank you.

1 Senator.

2 SENATOR SERINO: Thank you, Kelly, for
3 sharing your story and your frustration; I really
4 appreciate it.

5 And, Ernie, you know, you brought up a good
6 point about the apprenticeship programs, which
7 I absolutely love.

8 There's so many kids today that aren't meant
9 to, or maybe don't want to, go to college, and
10 apprenticeship programs are so vital.

11 And when you have to -- when the jobs are
12 being outsourced, that makes total sense that, you
13 know, why are you going to have the apprenticeship
14 program?

15 So thank you for bringing that point up;
16 I really appreciate it.

17 SENATOR ASHKAR: Thank you both very much.

18 I also want to acknowledge the presence of
19 Assemblyman Cliff Crouch, who's joined us a little
20 while ago.

21 The Assemblyman is fighting --

22 Assemblyman, would you stand up please, just
23 to be acknowledged?

24 -- he's fighting very hard in the Assembly as
25 well on this issue.

1 So, Assemblyman, thank you very much for
2 joining us.

3 Okay. Mr. Slavik, Mr. DeVincentis, and
4 Mr. O'Brien, thank you.

5 Mr. O'Brien, age before beauty.

6 [Laughter.]

7 SENATOR ASHKAR: Go ahead.

8 JIM O'BRIEN: Perfect.

9 First, I'd like to thank all of you for
10 allowing me to give my opinion and share my
11 experiences with you.

12 30 percent goal -- well, first,
13 Bothar Construction is a family-owned business,
14 third generation, doing work, pretty much, all over
15 the state; employ about 100 employees, and we work
16 for, mainly, DOT, OGS, DEC, and various other
17 municipalities, as well as the Thruway.

18 The 30 percent goal that has been arbitrarily
19 thrown at our contracts, especially with DOT, it's
20 nearly impossible to meet. In many in cases it is
21 impossible to meet.

22 We have asked for waivers on just about every
23 project, depending on what that project is.

24 There's no rhyme or reason. We don't look
25 at -- we would look at the projects, and it doesn't

1 appear that they have taken into consideration where
2 the project is, what type of work it is, how much is
3 subcontracted.

4 There are times when there is one main item,
5 which is why we're bidding the project, and there's
6 goals on that.

7 It makes no sense.

8 We run into -- we also perform subcontract
9 work.

10 We run into the fact that here, locally, the
11 project at Prospect Mountain, a very large project,
12 we put in a bid on the electric portion, the
13 lighting.

14 We were told we were \$200,000 low on that
15 project; however, it went to a minority firm out of
16 Albany.

17 I believe that the project is worth keeping
18 going. I'm not here to say that we need to get rid
19 of the goals. A lot of people here depend on it.

20 I do think that 30 percent is way out of the
21 realm.

22 When we put together these projects, we go
23 through the directory, we start making phone calls.

24 Half of them don't answer.

25 Half of them are out of state -- I'm sorry,

1 out of the area.

2 Some of them are no longer in business.

3 Some of them ask why we're calling them.

4 There's a doughnut-maker in Albany that is
5 approved.

6 I can't believe that these people can't get
7 approved if a doughnut-maker out of Albany can.

8 The other problem we have is the
9 municipalities don't understand the law.

10 They're being told, through these
11 State-funded projects, that they have to meet the
12 goal.

13 In some of our preconstruction meetings we're
14 being told, You have to meet the goal.

15 So we ask, Is it mandatory?

16 You have to meet the goal. The goal will be
17 met.

18 That's not -- that's not any chance to have a
19 good-faith effort accepted.

20 When you talk about a "good-faith effort,"
21 let's talk about the definition.

22 Define it.

23 Is a stack of phone calls an inch thick, an
24 inch-and-a-half thick, is that a good-faith effort?

25 Is calling everybody within your area or

1 everybody outside of the area, is that a good-faith
2 effort?

3 They can't tell you. They just tell you,
4 Keep trying, keep going.

5 The only way you get them to stop is if you
6 ask them. They give you people to call.

7 We have to look and see if these people are
8 viable.

9 A lot of them are houses.

10 And I understand that people are trying to
11 get started.

12 But when you call and you can't get the owner
13 of the company, that you get pushed off, and you
14 don't get a phone call back, you have to wonder if
15 that firm actually performs a commercially useful
16 function.

17 We need to update the directory, as I just
18 stated.

19 Get rid of the firms that -- that aren't --
20 that don't want to go from Albany to Buffalo, that
21 don't want to go from Buffalo to Binghamton,
22 New York City to Binghamton.

23 We've -- I've been in the business about
24 30 years now.

25 We have been doing business with the same

1 minority firms for almost that entire year -- or,
2 the entire career.

3 That's -- that -- what are we doing?

4 Did we raise the goal because we thought that
5 more companies would come in?

6 If that's the case, I haven't seen it.

7 Or did we just throw the goal out there for a
8 political reason?

9 I think that we need to take a hard look, as
10 others have said, at the area that we're in, the
11 area that the job is in, such as your bill,
12 Senator Akshar, and take a good, hard look at where
13 we go from here and how we can maintain this
14 program.

15 SENATOR ASHKAR: Thank you, Jim.

16 Nick.

17 NICK DeVINCENTIS: Good afternoon.

18 My name is Nick DeVincentis. I'm the
19 vice president of Vacari, and R. DeVincentis
20 Construction. We're a local contractor that
21 specialize in heavy highway.

22 R. DeVincentis was started in 1969, and Vacri
23 was started in 1977.

24 We bid predominantly public projects, just
25 like Jim.

1 I'm here to discuss our experiences with the
2 MWBE program, and how tough, and almost impossible,
3 it is to reach the current unreasonable goals set
4 forth by New York State.

5 As a company we've always strived to promote
6 diversity in construction.

7 We were once a very small business too,
8 founded by my grandfather who immigrated from Italy
9 in the 1950s.

10 We relied upon the help of fellow contractors
11 to make it in this industry, and now we have a
12 three-generation company.

13 Since 1991, Vacri, understanding the need for
14 diversity in construction, has provided a cash
15 scholarship at Binghamton High School to a female
16 and/or minority graduating senior who's planning to
17 pursue a career in construction.

18 Moreover, it should be known that our last
19 two -- the last two compliance officers for
20 New York State DOT, Region 9, have been our former
21 employees.

22 So you can say we're the breeding ground in
23 promoting diversity.

24 With all that being said, though, we're
25 finding it more and more difficult, if almost

1 unattainable, to reach the ever-increasing MWBE
2 goals.

3 The current goals for New York, which set at
4 30 percent, as stated, are over 3 times the federal
5 goals and about 10 times Pennsylvania's goals.

6 On federal projects, which have a typical
7 8 to 9 percent goal, they're called "DBEs,"
8 although challenging, we are able to reach these
9 goals most of the time without a waiver.

10 The last few years we've seen our waivers
11 skyrocket; whereas, in the '80s and '90s, when
12 the goal was more obtainable, around 10 percent, we
13 were able to reach it.

14 I wanted to talk about a few specific
15 projects where we had a hard time.

16 We had a bridge project at Robert Treman
17 State Park, a sanitary sewer project in South Port,
18 and a collection system in Watkins Glen.

