



Building Trades Employers' Association

Louis J. Coletti | BTEA President and CEO

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NEW YORK STATE

MINORITY AND WOMEN BUSINESS HEARING

ASSEMBLY STANDING COMMITTEES:

GOVERNMENT OPERATIONS

LABOR

SMALL BUSINESS

TUESDAY DECEMBER 5, 2017

LEGISLATIVE CORRESPONDENCES ASSOCIATION (LCA)

130LOB

LEGISLATIVE OFFICE BUILDING, 1ST FLOOR

ALBANY, NEW YORK

TESTIMONY PRESENTED BY

LOUIS J. COLETTI

PRESIDENT & CEO

BUILDING TRADES EMPLOYERS' ASSOCIATION



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ASSEMBLY MEMBER CRYSTAL PEOPLES-STOKES, ASSEMBLY MEMBER RODNEYSE BICHOTTE, ASSEMBLY MEMBER FRED W. THIELE JR. AND ASSEMBLY MEMBER MICHELLE TITUS.

MY NAME IS LOUIS COLETTI AND I AM PRESIDENT AND CEO OF THE BUILDING TRADES EMPLOYERS' ASSOCIATION OF NEW YORK CITY. MY ASSOCIATION REPRESENTS SOME 1000 UNION CONSTRUCTION MANAGERS, GENERAL CONTRACTORS AND SPECIALTY TRADE CONTRACTORS WHO IN 2016 PUT IN PLACE SOME \$32 BILLION WORTH OF CONSTRUCTION IN NYC.

THANK YOU FOR THE OPPORTUNITY TO TESTIFY ON HOW BEST WE CAN ACHIEVE OUR SHARED GOAL OF REACHING 30% MWBE PARTICIPATION IN CONSTRUCTION. YES, I DID SAY SHARED GOAL.

THE BTEA BELIEVES STRONGLY IN WHAT CONFUCIUS SAID IN 500 BC:

**"WHEN GOALS CAN'T BE REACHED, DON'T ADJUST
THE GOALS ADJUST THE ACTION STEPS."**

AND IF WE ARE TO ACHIEVE THE 30% GOAL, "ADJUSTING THE ACTION STEPS" IS WHAT WE NEED TO DO. HOW CAN WE DO IT?



- 1) NEED M/WBE PROGRAMS TO FOCUS MORE ON HOW TO BUILD THE CAPACITY OF M/WBE CONTRACTORS TO COMPETE FOR CONSTRUCTION CONTRACTS;**

- 2) TO WORK TOGETHER: BTEA PRIME CONTRACTORS, M/WBE CONTRACTORS AND ADVOCATES AND PUBLIC OFFICIALS, TO ADOPT THE CHANGES NECESSARY THAT WILL LEAD TO EXPANDING THE CAPACITY OF M/WBE CONTRACTORS TO COMPETE FOR CONSTRUCTION CONTRACTS. WE NEED TO BE TALKING WITH EACH OTHER, NOT AT EACH OTHER.**

THERE ARE ONLY TWO COMMENTS I WOULD LIKE TO MAKE ABOUT THE STATE'S DISPARITY STUDY BECAUSE I WOULD RATHER FOCUS MY REMARKS ON THE SPECIFICS OF THE CHANGES WE RECOMMEND NEED TO BE MADE.

FIRST, WITH REFERENCE TO M/WBE'S RECEIVING A 10% BID PREFERENCE, I DO NOT AGREE WITH THE MASON TILLMAN CONTENTION THAT BID PREFERENCES MEET U.S. CONSTITUTIONAL STANDARDS, SETTING ASIDE PRIME CONTRACTORS FOR M/WBE BIDDING. KEEP IN MIND, MOST PUBLIC WORKS PROJECTS ARE SUBJECT TO LOW BID PUBLIC PROCUREMENT LAWS – PROVIDING A 10% BID PREFERENCE WILL JEOPARDIZE THE PRIME CONTRACTOR'S ABILITY TO WIN THE CONTRACT AWARD.



SECOND, THE RECOMMENDATION TO ASSESS MONETARY DAMAGES TO PRIME CONTRACTORS WHO DO NOT MEET THE GOAL IS CLEARLY UNCONSTITUTIONAL.

