



New York City Comptroller
John C. Liu

NEWS RELEASE

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Contact: Sharon Lee, (212) 669-3747

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AUDIT: HPD FAILS IN CONTRACTING WITH MINORITIES AND WOMEN

Lack of Records and Procedures Raise Doubts about Claims of Progress Toward Local Law 129 Requirements

NEW YORK, NY – The New York City Department of Housing Preservation and Development (HPD) is not complying with Local Law 129, which established the City's Minority and Women-owned Business Enterprise (M/WBE) Program to address significant disparities in City contracting, according to an audit launched this year and released today by Comptroller John C. Liu.

“This report lends credence to nagging sentiments that City contracting with minority and women-owned businesses is woefully inadequate and inequitable, despite agency claims of substantial progress,” Comptroller Liu said. “Indeed, there is apparently little to no information indicating that this agency is complying with Local Law 129. Most troubling is the agency’s seeming complacency, which will only serve to perpetuate disparities in contracting for minorities and women.”

In September 2010, members of the City Council issued a report indicating broad failure to contract with M/WBEs, stating that only 1.6 percent of City contract dollars were going to M/WBEs. Representatives of the Mayor then responded that M/WBEs were participating through subcontracts with prime contractors. HPD reports a total of 24 contracts (valued at \$250,254,536) with M/WBE subcontractor participation during the scope of the audit (Fiscal Years 2007 through 2010). However, the lack of records or procedures makes it impossible to ascertain the actual level of M/WBE participation.

Chief among the findings of the audit:

1) NO PROCEDURES TO VERIFY M/WBE PARTICIPATION – LL129 requires city agencies to monitor contractor compliance with LL129, including job-site inspections, contacting M/WBEs to independently verify their participation and auditing the contractor’s books and inspections. HPD, however, failed to have any detailed procedures in place to verify M/WBE participation and provided no evidence of actual audits performed. Unreliable methods for verifying M/WBE participation included hearsay.

2) NO MONITORING OF PAYMENTS MADE TO M/WBEs – LL129 requires city agencies to monitor contractor compliance with LL129. Although HPD stated it will monitor contractor

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compliance, auditors found no evidence of such monitoring. HPD has no assurance that contractors are actually providing business and paying appropriate amounts to certified M/WBEs.

3) NO TRACKING OF M/WBE CONTRACTS – LL129 requires city agencies to track and record each contractor and subcontractor hired as an M/WBE. HPD, however, does not maintain the lists of hired M/WBE contractors. The lists eventually provided by HPD were actually generated by the Mayor’s Office of Contracts, not by HPD. Based on this information, there is no assurance that HPD officials keep track or even know of its own M/WBE contracts.

4) UNRELIABLE DATA OF M/WBE SUBCONTRACTORS – Publicly reported procurement data reflects projected rather than actual amounts. Auditors discovered inaccuracies and multiple discrepancies between data from HPD, contractors and subcontractors. Furthermore, HPD does not ensure key documents are submitted by contractors, is unable to accurately report M/WBE subcontractor utilization, and is therefore unable to gauge compliance by contractors.

The audit report provides six basic recommendations to bring HPD into compliance with LL129, some of which have been agreed to by HPD.

BACKGROUND ON LOCAL LAW 129

Local Law 129 was passed by the City Council and signed into law by Mayor Michael Bloomberg in 2005, establishing a program to address the impact of discrimination on the city's procurement process, and to promote the public interest in avoiding fraud and favoritism in the procurement process, increasing competition for city business, and lowering contract costs. The legislation was enacted in furtherance of City policy to ensure fair participation in city procurement and to promote equal opportunity in city procurement by vigorously enforcing the city's contractual rights and pursuing its contractual remedies. LL129 details certification, contract participation goals, technical assistance and administrative procedures to promote the utilization of M/WBE firms for contract and subcontract opportunities. The full text of LL129 is available at

<http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=444904&GUID=F981C035-E957-4306-887E-81E640208014&Options=ID|Text|&Search=M%2fWBE>.

Comptroller Liu credited Deputy Comptroller for Audit H. Tina Kim and the Bureau of Audit for presenting the findings. The full report is available at www.comptroller.nyc.gov/audits.

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