19 The bridge at Robert Treman mostly had
20 specialty work, including wooden piles, specialty
21 wooden handrail. It was actually wooden leg and
22 walls. No concrete on the job at all. Structural
23 steel.

24 It was a special project. This did not leave
25 much for us to sub out to MWBE firms.

1 We were able to have the beams, pipe, and
2 bearing supplied, but since bona fide suppliers only
3 count as 60 percent of the contract value, it was
4 impossible to obtain the goals. A waiver needed to
5 be granted.

6 For the sewer project in South Port and the
7 collections system in Watkins Glen, the majority of
8 the work was excavating, installing a new sanitary
9 sewer, which we do with our own forces.

10 The only major subcontract item for
11 South Port was paving. And the MWBEs we solicited
12 were 20 to 30 percent higher in price than the
13 lowest figure that we received.

14 At Watkins Glen, the major non-sewer work
15 involved specialty pump-station work, where that's
16 mostly supplying equipment, and the installation was
17 also done by our own forces.

18 Again, the only option, for both projects, to
19 try to reach the goals was through supplying. And
20 as stated before, we only get 60 percent credit
21 towards the total proposal value.

22 As shown in both instances, supplying
23 material was the only option.

24 And with the current 60 percent allowance
25 set, basically, the State's saying, you need

1 50 percent of the total contract value to be
2 supplied by MWBEs in order to reach the goals.

3 In order to be granted an increasing number
4 of waivers, we are mandated to show our good-faith
5 efforts.

6 And as Jim touched upon, it's not really
7 defined at all from agency to agency.

8 The number of MWBEs you contact, the number
9 of times you contact them, the distance away, all
10 are variable from agency to agency.

11 Goeser (ph.) asked us, when he contacted
12 MWBEs up to 120 miles away, to go even further, go
13 150 to 200 miles away, to try to find someone who
14 can do the project.

15 How can they possibly compete with local
16 contractors that are within 10, 15 miles from the
17 project?

18 One effort of good faith that most of us
19 contractors use is to advertise in local newspapers.

20 And the owner, my father, said that, in
21 25 years, not once have we received a response from
22 this method.

23 As far as the e-mail solicitations, you know,
24 as you said, you may get a doughnut-shop owner. You
25 may get, you know, someone who provides surveillance

1 equipment.

2 We probably only receive a 5 percent response
3 rate.

4 And, again, this leads me to the fact that
5 the same 5 to 10 MWBE firms who quote us, mostly
6 unsolicited, are the ones we predominantly use on
7 awarded contracts.

8 We've come across minimal MWBEs who are
9 actively looking for work in Upstate New York.

10 It's the same ones over and over again, who
11 are established, and actually bid it and receive the
12 contracts.

13 There is zero chance these few MWBEs can
14 perform the robust dollar amount of set-aside work.

15 With the goal set so high, shouldn't there be
16 numerous MWBEs that are available and wanting to
17 perform the work?

18 There's a significant disconnect between
19 contracting in Downstate New York, the New York City
20 area, and Upstate New York, pretty much, the
21 remainder of the state.

22 Like the local prevailing wage-rate
23 schedules, the mandated percentages all should be
24 based regionally.

25 There are currently many mandates that

1 differentiate between Downstate and Upstate
2 New York, such as New York State minimum wage, and
3 the EEO goals which go by county.

4 An effective and proactive MWBE program would
5 recognize the available pool of subs and suppliers
6 who can perform the requisite level work in that
7 specific region, and then issue the resulting goals
8 accordingly.

9 For Upstate New York, MWBE firms are few and
10 far between.

11 The collective capacity of work that the
12 MWBEs can perform is probably a factor of 10 less
13 than the dollar amount set aside for them.

14 In conclusion:

15 The program is something that our firm
16 believes is necessary and very helpful for up and
17 coming companies that are trying to get into the
18 construction business.

19 Without the help of fellow contractors, my
20 grandfather probably would not have succeeded in
21 starting his company.

22 Unfortunately, the implementation of the
23 program is simply all wrong.

24 The program needs to be restructured from the
25 ground up;

1 A new disparity study across state should be
2 performed with realistic results;

3 Different goals for different regions should
4 be established;

5 Bona fide suppliers should receive
6 100 percent credit for material;

7 A standard good-faith effort should be
8 established;

9 And, lastly, the standards for obtaining
10 status -- MWBE status need to be tweaked, since the
11 numbers of capable firms are just not there in our
12 area.

13 Thank you for listening to my testimony.

14 SENATOR ASHKAR: Thank you, Nick.

15 Mr. Slavik.

16 GEORGE SLAVIK III: Hi, my name is
17 George Slavik, and thank you for having me.

18 I'm with Piccirilli-Slavik and Vincent
19 Plumbing and Heating. I am the second generation in
20 the business, and we've been in business since 1985
21 here in Binghamton. We specialize in commercial,
22 industrial, plumbing and HVAC.

23 It's very interesting to hear some of these
24 other ladies talk about their struggles with the
25 program, because I never imagined for someone like,

1 as cut and dry as it should be for them, that it's
2 that difficult for them to get their certification.

3 Our story is a little bit different.

4 We, more or less, try to stay away from these
5 projects that have these goals because it's so
6 difficult in our industry to meet these goals.

7 In the plumbing and HVAC industry, and how
8 it's structured around here, we have a lot of
9 subcontracted work.

10 And those subcontracts carry up -- or, you
11 know, take up a lot of our contracts in the south.

12 For example, here at Binghamton University,
13 they have one HVAC controls contractor, which is
14 Siemens, which is a worldwide company.

15 We have to use them on any project here at
16 Binghamton University because that's their -- that's
17 their company that they use.

18 Their contract could be 20 to 30 percent of
19 our contract alone.

20 So right off the bat, you take a large HVAC
21 project that could be multimillions of dollars, and
22 right off the bat, you've got 30 percent or more
23 just gone right out the window that have you no
24 chance to find any participation on.

25 So when you break down the layers and peel

1 back that, then the HVAC equipment is another huge
2 thing.

3 A lot of these are worldwide companies and
4 they only have one certified sales representative in
5 each area.

6 And I have not seen one of those be a
7 certified W- or MBE.

8 So when you start taking and peeling back
9 what our contract is made of, and look at the
10 percentages they're asking for, and then what we're
11 supposed to go and find and get, it's really almost
12 impossible on these jobs, other than giving up your
13 own work, as these gentlemen talked about, or,
14 trying to find someone from out of the area.

15 We've done that as well.

16 If you type in the "Southern Tier" in there,
17 I think even if you do "Southern Tier, Central
18 New York, and Western New York," and you go
19 "plumbing and HVAC," you'll find only, like, seven
20 companies.

21 Two of them are competitors of ours, so take
22 them right out of there.

23 And you go "Southern Tier" alone, there's,
24 really, hardly any.

25 I only know one, and that's one of our

1 competitors.

2 So, in our specialized field, there's really
3 no one we can turn to.

4 We've tried, we look.

5 So, at this point, a lot of times we shy away
6 from jobs.

7 We've lost jobs that we were the low bidder
8 on because someone else was certified.

9 So our employees in this area are getting
10 hurt by this, because there's really no opportunity
11 for us. So we've kind of, you know, shied away from
12 that type of work whenever possible.

