



EASTERN CONTRACTORS ASSOCIATION, INC.

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Date: May 30, 2018

**To: Senate Standing Committee on Economic Development
Senate Standing Committee on Labor**

From: Todd Helfrich, President and CEO, Eastern Contractors Association, Inc.

RE: Testimony on MWBE Program Public Hearing

Chairman Boyle, Chairman Akshar, Senator Ritchie, Senator Murphy, Senator Serino, Senator Phillips, Senator Helming and respectable Members of the Senate, I would like to begin by thanking you for taking the time to examine the MWBE program and hearing testimony and recommendations on its implementation.

On behalf of Eastern Contractors Association, Inc. (ECA), its nearly 300 members, and the 475 signatory contractors it represents through collective bargaining, I have some comments I would like to share with you on the MWBE program and the 2016 NYS Disparity Study, and suggested solutions for the improvement and continuation of the MWBE program.

ECA is a trade association of general contractors, subcontractors, suppliers, and service firms engaged in commercial, industrial, and institutional construction throughout eastern New York. ECA traces its history to 1890 and the builders' exchanges in Albany, Schenectady, and Troy. ECA is the only regional "full-service" contractor association serving the needs of all segments of the construction industry. The Association's footprint covers counties in the eastern part of New York State, from just south of Albany up to the Canadian border.

For years, ECA has been focused on the issues faced by MWBE firms and has been at the forefront in providing opportunities for a diversified construction workforce. We have been and continue to be committed to exploring ways to eliminate disparities in the construction trade. The Association and our members have throughout the years hosted our own programs and workshops to help women and minority groups by providing them with the skill set and insight needed to help level the playing field. We have our subcontractors and prime contractors engage in networking events to help educate as well as promote business opportunities.

Throughout our history, we have also tried to address the lack of diversity and interest in the trade at the high school and college level. We have partnered up with local high schools and community colleges to provide workforce development programs. ECA firmly believe that these mentorships, internships, and scholarships will help to develop interest amongst younger people, minorities, and women in the construction field and give them the skills needed to be successful in the industry.

With that said, a proper disparity study that takes into account the capacity of MWBEs is necessary for the continuation of New York's MWBE Program. The 2016 Disparity Study is anecdotal and does not take into account and clearly reflect an analysis based on factual information. We would like to request the data upon which the 2016 Study is based on as it is questionable. The point of the study was to determine if MWBEs have had equal access to contracting opportunities with the State of New York and to recommend remedies if discrimination was found. However, the study failed to identify any NYS procurement discrimination during the 5 year period examined. It seems to only infer discrimination without consideration of relevant state documents, meaningful public input and the evaluation of capacity and qualification.

With the vague findings and insufficient evidence of the 2016 Study on discrimination, the Study's recommendations are inconclusive. A 10 percent bid preference cannot be legal implemented if there was no determination of discrimination to begin with. Moreover, the 30 percent subcontracting goals are inflated and improperly established. If contractors are trying to fulfill the arbitrary goals of state contracting, MWBEs may miss prospects in the private sector, which is where more than half of where market opportunities are.

ECA is committed to a diverse workforce as it is critical to the success and longevity of our industry. We would like to engage in realistic policies that would help meet these goals. To do so it is important that 1) a disparity study is compliant with the standards of *Croson* and other Constitutional standards and monies should be allocated to conduct a new study; 2) any contract-specific goal setting analyses required by existing law and regulation must be available pre-bid and included in project specifications; 3) an appropriation of \$2 million be allocated for the re-establishment of the Alliance of Majority & Minority Contractors Mentor Program to grow and develop MWBE capacity statewide.

ECA stands ready for a capacity and evidence based study that could provide practical recommendations to help truly diversify our business.

Thank you again for your consideration.

Sincerely,

Todd G. Helfich
President and CEO
Eastern Contractors Association, Inc.