INVESTIGATION INTO MINORITY AND WOMEN BUSINESS PARTICIPATION IN CITY CONTRACTING

COMPREHENSIVE EDITION:
Findings, Recommendations and Support Documentation

A Report by the Human Rights Commission of San Francisco
1095 Market Street, Suite 501
San Francisco, California 94103

October, 1988
October 20, 1988

San Francisco Board of Supervisors
City Hall, Room 235
San Francisco, California 94102

Attention: Mr. John Taylor
Clerk of the Board

Dear President Nancy Walker and
Members of the Board of Supervisors:

Pursuant to the City's Administrative Code Chapter 12D
(Minority/Women/Local Business Enterprise Ordinance 139-84), the
Human Rights Commission at its meeting of October 13, 1988, voted
unanimously to certify to the Board of Supervisors that the purposes
identified in Section 12D.3 of the Ordinance, have not been achieved
as documented by the accompanying report, "Investigation into
Minority and Women Business Participation in City Contracting
Report." The Human Rights Commission recommend to the Board of
Supervisors that the legislation be extended as prescribed in Section
12D.15 of the Ordinance.

These findings are based upon data, public hearings, meetings
and other relevant information presented to the Human Rights
Commission, in accordance with the sunset clause requirements of the
Ordinance.

Sincerely,

Frank Anderson
Interim Director

FA:pa
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Preface

The Human Rights Commission wishes to thank all persons who participated in the development of this report, especially the considerable expenditure of their time on the public hearings and other meetings.

Special thanks are extended to the members of the HRC’s Minority/Women/Local Business Enterprise Community Advisory Committee, City departments, the HRC staff, Mr. Grant Mickins (retired HRC director), Ms. Mara Rosales (deputy city attorney), Ms. Mary Butler (court reporter), and Mr. Norman Ishimoto (consultant) for their technical assistance.

Again, thank you for your collective efforts to implement and continue the City’s policy of the full and equitable participation of Minority, Women, and Local Business Enterprises as prime contractors in the procurement of goods and services by the City.
CHAPTER ONE: METHODOLOGY AND PROCEDURES

Regulatory Foundation and Objectives. The MBE/WBE/LBE Ordinance (139-84) was approved by then-Mayor Dianne Feinstein on April 11, 1984. This Ordinance provided in Section 12D.15.(A) for its expiration five years from its effective date - May 11, 1989 - unless the Human Rights Commission, after conducting hearings, finds that the purposes identified in Section 12D.3 have not yet been achieved.

In that case, HRC shall certify said finding to the Board of Supervisors no later than 200 days prior to May 11, 1989. This deadline was October 23, 1988.

In accordance with the Ordinance, therefore, HRC conducted public hearings on June 30 and July 14, 1988, to determine whether: (1) the present effect of prior racial/gender discrimination against MBE/WBEs has been remedied; and (2) economic disadvantages faced by LBEs have been offset. The Commission also developed and analyzed data concerning program actions from 1984 to date.

Public Hearings. During June, HRC prepared to conduct the two public hearings. It issued:

--an "Announcement of Public Hearing to Extend The Minority/Women/Local Business Enterprise Program" (Appendix A, undated)

--a form inviting public testimony at the June 30 Hearings, and an answer to the question "Should the Minority/-Women/Local Business Enterprise Program be
CHAPTER TWO: DATA COLLECTION

This chapter contains summary statements from the oral and written testimony submitted by members of the interested public and City departments.

The statements are presented in chronological order of appearance before the Commission in oral, public session.

At several points, Commissioners and the City Attorney asked questions of the witnesses; these exchanges are summarized at the point where they occurred.

Note: In addition to testimony from the public and City departments, there were comments provided by Deputy City Attorney Mara Rosales and HRC staff Contract Compliance Officer Pansy Waller.

Ms. Rosales pointed out that the purpose of the public hearings was to receive testimony from prime contractors who do, or wish to do, business with the City, and from subcontractors who wish to develop their status as prime contractors.

The term "contractors" pertained to the whole range of agreements subject to the Ordinance, including construction, purchasing, personal services, professional contracts, architects, engineering, leases, franchises, and concessions.

The Human Rights Commission must recommend to the Board of Supervisors by October 23, 1988, whether to extend, repeal, or modify the Ordinance. The Commission’s findings must be based upon the public testimony, information from City departments, and problems brought to its attention.

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to May 1989 to decide on whether to continue, modify, or discontinue the Ordinance.

Ms. Rosales gave a brief description of the lawsuit filed by the Associated General Contractors of California against this Ordinance.

The AGC claimed that the bid preferences violated the Low Responsible Bid provision of the Charter. Furthermore, AGC charged that their rights under the Equal Protection Clause of the Constitution were violated by giving preferences to others.