13 Another example we had was:

14 We had a company that we hired as an MBE.

15 And as you know, in New York State, with all
16 of the regulations, it's -- there's a lot to be on
17 top of.

18 And this company got in trouble for not
19 classifying "employee" as the right thing.

20 They didn't understand that they were doing
21 something wrong; they got in trouble.

22 But since we were the prime contractor, we
23 had to pay the fine.

24 So we paid the fine for that.

25 Set up a long-term loan, where they were

1 paying us back a few hundred dollars.

2 It was over \$50,000 we paid for them.

3 Had to get a long-term loan set up. They
4 were paying us back, and now they're out of
5 business.

6 So now, you know, they might have paid us
7 back four or five thousand of that over
8 fifty-thousand fine we paid, and we just are on the
9 hook for the rest of it.

10 So we've -- you know, we've had trouble
11 finding them; we've tried.

12 I've sent e-mails, phone calls, and you get
13 no response back, like these other people are
14 saying.

15 I think the program is a great thing.
16 I think it needs to be developed. But I just don't
17 think, in this area, it's there yet.

18 And, you know, just like they're saying, if
19 it takes years to get approved, how do they just
20 think that, automatically, overnight, there's going
21 to be enough that 30 percent of your construction
22 contracts can all be fulfilled by these entities?

23 So, that's really what we've been up
24 against -- one other thing. Sorry.

25 I think it was last year I saw advertised, at

1 Binghamton University here, for, it was, like, an
2 operator with a machine. A T&M contract.

3 And I think the goals were, like, 37 percent.

4 I mean, they're talking about an hourly
5 contract for a piece of equipment and an operator.
6 And these people were supposed to bid, and find
7 37 percent of that total cost based upon that.

8 So I think that it's been blanketed, and it
9 hasn't really been looked at regionally, or,
10 actually, what are we talking about?

11 What are they -- what do these people have to
12 go do for that amount, and can they get these
13 percentages?

14 Or, is it 3 percent? Or is it 1 percent?

15 So, overall, it's just been difficult. And
16 I think, especially, once you get into the specialty
17 stuff, it becomes very hard to meet these goals, and
18 I think it just needs a lot of work.

19 SENATOR ASHKAR: Senator.

20 SENATOR O'MARA: Thank you all.

21 Those of you who have discussed a little bit
22 about your involvement in the requirements for
23 making this good-faith effort, can you put -- or --
24 into words, or quantify, somehow, the time and
25 expense that you go through during this contracting

1 process, or the bidding process, to devote pursuing
2 an MWBE for that, and how much that would ultimately
3 add to the overall cost of the job?

4 JIM O'BRIEN: We put in hours, on top of
5 hours, on top of hours.

6 Days.

7 NICK DeVINCENTIS: It takes a few weeks,
8 I would say.

9 JIM O'BRIEN: We put in e-mails.

10 I mean, to be honest with you, my mother is
11 responsible for that in our office. And the time
12 that she puts into it is astronomical. The detail
13 that she has to -- the notes that have to be taken
14 on every little conversation she has.

15 The fact that, when we send these things up,
16 and I heard that, we send our good-faith effort up,
17 and I've heard this before today, that you got to
18 call this guy and this guy.

19 Well, we did. It's in the packet we just
20 sent you.

21 Oh, well, call them again.

22 NICK DeVINCENTIS: Call them again.

23 JIM O'BRIEN: And we do.

24 And, why can't you work it out with this?

25 Or, they'll make the phone call themselves.

1 We've actually had this happen, where the
2 compliance officer will make -- will call the same
3 people that we called. And then call us back and
4 say, Well, they say -- they never received any
5 contact from you.

6 I don't know why we would lie about it, it
7 makes no sense.

8 You know, George brought up a good point.

9 We're responsible for all of these people's
10 payrolls on a prevailing-wage project. And we can't
11 help them.

12 I believe it's by law, we cannot, so to
13 speak, mentor them.

14 Now, AGC has started a program, and I think
15 that Mike brought that up in Albany to you guys.

16 But that makes it difficult for us, for a
17 smaller contractor to come on a larger project.

18 There are times when you need something.

19 I mean, to be honest with you, we subcontract
20 to Nick.

21 Nick subcontracts to us.

22 We couldn't do it alone.

23 If he's got a piece of equipment there that
24 can help me, I use it.

25 Right back at him.

1 We have to be able help these smaller
2 companies grow, and the only way they can do that is
3 with our help.

4 It's just too hard, and, especially, with the
5 amount of paperwork, and the regulations that we're
6 all held to in this state.

7 SENATOR O'MARA: What have you found in the
8 circumstances where you have been able to find an
9 MWBE, particularly from outside of the region, a
10 company that perhaps you're not familiar with,
11 coming in, with the quality of their work, and how
12 much extra work that requires you to fulfill your
13 contract?

14 NICK DeVINCENTIS: Well, as Jim kind of
15 stated, and I did too, with DOT and projects like
16 that, we frequently use the same 5 to 10 MWBE firms
17 because they're reliable and capable.

18 And we did take a chance recently on a paver,
19 who we could have used him, but, we had to reach the
20 goals locally on 201. We grabbed someone from
21 Syracuse, and a lot more time and effort was
22 required to get him there, file paperwork, follow up
23 with them.

24 I don't believe paperwork that was needed
25 from them to finalize the project was even ever

1 submitted, just because I placed 10 to 20 calls near
2 the end of the project, and no one ever responded.

3 So, it's tough on us to try to take the risk
4 on someone we haven't used before.

5 But, on the flip side, you want to be able to
6 help these smaller contractors to get projects and
7 to be able to work and get into the business.

8 So it's kind of a Catch-22 for us, that, you
9 know, do you want to be safe and use the same 5 to
10 10 that you use all the time? Or, do you want to
11 try and help someone out, then you hold the risk?

12 As he's saying, you know, we're responsible
13 for their certified payroll as well on
14 prevailing-wage projects.

15 JIM O'BRIEN: Senator, I just -- a little
16 success story. Actually, my mother and I were
17 talking about it just last week.

18 There's a striper out of Albany that we use
19 all the time, and they are a W -- I think they're an
20 M- and a WBE, actually.

21 One of the first projects they did was for us
22 was on Route 434 many years ago.

23 And the engineer and I looked at the stripe,
24 and it was (indicating). And he says, What are you
25 going to do about that?

1 I said, (indiscernible) the contractor you
2 told me to use. You tell me what we're going to do
3 about it.

4 They accepted the job.

5 Currently, they do probably 90 percent of our
6 striping. They're very good. They show up on time.
7 They get the job done.

8 It's a great success story.

9 Now, there was a guard rail company, again, a
10 long time ago, that came into problems.

11 Their piece of equipment went down. It was a
12 specialty piece of equipment to pound posts. And
13 they had to wait for that truck to get fixed.

14 During that time period, there was an
15 accident, and a girl drowned in the river.

16 Now that rail would have been up had they had
17 more equipment.

18 That firm is no longer in business.

19 SENATOR ASHKAR: Senator.

20 SENATOR SERINO: I just wanted to say, thank
21 you.

22 You know, when we talk about the regional
23 differences, the three of us were involved with the
24 minimum wage. Remember the Governor wanted it to be
25 \$15 now across the state.

