



New York City Comptroller
John C. Liu

NEWS RELEASE

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LIU: MORE AGENCIES FAIL IN CONTRACTING WITH MINORITIES AND WOMEN

*Department of Design and Construction and Parks Department added to
a growing list of agencies that fall short of their legal mandate to
create opportunities for all New Yorkers*

NEW YORK, NY – The New York City Department of Design and Construction (DDC) and the Department of Parks and Recreation are 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 two audits launched this year and released today by Comptroller John C. Liu.

The City enacted Local Law 129 on Dec. 29, 2005 in response to an alarming lack of City contracting with minority and women-owned companies. The law mandated that City agencies open the contracting process to a greater diversity of business owners and set goals for M/WBE subcontracts. Despite the City’s occasional claims of progress in hiring M/WBEs, the audits reveal the City has no accurate system in place to track the billions of dollars spent by prime contractors on subcontractors.

“For far too long, even in a City as great as New York, there have been huge disparities across the board in all parts of City contracting,” Comptroller John C. Liu said. “Leveling the playing field is not about quotas. It’s about fairness, equal access to opportunities, and economic empowerment. Increasing competition for City contracts generates greater savings for taxpayers and benefits not just M/WBEs but all of New York.”

Chief among the findings of the audits:

- The Department of Design and Construction did not review the records of prime contractors to verify that payments were made to M/WBE subcontractors, did not perform job-site inspections or audits of contractor books and records, and did not contact M/WBE subcontractors to verify their participation.
- The Department of Parks and Recreation did not review prime contractors’ records to verify payments to M/WBEs and three of four prime contractors sampled by auditors did not reach their M/WBE subcontracting goals.

An earlier audit released on October 27, found that the Department of Housing Preservation and Development also did not keep a list of its contracts that were subject to Local Law 129.

The Comptroller's Audit Bureau has also determined that publicly released data on M/WBE subcontracting goals from the Mayor's Office of Contracts (MOCS) gives an unreliable picture of compliance with Local Law 129. MOCS accounting of M/WBE subcontractor participation is based on anticipated payments to subcontractors. Actual payments to M/WBE subcontractors are not publicly reported. The publicly reported data, which is based on anticipated M/WBE participation, cannot be used to accurately measure the results of the City's M/WBE program.

The recommendations made by Comptroller Liu to the City agencies include:

- Ensure that prime contractors' records are audited to verify payments to M/WBEs
- Collect and report actual spending on M/WBE subcontractors by prime contractors
- Ensure that agencies take enforcement action against noncompliant prime contractors
- Require agencies to conduct job-site inspections and contact subcontracted M/WBEs
- Establish controls to ensure that the information pertaining to M/WBE anticipated subcontract amounts is accurate.

As a legislator, then-Councilmember Liu was a staunch advocate for Local Law 129. As Comptroller he has initiated several audits to examine the City's performance with its M/WBE program. Recently he launched an online M/WBE Report Card that is the first interactive, public database to track the City's spending with M/WBEs on prime contractors. The website is available at www.mymoneynyc.com.

Comptroller Liu credited Deputy Comptroller for Audit H. Tina Kim and the Bureau of Audit for presenting the findings. The new reports and a compilation of audits of the M/WBE program are available at www.comptroller.nyc.gov/audits.

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>.

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