The United States Court of Appeals for the Ninth Circuit ruled in March 1987 that the Minority Business Preference violated the Constitution and City Charter and that the Local and Women's Business Preferences were Constitutionally sound but in the case of some contracts these preferences violated the Charter.

The City Attorney filed a petition for reconsideration, which automatically stayed the 1987 decision; as of the hearing date, no decision had been rendered over those 15 months. She expressed the hope that the delay inferred an ultimate decision favorable to the City.

In the July 14, 1988, hearing, Ms. Rosales again reviewed the events described above and presented an update. She stated that on July 1, 1988, AGC filed a Motion for an Injunction Pending Appeal, i.e., a request for the Court to enforce its 1987 decision against the City. Her office filed a brief in opposition on July 11, 1988.

Ms. Rosales also noted that there may be one additional
1. Public Testimony

A. Oral Public Testimony

Julian D. Munoz
President
Group 4/Architecture, Research and Planning

Mr. Munoz commended HRC for its efforts to integrate MBEs and WBEs into the business mainstream, and supported continuing the program.

He credited the program for much of his firm's success over 14 years, citing work on airport terminals, public works projects, and the Candlestick Park expansion. He said there are many young, aspiring, and well-qualified firms who benefit from the program.

Al Borvice
Attorney at Law

Mr. Borvice commended the Commission for holding the hearings and commended the HRC staff as objective and helpful. He supported extending the ordinance, characterizing its purpose as to help the City's minority communities to partake of the City's tax base. He noted that the Asian, Black, and Hispanic communities comprise at least half of the population.

Because the program is new, he felt that the departments have not had enough time to implement the necessary programs to aid minority and woman owned businesses. He cited the "chilling effect" of the litigation against the program.
Commissioner Gray stated that the Federal government long ago learned that the program couldn't work without set asides. Approximately four years ago, President Reagan had Federal agencies set aside 16 billion dollars over a three year period for MBE contracts. She attributed her own firm's success to this program.

As Health Commissioner, she stated that she requested a public hearing on that department's implementation of the Ordinance. As a result, on March 17, 1987, the Health Commission resolved to encourage a pilot program at San Francisco General Hospital to increase MBE/WBE participation in procurements by one million dollars in two years. She noted that few other commissions have taken this leadership - citing Airport and Public Utilities as two which have.

Eric Jue
Chinese for Affirmative Action

Mr. Jue stated that CAA regarded it as "imperative" that the Ordinance be extended. Citing HRC statistics of MBE/WBE contracting over the life of the program, he said that this progress would not have been made without the Ordinance, and that the City needs to do more work.

CAA recommended that certification must be more careful to ensure that the businesses are not fronts; that HRC perform more program outreach; that WBEs receive more technical assistance in light of their receiving only one percent of overall contract monies; that there be more stringent monitoring on City
system used by the Department of Defense.

Third, the Asian community's population and contribution to the economy should not be ignored in terms of the contracts awarded to Asians.

Fourth, reexamine the size standard of gross income to see if it is doing what it is supposed to do.

AAAE stated it would work with HRC staff to extend and refine the MBE/WBE Ordinance.

Selwyn Whitehead
Coalition of Bay Area Women-Owned Businesses

Ms. Whitehead demanded that the program be extended.

She stated that one-third to two-thirds of all WBEs are fronts: wives, daughters, girlfriends, or women associates take over the firm in name only. Acknowledging the efforts of the City to fight fronts, she stated that the problem continues.

Fronts cause distrust between WBEs, and other firms seeking joint ventures with them fear that they may be fronts. She stated that on the day previous to this testimony (July 29), a construction company approached a Coalition member proposing that she front for them.

She recommended greater outreach throughout Northern California through printed and electronic media.

Another major issue was the difficulty businesses have locating the proper departmental official, asking that those decision-makers "meet us halfway," especially in the professional services area.
with small M/WBEs: large firms thus avoid destructive staffing changes between large projects; with small subcontractors, the cost of marketing is reduced.

Among the problems of implementing this Ordinance, he cited a need to improve interdepartmental responses, hold all city agencies accountable, and apply and enforce standard definitions of subcontracting.

Dorothy Erickson
Executive Vice-President
Nationwide Construction Company

Ms. Erickson's firm is a reinforcing steel placing company based in San Francisco and in Downey, California; she is the immediate past president of Women Construction Owners and Executives of USA.

She stated that the objectives of the Ordinance have not been met. One reason was too few women contractors willing and able to work in San Francisco. Also, the certification process for women, particularly Caucasian women, is expensive and biased.

Her company was one of the first WBEs to be certified; she said it was a long, drawn-out process. She added her associates who work in the Bay Area have stopped applying for certification or refused to go through the humiliating, expensive process.

Ms. Erickson stated that WBEs are disadvantaged, and 25 years behind MBEs in terms of industry representation; she called for special programs wherever this condition exists.