1 I know I met with my small businesses and
2 they said, If we got to \$12 in a longer period of
3 time, we could do that.

4 It was still a struggle.

5 But we were able to set the table, really,
6 when you think about it, New York City and
7 Upstate New York.

8 So I think that's something that we have to
9 concentrate on now as well.

10 So, thank you for all of your information,
11 and your frustration, but we appreciate all the
12 comments.

13 So, thank you.

14 SENATOR ASHKAR: Jim, let me bring you back
15 to the light contract.

16 You said that Bothar was \$200,000 less.

17 You were the low bid, right, \$200,000?

18 JIM O'BRIEN: That's what I'm told.

19 SENATOR ASHKAR: Okay.

20 JIM O'BRIEN: I don't have anything to back
21 that up.

22 SENATOR ASHKAR: So you don't know -- do you
23 know what the final price was for the M or the W who
24 won that particular contract?

25 JIM O'BRIEN: When I called back to see how

1 our number looked after the bid, to low bidder,
2 I was told that our number was \$200,000 lower, but
3 they had to go with the WB.

4 SENATOR ASHKAR: Okay.

5 Nick, you talked specifically about some
6 projects being 20 and 30 percent higher, right, the
7 cost of the project, simply because you have to go
8 to -- through an MWBE.

9 Did you use that number?

10 NICK DeVINCENTIS: We did not use that number
11 because it did kind of blow it out of the park.

12 But, many times, 5 to 10 percent higher means
13 you use them.

14 SENATOR ASHKAR: But in some instances you've
15 seen as high as 20 or 30 percent --

16 NICK DeVINCENTIS: Yes.

17 SENATOR ASHKAR: -- right?

18 NICK DeVINCENTIS: Yeah --

19 SENATOR ASHKAR: But, generally speaking,
20 5 or 10 percent?

21 NICK DeVINCENTIS: Yeah, you weren't going to
22 get another waiver granted unless you used them. It
23 artificially inflated the project cost.

24 SENATOR ASHKAR: And, George, let me come
25 back to you.

1 You said that you lost the job. You were, in
2 fact, the low bidder. You lost the job.

3 Do you know what the difference was between
4 your bid and the winning bid?

5 GEORGE SLAVIK III: I do not.

6 But it was like he said, where we called --
7 this was through a general contractor. We called
8 and said, Hey, you know, how did we do?

9 They said, Well, actually, you were the low
10 bidder, but, we have to go with someone else because
11 we have to meet the goals.

12 So, same thing.

13 But what's interesting about what they say,
14 is it shows you a little bit -- I'm trying to
15 highlight the difference between industries too --
16 it sounds like these, in their industry, they're
17 actually getting tons and tons of quotes for
18 specific work, or you have some that are
19 consistently quoting.

20 Our industry, you know, on our bid days,
21 there is little to no quoting from MWBEs because
22 of the lack of that. So it's even harder for
23 plumbing and HVAC.

24 And I'm not sure about electric.

25 But it's just interesting, in different, even

1 sectors of construction, everyone's a little
2 different.

3 SENATOR ASHKAR: Well, we thank you all.

4 I think that that last point that I raised is
5 important for all of us to note because we're
6 talking about tax dollars.

7 We're talking about the hard-working
8 taxpayers of the state that are paying more and more
9 for projects simply because of a program that isn't
10 functioning the way it's supposed to be.

11 So --

12 SENATOR O'MARA: Do you see, in the half a
13 dozen or so companies that you are familiar with,
14 comfortable with, utilize, I assume other
15 contractors that are competitors of yours are
16 looking to them as well?

17 Does that stretch them even more thin and
18 cause an inflation of their bids because of it?

19 NICK DeVINCENTIS: Late in season year, you
20 know, they raise their prices tremendously, or they
21 just can't physically do the work.

22 And, then, what do you do?

23 JIM O'BRIEN: Guard rail, I think there's two
24 contractors.

25 NICK DeVINCENTIS: Yeah.

1 JIM O'BRIEN: They're pretty busy.

2 NICK DeVINCENTIS: Rebar installation.

3 JIM O'BRIEN: Well, rebar installation as
4 well.

5 You know, we won't use a trucking firm,
6 because we don't get a waiver, but we get a partial
7 waiver, I guess. And then it gets awarded, which
8 takes time.

9 We had a job in -- right out in front of
10 Horseheads on 17 last year. We were a million
11 dollars low on the contract.

12 It went past the 45 days when they have to --
13 the State has to award it.

14 And we couldn't get through what I'm assuming
15 was the MWBE process because we kept getting phone
16 calls. And it pushed our paving deadline farther
17 and farther out, to the point where I said it's not
18 worth the risk.

19 We had to mill, pave, tack, clean it,
20 everything, in just a few hours at night.

21 Well, the risk didn't mean anything to the
22 award, so we gave that contract back.

23 It was a million dollars that it cost the
24 State.

25 SENATOR ASHKAR: You good?

1 SENATOR O'MARA: Yeah.

2 SENATOR ASHKAR: Okay.

3 Thank you, gentlemen.

4 JIM O'BRIEN: Thank you.

5 NICK DeVINCENTIS: Thank you.

6 GEORGE SLAVIK III: Thank you.

7 SENATOR ASHKAR: Mr. Mancini, Mr. Ashman, and
8 Mr. Cerretani.

9 (Inaudible) last three testifiers, let me
10 just make a quick note, if I may.

11 I see there are other folks in the audience
12 that are in the contracting business, so on and so
13 forth.

14 If you didn't have an opportunity to testify
15 today and you want to send us some stuff, please go
16 to my website, Akshar.nysenate.gov, and leave us
17 some notes there.

18 Mr. (indiscernible), thanks for being with
19 us.

20 Mr. Mancini, I'll let you start.

21 JOSEPH MANCINI: Okay.

22 I didn't get a chance to put together a
23 prepared statement, but the question I always ask --
24 I've been asking for years is: If the program
25 relies on contractors to make it successful, how

1 come they never call on us to say, how do we make it
2 better?

3 It's -- I've been doing this at Mancini for
4 20 to 25 years, and have been working with the
5 changes that they made.

6 At Mancini, we've been in business for
7 51 years, and I've been a project manager and
8 estimator for 32. And in that whole time, I mean,
9 it's -- it's a program that doesn't work very well.

10 Everybody always says, yeah, you know, it has
11 its -- it has its good, in theory; but in practice,
12 it doesn't work.

13 And it seems like, if the law was just
14 followed on its merits, you know, it might work.

15 But the 30 percent is extremely high for the
16 region.

17 And -- well, that's all have I to say about
18 it.

19 I have some -- I always keep -- I think
20 I sent you an e-mail about ways to make it better,
21 and you can look at it on your own time.

22 But it -- it -- from my point of view, it's a
23 struggle to make it work, and it's not enough to be
24 low bidder anymore.

25 You have to be low bidder and you have to

1 have the best utilization plan.

2 And when you are low bidder and you submit a
3 utilization plan, they use the second or third
4 bidders against you.

5 And because -- and they'll ask you, Well, if
6 you can't meet the goals, how come second bidder can
7 and third bidder can?