LET ME RETURN TO HOW WE CAN ACHIEVE THE 30% M/WBE GOAL. THE BTEA WILL SUBMIT 3 REPORTS FOR YOUR REVIEW THAT IT HAS SPONSORED:

- 1. A FIRST OF ITS KIND IN THE NATION CAPACITY STUDY – NOT A DISPARITY STUDY, WHICH MEASURED ACTUAL NEW YORK CITY CONTRACT AWARDS FROM 2012-2015 BY SIZE OF CONTRACT, TYPE OF CONSTRUCTION, RACE AND GENDER.**
- 2. A SECOND REPORT THAT IDENTIFIES RECOMMENDATIONS, MANY OF WHICH REQUIRE STATE LEGISLATION, WHICH WE BELIEVE ARE NECESSARY TO INCREASE M/WBE CAPACITY TO COMPETE FOR CONSTRUCTION PROJECTS.**
- 3. A THIRD REPORT WHICH IS A SURVEY OF M/WBE CONTRACTORS IN WHICH THEY WERE ASKED WHAT THE BIGGEST CHALLENGES WERE TO THEM IN GROWING THEIR BUSINESS CAPACITY.**

ALL OF THESE REPORTS ARE BEING SUBMITTED WITH MY TESTIMONY. SOME OF THE RECOMENDATIONS INCLUDED IN THAT REPORT ARE:

- 1. IMPROVING PUBLIC AGENCY CHANGE ORDER AND PAYMENT PROCESSES TO IMPROVE CASH FLOW.**



- 2. INCREASING FINANCIAL WORKING CAPITAL AND BONDING ASSISTANCE.**

- 3. ESTABLISHING SMALL BUSINESS PROGRAMS FOR ALL PUBLIC AGENCIES FOR CONTRACTS \$400,00 AND BELOW, WAIVING BONDING REQUIREMENTS AND PROVIDING OPPORTUNITIES FOR M/WBE CONTRACTORS TO BID DIRECTLY TO CITY AGENCIES.**

- 4. REQUIRING PUBLIC AGENCIES TO PRE-QUALIFY ALL M/WBE CONTRACTORS; THE CERTIFICATION PROCESS IS NOT HELPFUL IN THIS ASPECT AND SBS DOES NOT HAVE THE FINANCIAL RESOURCES OR EXPERTISE TO DO SO. THE AGENCIES WITH CAPITAL CONSTRUCTION BUDGETS DO.**

- 5. REFORMING AND EXPANDING TECHNICAL ASSISTANCE AND CAPACITY BUILDING PROGRAMS INCLUDING SESSIONS FOR PROJECT LABOR AGREEMENTS. M/WBEs DO NOT LIKE TO BID PLA WORK AND THERE IS OVER \$100 BILLION OF PLA WORK IN NYC.**

- 6. REFORM THE 240 SCAFFOLD LAW.**

- 7. REFORM THE M/WBE REGULATORY PROCESS.**



THE MOST SUCCESSFUL M/WBE PROGRAM IN NEW YORK STATE IS THAT OF THE NYC SCHOOL CONSTRUCTION AUTHORITY. I WOULD STRONGLY URGE YOU TO CALL SCA PRESIDENT LORRAINE GRILLO TO DISCUSS HOW THE SCA PROVIDES M/WBE CONTRACTORS THE OPPORTUNITY TO COMPETE FOR CONTRACTS AND TO PROVIDE TECHNICAL ASSISTANCE AND SUPPORT TO GROW THEIR COMPANIES.

LET ME NOW TALK ABOUT PROJECT LABOR AGREEMENTS. M/WBE CONTRACTORS DO NOT LIKE TO COMPETE FOR CONTRACTS UNDER A PLA FOR ANY NUMBER OF REASONS.

I BELIEVE, AT LEAST PART OF THEIR REASONING IS BECAUSE THEY ARE UNDERSTANDABLY UNCERTAIN OF HOW PLA'S OPERATE SINCE THEY ARE NOT FAMILIAR WITH WORKING IN A UNION CONSTRUCTION ENVIROMENT. AND - THE LACK OF TECHNICAL SUPPORT FOR M/WBE CONTRACTORS WHEN THEY FACE CHALLENGES WHILE BUILDING A PLA PROJECT.

BUT WITH SOME \$150 BILLION IN CITY AND STATE PLA WORK IN NEW YORK CITY – HOW CAN ANY CONTRACTOR DECIDE TO NOT COMPETE FOR PLA WORK AND GROW THEIR BUSINESS?

THE BTEA HAS AND WILL CONTINUE TO OFFER ITS EXPERTISE TO M/WBES IN THIS AREA. WE RECENTLY PARTICIPATED IN A PLA FORUM WITH SKANSKA FOR THE LA GUARDIA PROJECT AND ARE WORKING WITH THE NYS DORMITORY AUTHORITY AND CITY OF NEW YORK TO PROVIDE SIMILAR TECHNICAL PLA SESSIONS.



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IN CLOSING, I BELIEVE THE STATE LEGISLATURE HAS AN UNPRECEDENTED OPPORTUNITY TO, AS CONFUCIUS SAID, “ADJUST THE ACTION STEPS” TO ENSURE THE GROWTH OF M/WBE CONTRACTOR CAPACITY AND TO MAKE THE 30% GOAL A REALITY. I THANK YOU FOR THE OPPORTUNITY TO SPEAK HERE TODAY AND LOOK FORWARD TO WORKING WITH YOU AS PARTNERS IN THIS EFFORT.