8 I don't get that at all.

9 They're not even in -- they shouldn't even be
10 in the discussion, but they do it all the time.

11 But that's all I'd add.

12 SENATOR ASHKAR: Okay.

13 Mr. Ashman.

14 DEVIN ASHMAN: Good afternoon.

15 Thank you for taking the time to meet with
16 us.

17 Again, I'm with Matco Electric. We've been
18 serving Upstate New York for over 50 years. We're a
19 full-service electrical contracting firm, performing
20 work of all sizes in many sectors of our business.

21 Over the course of the 50 years, Matco's
22 completed numerous state projects for multiple
23 entities. In the recent years, it's become more and
24 more difficult to meet the MWBE goals set forth in
25 the State contracts.

1 Some of those difficulties facing us are as
2 follows:

3 Most notably is the fact that Matco Electric
4 is a specialty contractor; a specialty contractor,
5 electrical. We are required -- we require personnel
6 who are trained outside of the company to perform
7 all our work within our program.

8 This industry that we're in requires very
9 few, if any, subcontractors to complete the scope of
10 work, making it very difficult for us to meet the
11 MWBE goals set.

12 Adding to that difficulty is the fact that we
13 are a union contractor. We are required to be
14 signatory to the IBEW.

15 Currently, we are signatory with a number of
16 electrical unions in both New York and Pennsylvania.

17 The IBEW sources all of our field labor, as
18 they are trained through the IBEW program.

19 The use of these local skilled union
20 craftsmen allows us to leverage local manpower in
21 the area experiencing the construction.

22 Under our collective bargaining agreement
23 with the union, we cannot subcontract any of our
24 labor to a non-union contractor that we can perform
25 ourselves.

1 Again, this limits the available MWBE listed
2 contractors that we can work with.

3 Another problem we face is limiting the
4 MBE-WBE supplier percentage that can be applied
5 towards our goals. This creates a further challenge
6 for us.

7 There seems to have been no data to support
8 why the recent limit of 60 percent of the amount
9 being credited towards the goal to certified MWBE
10 suppliers has been enacted.

11 We have more suppliers than subcontractors
12 who would be able to assist us in achieving these
13 goals if 100 percent was still allowed.

14 The quantity of certified MWBEs available in
15 our region or regions that we are working in is also
16 problematic; it is limited.

17 Being a qualified MWBE contractor not only
18 requires having a New York State certification, but
19 also the financial stability, experience, and
20 expertise to perform the work.

21 Often, State specifications of ours include
22 requirements of 5 to 10 years of experience to
23 perform a specific task or area of work within our
24 trade scope.

25 These tasks or work qualification

1 requirements are often difficult for any contractor
2 to meet; and, thus, this only adds to the difficulty
3 in meeting this goal.

4 We also perform construction within
5 customer -- with customers' proprietary equipment.

6 Much of our installations include proprietary
7 equipment, such as fire-alarm equipment, access
8 control equipment, generators, et cetera.

9 Often, there are no MWBE manufacturers of
10 said equipment or MWBEs having territory
11 distribution rights.

12 This raises the need for a partial waiver.

13 In the past, the issue was recognized by the
14 State compliance officers, and partial waivers were
15 granted when all the proper documentation was
16 submitted.

17 Today these proprietary-equipment waivers get
18 rejected.

19 In the end, I think compliance with the
20 current MWBE program is difficult, at best, with the
21 goals being set at 20 to 30 percent. They're often
22 downright impossible.

23 This causes us to lean away from bidding
24 State-funded projects because of these constraints.

25 The risk and perception of failure to comply

1 with the MWBE program could subject you to
2 disbarment, potential prosecution, fines; it's just
3 not worth the benefit of bidding the project.

4 In the end, also, we agree that the program
5 is not going to go away, but it must be amended.

6 The intent is good, but the goals have become
7 unattainable.

8 Thank you.

9 SENATOR ASHKAR: Thank you, Devin.

10 Mr. Cerretani.

11 NICK CERRETANI: Hi, my name is
12 Nick Cerretani. I'm owner of C & C Ready-Mix
13 Corporation. We're a concrete supplier in Broome
14 and Tioga county.

15 I'd like to talk a little about how this
16 program, the 30 percent goal, has negatively
17 affected my business.

18 Unfortunately, the -- most of the work in
19 this area is either here at Binghamton University,
20 municipality work, or DOT work. And, in most cases,
21 it's 30 percent mandate.

22 And I say "mandate" because it's not a goal.
23 It's a mandate, is on these projects.

24 Unfortunate for me, my competitor is a WBE.

25 So it's -- it really is hard for me to get

1 work here at SUNY Binghamton or any of the
2 municipalities, in some respects.

3 There's been times where -- many times,
4 actually, where I've been told by the contractor, We
5 can't use you. We have to meet our 30 percent goal.
6 We have to use your competition.

7 This happened frequently.

8 It's happened just the other day with a
9 gentleman whose company who I'm sitting here at the
10 table with.

11 And it's negatively affected my business.

12 This goal of 30 percent is very high. And
13 the items on some of these jobs that I could
14 participate in are limited.

15 So you have a job where there might be
16 10 items in the whole project, and concrete is one
17 of them, and 30 percent has to go to a WBE, I'm out
18 of the ballpark. I'm not even considered.

19 And this happens on many projects, where my
20 bid to the general contractor is not considered
21 because I'm not a WBE.

22 And I'd like to thank you for having us here.

23 And, unfortunately, I'm -- no one from the
24 Governor's Office or administration is here, so it
25 almost feels like we're talking on deaf ears.

1 SENATOR ASHKAR: Well, I would like to think
2 that you don't truly believe that, because we've
3 taken three hours out of our day to listen to all of
4 you, because we care.

5 NICK CERRETANI: I'm meant deaf ears to the
6 government --

7 SENATOR ASHKAR: Oh, I --

8 NICK CERRETANI: -- to the Governor's Office,
9 not to you people.

10 SENATOR ASHKAR: -- I agree with you
11 wholeheartedly.

12 And to Mr. Mancini's point, why don't --
13 I think you raised a question, and, Devin, I think
14 you made it in a roundabout way, why hasn't anybody
15 listened to the people who are actually working in
16 this arena?

17 Right?

18 It's because there are bureaucrats in Albany
19 who are divorced from reality.

20 That's the truth.

21 Right?

22 The fact that -- and I said this earlier, the
23 fact that the Governor's folks aren't participating
24 in this has left me bewildered, and to
25 Senator O'Mara's point, insulted, quite frankly.

1 You should all feel insulted as well.

2 Right?

3 And I don't know, maybe the Governor too is
4 divorced from reality, because the only way that
5 this program goes on, is with the help of the
6 Legislature.

7 And my suggestion again, respectfully, is
8 that he participate in this process, because we're
9 hearing recurring themes, we're hearing recurring
10 stories, from -- not just from the folks that were
11 here today testifying. The same stories in the
12 North Country and the capital region.

13 And I know that we'll hear the same stories
14 when we go to Western New York and New York City.

15 So I share in your frustration, and I think
16 my colleagues do as well.

17 NICK CERRETANI: And I do apologize.

18 I didn't -- I didn't --

19 SENATOR ASHKAR: No, no.

20 NICK CERRETANI: -- direct that at you
21 personally.

22 SENATOR ASHKAR: We understand.

23 NICK CERRETANI: I direct that to the
24 Governor's Office.

25 SENATOR ASHKAR: We understand completely.

1 We understand completely.

2 Senator, go ahead.

3 SENATOR O'MARA: I'm good, I'm good.

4 Thank you all for your testimony.

5 SENATOR ASHKAR: Senator.

6 SENATOR SERINO: And I don't want you to
7 think that your efforts are going unheeded, because
8 I think about, when we did the workers' comp reform,
9 we did a lot of these hearings and roundtables, and
10 it was really very helpful.

11 You know, I went to Albany, there's
12 140,000 pages of rules and regulations; how
13 ridiculous.

14 And I tell them all the time, they live in a
15 bubble. They need to go back to their districts and
16 listen to what their people are saying.

17 And, hopefully, the Governor's Office will be
18 watching this today and they're hearing your voices
19 loud and clear.

20 So, and just -- you'll know that we are
21 keeping up the fight for all of you, and we
22 appreciate everything that you do.

23 NICK CERRETANI: I appreciate your efforts.

24 SENATOR SERINO: Thank you.

25 SENATOR ASHKAR: Sir, go ahead.

1 OFF-CAMERA SPEAKER: No, I think -- can we
2 just have one more --

3 SENATOR ASHKAR: What, testifier?

4 OFF-CAMERA SPEAKER: -- on the docket?

5 And I don't know how we missed him.

6 SENATOR ASHKAR: That's okay.

7 SENATOR O'MARA: Oh, he's supposed to be on,
8 Jeff Streeter.

9 SENATOR ASHKAR: Please, come down.

10 Are you guys all set?

11 JOSEPH MANCINI: Yeah.

12 SENATOR ASHKAR: Our questions are done.

13 Thank you.

14 SENATOR ASHKAR: My apologies for missing
15 you.

16 JEFF STREETER: Thank you.

17 SENATOR ASHKAR: Yes, of course.

18 Thank you.

19 If you're upset with anyone, make sure it's
20 O'Mara, not Serino or Akshar.

21 [Laughter.]

22 JEFF STREETER: (Indiscernible.)

23 SENATOR ASHKAR: Thank you for being with us.

24 JEFF STREETER: I will try to be brief.

25 And, really, what I -- I probably don't have

1 anything much more than what anybody else has
2 already said, but, I'll just introduce myself.

3 Jeff Streeter, owner of Streeter Associates,
4 a general contractor based in Elmira, New York. We
5 have a smaller office nearby in Vestal.

6 And we've been in business for a long time,
7 since before I was born.

8 And that's -- you know, that's a common story
9 in New York State. And I know this program is
10 looking to try to change some things.

11 Some people might wonder whether something
12 like this is discrimination or not.

13 And I think, if you're C & C, and you look to
14 supply concrete, you know, you probably do feel that
15 way.

16 As a general contractor, we subcontract out
17 work.

18 We self-perform a fair amount of work.

19 On some jobs, we might self-perform
20 30 percent of that work.

21 On other jobs, it might be 50 percent or
22 80 percent, but we always at least have that
23 combination.

24 We have an opportunity to try to find Ms and
25 Ws to help fill out a contract.

1 And when I look at something like this,
2 I say, well, this is a hurdle for us sometimes, for
3 lots of the reasons that others have mentioned that
4 have already been up here, which is, trying to find
5 Ms and Ws, and going through all of this process.

6 I won't get into all of those details of how
7 difficult it might be.

8 But I'll tell you, our mindset, usually, when
9 there is a hurdle that's out there, or a challenge,
10 for our business, I look at it, and I tell my
11 employees the same thing; I say: Well, you know,
12 this is the same hurdle that all of our competitors
13 have to deal with too.

14 Whether it's, you know, prevailing wages or
15 OSHA requirements or the weather here in New York,
16 or maybe it's Labor Laws 240 and 241 that give us
17 astronomical liability insurance costs, whatever it
18 is, I usually can look at it and say, you know what?
19 At least that's the same way it is for all of our
20 competition.

21 In this case, there are so many companies,
22 including general contractors, that can't look at --
23 that can't address this issue that particular way.

24 Even we can look at this and say, there are
25 general contractors out there that have the benefit

1 of a wife, a sister, a mother, fits into business,
2 and may, you know, legitimately be working hard, but
3 they could be as big, or bigger, than we are. They
4 certainly don't seem to be disadvantaged at all.

5 And, yet, going into a bid, they don't have
6 to search for Ws, they don't have to pay the
7 premiums that we have to pay, to try to find a way
8 to get this bid.

9 And there really -- there are premiums.

10 You've been hearing that theme today:
11 They're out there, we definitely are paying more
12 money.

13 Sometimes it's a choice, on bid day, how much
14 more do we want to put into our bid at the risk of
15 not being a low bidder?

16 And those are tough decisions to have to try
17 to make, and they're not always even there.
18 Sometimes our opportunities just aren't even there,
19 period.

20 So it's -- you know, it sounds great, but,
21 the premiums are there. We have internal costs for
22 premiums.

23 We have -- while we don't have a dedicated
24 person in charge of all this, we probably have one
25 to one and a half more full-time employees on our

1 overhead.

2 If we had a 1,000 employees, it doesn't sound
3 like a lot; but we don't.

4 Furthermore, the management time that it
5 takes to manage these contractors means more
6 overhead for us too.

7 And, very often, our performance on the jobs
8 might suffer a little bit.

9 You know, maybe the line stripping ends
10 (indicating).

11 And that's okay, if you actually see
12 something good out of the minority or the woman
13 contractor that's new and a startup. If you can
14 help them, we do, but it costs us money to help
15 them.

16 And that has to understand -- you have to
17 understand that.

18 There's also reduced competition.

19 In some cases, C & C might say, I'm not even
20 gonna bother bidding on this job anymore. How many
21 concrete prices did we get?

22 Well, we got one, thankfully, which is great.

23 But that reduced competition, there's an
24 intrinsic value there. It absolutely costs more
25 money.

1 We have a small job locally going on here
2 right now, where our contracts probably 10 percent
3 higher than it otherwise would have been. And we
4 were fortunate to be able to find, for certain line
5 items of work in there, Ms and Ws to be able to
6 do that work, but we're 10 percent higher.

7 Maybe some would be okay with everybody's
8 taxes being raised 10 percent to cover all of that
9 too. But I think the majority of people here would
10 probably say: Well, no, no, wait a minute. The
11 program sounds great, but I don't want you to raise
12 my taxes 10 percent, or 15 percent, or 20 percent,
13 to do all of this.

14 But it absolutely costs more money.

15 Another thing, that I don't know if it's been
16 touched on a lot, subcontracting work.

17 If you're a general contractor, you
18 self-perform a certain amount of work, and you
19 subcontract out work.

20 Ernie Hartman sat here, he talked about the
21 electricians.

22 You know, we have some agreements with
23 certain unions ourselves, and within those
24 agreements are subcontracting clauses.

25 And as far as I know, New York State has

1 been, I think, in good business with unions for --
2 since long before I was born, I'm sure.

3 I don't think it's an anti-union state. In
4 fact, I think it's probably a pro-union state.

5 But if we have subcontracting clauses that
6 say, you can only subcontract to a contractor that
7 has an agreement with our union to do the work that
8 we do, then you have to look to the unions and say,
9 well, how many Ms and Ws are actually affiliated
10 with the unions?

11 And that's a very small number.

12 So we don't have those options.

13 Furthermore, I don't really want to
14 subcontract out work that we do. I don't want to
15 have to lay people off and tell our employees, well,
16 I'm sorry, but you're going to have to go home
17 because, instead of us performing this concrete work
18 here, we're gonna -- we're gonna subcontract out
19 this work.

20 So, you know, that's -- that's real tough.

21 And so, usually, I mean, that's part of -- if
22 we request a waiver, that's going to be part of our
23 process, which is, we do this work.

24 Don't give us a name from somebody from
25 The Bronx that might do concrete work.

1 That's what we do.

2 Even had a conversation last year with a
3 roofing contractor. Bid on a project at one of our
4 local prisons in Elmira, and that's what he does,
5 roofing; it was a roofing job.

6 And he basically said, he was telling me
7 after the fact: I went to the job. I'm not
8 planning on subcontracting out my work.

9 He's affiliated with the union and said, The
10 union won't even let me do that.

11 And he said, Right now, I don't know whether
12 I'm going get the job or not, because the people in
13 Albany are telling me, I better go buy my materials
14 from this minority supplier in Albany instead of the
15 one that's about a half a mile from the prison.
16 And, I will also have to subcontract out 30 percent
17 of the work that I self-perform with my own forces.
18 And in doing so, I would be in violation of my union
19 agreement.

20 So there was a stalemate, and he was
21 determined. And, eventually, I think he got a
22 waiver, eventually, after much heartache. And
23 I think kind of this cloud of uncertainty.

24 Will that come? Won't it come?

25 I don't know.

1 I'd like to know beforehand because, if
2 you're telling me I'm not going to get a waiver,
3 then I don't want to take the job.

4 If you're gonna tell me, maybe at the end of
5 the job you might consider giving me a waiver?

6 Who wants to be put in that position, where,
7 you don't know whether you're getting a waiver, you
8 proceed with the work, and then, maybe, at the end
9 of the job, or midway through, maybe they give you
10 one?

11 Something is broken there that needs to be
12 fixed, definitely.

13 Also, we talked about capacity.

14 The woman who was talking about Tioga -- and
15 I'm sorry, I can't remember her name -- I think she,
16 you know, used a -- different figures. And let's
17 say, 11 percent of contractors in an area are Ms
18 or Ws.

19 That doesn't mean they can even handle
20 11 percent of the work. They're, typically, smaller
21 companies. They might be able to actually handle
22 2 percent of the volume of the work.

23 If you take -- if there's \$100 million being
24 spent, and 11 percent, 11 out of 100 contractors,
25 are Ms or Ws, that's great.

1 It would better still if it was 30 percent.

2 But it doesn't mean they can handle
3 30 percent of the work.

4 They tend to be smaller contractors, and
5 they're very specific scopes of work.

6 That doesn't get looked at.

7 We've been told -- and I've sat in on the
8 Building Board of Governors for the AGC of New York
9 State. We've sat in meetings.

10 I've participated in a couple of them over
11 the years, where we've sat with representatives from
12 New York State OGS, SUCF, DASNY, DOT, and we've
13 discussed these goals.

14 And some of the feedback we've gotten is
15 almost as if it was a pre-scripted line.

16 Well, we're told from up high, that if you
17 don't meet the "goals" (indicating), then you are
18 not working hard enough.

19 And then we bring up a different scenario,
20 wondering, how -- you know, how about in Alfred,
21 New York?

22 You know, we're sitting in SUNY Binghamton.

23 This is somewhat metropolitan here compared
24 to, say, where Alfred is.

25 Can we find Ms and Ws?

1 Occasionally you get lucky and you can, but
2 usually you can't.

3 So we bring up different scenarios, and we're
4 told pretty much the same thing: Well, we're told
5 from up high, that if you can't meet the "goals"
6 (indicating), then you aren't working hard enough.

7 That's all they seem to want to tell us, that
8 we, as a general contractor, aren't working hard
9 enough.

10 And, personally, I don't think they're
11 working hard enough in doing the project-specific
12 studies that we're told are supposed to happen.

13 And if you do, let's say, there's a project
14 on campus here to rehabilitate a dozen elevators.

15 That's a very specific scope of work.

16 I don't know how we're going to find
17 30 percent. And there's only going to be, maybe,
18 two or three elevator companies that should be
19 approved to do that work.

20 Probably never going to get to 30 percent.

21 Occasionally, we might get lucky and hit a
22 home run, so to speak, where we get a mechanical
23 contractor, and PS&V mentioned it here, that, you
24 know, there's maybe a couple of his competitors that
25 are WBEs.

1 So if we get -- that's -- that could be a big
2 chunk of a project for us, and we say, great, we
3 just got it here.

4 Well, you know what? That contractor's now
5 busy and not available for the next one.

6 But somebody in Albany thinks, well,
7 Streeter Associates, you did it before, you proved
8 to us you could get 34.2 percent of this job. Why
9 can't you do it every time?

10 Because we can't.

11 You know, we get that one WBE mechanical
12 contractor, and one job, and that was about
13 30 percent of the work. That was great.

14 It happened that one time.

15 They're busy now. They can't go do the next
16 one, or the next one. Or they aren't even
17 interested.

18 So, that's what happens.

19 Another circumstance we've had, we actually
20 have a job that's public money being used on a
21 private job, but the requirements with that public
22 money, came the same requirements, the 30 percent
23 goals.

24 We ended up spending more money than we
25 needed to, to hire a specialty contractor from the

1 state of Ohio, who happened to be certified as a
2 New York State MBE. And they're now working on the
3 job.

4 They also have their own requirements, where,
5 because they're traveling, they're working 8 days
6 on, 8 days off, working Saturdays and Sundays.

7 So we have to pay people there, our safety
8 coordinator and our superintendent, to be on the job
9 on Saturday and Sunday, when we otherwise wouldn't
10 have needed to be there.

11 But we got a big chunk. That was,
12 essentially, hitting a home run, all in -- you know,
13 we didn't quite get the full 30 percent. But we got
14 so much of it there, that we had to do that, and
15 present it to the owner, and they said, yeah,
16 I guess we better pay those premiums. I don't want
17 to get in trouble with anybody.

18 So, it's working out okay.

19 Of course, all of those profits will head
20 back to Ohio, and they aren't even going to stay
21 here.

22 And we had to bypass or pass over two or
23 three qualified New York State businesses in order
24 to go do that.

25 That can't possibly be anybody's intent for

1 this system.

2 It really shouldn't be.

3 If we can keep dollars within the state, I do
4 think that's what everybody would want to do.

5 I think that's what the Governor would expect
6 is happening.

7 So --

8 SENATOR ASHKAR: What's the name of that Ohio
9 company?

10 JEFF STREETER: I can give that you detail
11 later.

12 But --

13 SENATOR ASHKAR: I'm curious to know if
14 they've ever made campaign contributions to the
15 Governor.

16 JEFF STREETER: Well...

17 [Laughter.]

18 JEFF STREETER: I will send that you to.
19 Yeah.

20 SENATOR ASHKAR: I'm serious. It's
21 laughable, but I'm serious.

22 JEFF STREETER: No, it's -- it's a -- it's a
23 fair question.

24 And, you know, something else, just in
25 concept, when you have systems like this, there's

1 always a chance -- ours is an extremely competitive
2 industry. And we don't deal on margins that are
3 nearly as large as what people think.

4 You know, we deal in margins, as general
5 contractors, in the single-digit percentages.

6 And we really are looking to always find new
7 subcontractors that can make us more competitive.

8 So, we're not averse to the program at all,
9 or to finding new and different companies that, all
10 of a sudden, hey, great.

11 Ideally, we'd like to find them before our
12 competition does, and start using them and give
13 ourselves a competitive advantage.

14 So, there's no problem there.

15 But once you put all of these rules, and all
16 of the red tape that goes with it, into place, it
17 increases the chances for contractors to want to
18 cheat.

19 We go by the book, we play by the rules, live
20 within the law.

21 But not everybody does that.

22 And when you have things like this, people
23 will look to find creative ways to help set up a W
24 or an M that really isn't meant to be.

25 Certainly heard of a story of someone that

1 did -- a contractor that did that with a
2 service-disabled-veteran-owned business, and
3 eventually got caught.

4 But what I worry about is that, while other
5 contractors, they might eventually get caught, but
6 they're going to get work along the way that we
7 should have been getting.

8 We might have been second bidder on a job to
9 somebody that's cheating.

10 And then, next month, maybe we're second
11 bidder again to somebody else that's cheating.

12 Eventually those will get caught, and there's
13 efforts, but probably not a staff -- enough staff in
14 the state to catch all of those.

15 But it's just an environment that seems to --
16 the competitive nature of our industry, combined
17 with all of this extra red tape, is just a recipe
18 for contractors trying to find ways around it.

19 And you'll never be able to catch up with it.

20 It's like, you know, trying to catch those
21 that are using performance-enhancing drugs in
22 professional sports, there's always somebody,
23 somewhere, that's looking to do it.

24 And, eventually, they may get caught, but
25 they might hit a lot of home runs before they ever

1 get caught.

2 Just, I guess, a couple of, sort of, final
3 thoughts:

4 You know, things seem very unclear with
5 regards to the waivers or where the goals are.

6 We see project goals that are 30 percent,
7 but, they're 15 and 15, or they're 20 and they're
8 10, or they're 22 and 8.

9 There seems, very often, no rhyme nor reason
10 to us why it is that way.

11 And sometimes we're told, Oh, if you get --
12 the goal might have been 15 and 15, but we might be
13 at 28 and 2. And we're told, Okay, that's good.

14 And then other times we're told that we
15 aren't.

16 So there just -- there's still a lot of
17 confusion as to how this is all supposed to be
18 administered, and when you do get a waiver and when
19 you don't get a waiver.

20 And maybe we're being intentionally kept in
21 the dark so we keep working harder.

22 And I think we're working harder anyway.

23 But, I can tell you, the system just isn't
24 working.

25 It -- and if you can take all of the advice

1 that everybody's given here today, and somehow or
2 other, bundle it up and incorporate it and have it,
3 hopefully, not fall on deaf ears, so you can make
4 some changes, set realistic goals, call them
5 "goals."

6 And I'll tell you, years ago, "a goal" really
7 was a goal.

8 We've done a fair amount of work at our local
9 prisons over the years, and that can be a very
10 limited scope of work.

11 There could be detention equipment, paint,
12 and some masonry concrete work, and that's about it.

13 Well, we're gonna self-perform half that
14 work. And there's probably a -- two or three
15 approved detention-equipment specialists that will
16 go do that work.

17 And we can tell New York State OGS, Well,
18 look it. Here's the specific scope of work. Here's
19 everybody that we asked for bids.

20 And they would say, Okay, great. Okay, you
21 clearly made your effort, and we understand there's
22 a limited scope of work.

23 Then, all of a sudden, things changed quite a
24 bit, and, now, doing that same type of effort, and
25 reaching out to as many as you can on a limited

1 scope of work, that waiver isn't necessarily coming
2 right up front.

3 But, nothing has changed. There aren't
4 detention-equipment contractors that are, all of a
5 sudden, you know, Ms or Ws.

6 So those challenges are still there.

7 But how the goals are being addressed, and
8 how the waiver process, it's just -- it's very, very
9 different, and it's just -- it's very unsettling to
10 an awful lot of us companies that have been in good
11 business for a long time, and have paid an awful lot
12 of tax dollars to the State, and followed the rules.

13 And at times you just feel like, does nobody
14 care about us? Is it -- it's a concern everywhere
15 else?

16 You know, we're trying to do things right.

17 And I don't know if you have any other
18 questions of me, or not, but...

19 SENATOR O'MARA: Well, Jeff, thank you for
20 being here.

21 I apologize for the oversight of you not
22 being on the list.

23 But I'm glad Scott spoke up in the back row.

24 JEFF STREETER: Well, I think when Kelly and
25 Ernie were sitting here, I was probably supposed to

1 be the third person sitting here.

2 SENATOR O'MARA: You were supposed to be on
3 that? Okay.

4 Well, good thing Scott's so shy.

5 [Laughter.]

6 SENATOR O'MARA: But, we do -- I'm glad that
7 we got you in here.

8 And for all of those of you that came from
9 the west, the Elmira area, more in my district,
10 thank you for making the trek through that rain
11 today, which was heavy at times.

12 I see we also -- is that Suzie Alexander back
13 there? A Horseheads contractor, woman business
14 enterprise.

15 One thing that didn't come up at this hearing
16 today is, you have to be a minority- or woman-owned
17 enterprise; just don't be too successful, because
18 you get thrown off the list after being too
19 successful.

20 So that's a real problem.

21 It's something we're also trying to address.

22 So, Suzie, I appreciate you being here today.

23 And that was a real viable contractor I'm
24 sure for you, Jeff, in some of your work, and many
25 others, that, then, bang, you got a sub that you're

1 used to working with, and they're no longer
2 qualified to do it.

3 JEFF STREETER: That's a great point. Yes.

4 SENATOR O'MARA: But, thank you.

5 SENATOR ASHKAR: Senator.

6 SENATOR SERINO: I just want to say, thank
7 you to everybody today.

8 This was great, and we'll be moving forward.

9 SENATOR ASHKAR: Okay, I'm set.

10 Thank you very much.

11 JEFF STREETER: Thank you.

12 SENATOR ASHKAR: Thank you, everybody, for
13 joining us.

14 Again, if you didn't have an opportunity to
15 give oral testimony today, please visit our website,
16 Akshar.nysenate.gov, and you can provide additional
17 written testimony, or just your initial written
18 testimony there.

19 Thanks for coming out, everyone.

20 (Whereupon, at approximately 3:23 p.m.,
21 the joint-committee public hearing held before the
22 New York State Senate Standing Committee on Labor
23 and the Senate Standing Committee on Economic
24 Development concluded, and adjourned.)

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