She noted that San Francisco is more expensive to do business in, citing higher salaries, rents, and taxes. Thus, incentives
The M/W/LBE Program has been of great value, allowing her to show that her company can perform large jobs effectively as a prime contractor. Until the Program, her company had no major City jobs, and even now some departments assume that she cannot perform a complete Environmental Impact Report, which is a specialty of her firm.

The growth in her company's work has come from City and similar contracts, increasing her company's income, tax payments, and number of new staff. She also cited her firm's internship program, more than half of whom are women.

She criticized City staff who still favor firms from the "old boys network."

Jose Villalobos
President
Villalobos & Associates

Mr. Villalobos said his consulting engineering firm has worked with the City six to seven years on various projects. He endorsed the continuation of the program in the strongest terms, stating it should become a permanent policy.

It has allowed his firm to work with and gain the respect of majority firms, which would not have been possible otherwise. As a result, they have gone on to work with those firms on projects without a specific MBE requirement.

He suggested restructuring the program so that whenever minority participation falls below a specific level, such as 30 percent, it could be reinstated. He also said that there are occasions requiring specialized expertise, where the program
Dr. Julianne Malveaux
Political Action Chair
National Association for the Advancement of Colored People, and
President
San Francisco Business and Professional Women

Dr. Malveaux, speaking for the two organizations, described their passionate commitment to continuation of this program; it opens doors to entrepreneurship and is an important form of affirmative action.

She cited 1985 data comparing Black vs Caucasian family wealth: $3,200 vs. over $39,000; part of the reason was differences in occupation, employment, and levels of entrepreneurial ownership. Hispanic family wealth was $4,100.

She said that black women own fewer than one percent of all businesses nationally, with an average gross of under $20,000 - showing the need for programs such as this one and for technical assistance.

Dr. Malveaux stated that in San Francisco no Black person owns a business that has more than 100 employees. However, despite these statistics, improvement has come largely through efforts such as MBE/WBE.

She criticized glaring loopholes in the Ordinance, stated that HRC must receive more enforcement staff, and possibly form skills centers.

By the year 2000, Dr. Malveaux said, the country will be one-third black and brown, and the City will be majority nonwhite. The choice when considering this Ordinance is whether we want to continue petty apartheid in the entrepreneurial class, or whether we truly want to open up competition by extending this
trying to get them to work together with the National Minority Contractor’s Association, but he said the AGC has chosen to fight the goals rather than to help or evade them.

Despite his being from Richmond, Mr. Van Hook endorsed the preference for local contractors; he is willing to compete, why shouldn’t majority contractors also be willing?

Grant Mickins
Former Director
San Francisco Human Rights Commission

Mr. Mickins summarized his last four years as the Commission’s director: the times were very difficult because they were forging new ground, and they were dealing with City departments and contractors who had never been asked to make that kind of commitment. Despite that, and limited resources, he said that there has been progress, and a need to extend the Ordinance.

He said that the day when this Ordinance becomes unnecessary is not on the horizon. We need the Ordinance, the preferences, the goals, and concerted efforts. Mr. Mickins also expressed hope for cooperation from the AGC.

Mohammed Al Kaleem
Publisher
New Bayview Newspaper, and
Owner
Tutankhamen Graphics, and
President
Bayview Merchants Association

Mr. Al Kaleem has been in business since 1972. He stated that the departments, such as School Board and MUNI, must be pursued to give contracts.
certified WBES). Her University of San Francisco Master's thesis was on Municipal Procurement Practices. She created and publishes *Bay Area Bids and Awards*.

She stated that because of the ten percent preference, many companies cannot compete for business in San Francisco; some of her customers told her that due to the Ordinance, they concentrate on the private sector.

While she has personally experienced the difficulties of WBES, she felt Public Law 95-507 was more fair, and has worked well without relying upon percentage bidding benefits, although it is expensive.

Ms. Coates felt that the City's program is not better, but is more expensive. She recommended that the percentage preference be discontinued, calling it reverse discrimination and expensive.

She said that goals must be reinforced, and outreach programs of training and counseling be applied throughout all departments of the City government.

She said other local cities have more active outreach, e.g., San Francisco sponsors no business opportunities seminars.

Speaking as a WBE owner, she said she wanted an equal opportunity, not a handout or unfair advantage.

Cheryl Perry-League  
*Port of Oakland*

Ms Perry-League extended greetings from the Oakland Port Commission and Executive Director Walter Abernathy. She first
separate policies for professional services and vendor services, and two programs applying to construction. There are no bid preferences within the policy.

Ms. Perry-League opined that San Francisco was challenged because the myth is that somehow the bid process is altered. Instead, bids are sealed, and not allowed after the deadline: the low bidder is the lowest bidder based on price. She mentioned that a recent $4,000,000 contract award will allocate 26% to minority firms.

Maurice Regensburger, CPA
Member, Board of Directors
Associated General Contractors

Mr. Regensburger identified himself as a retired partner of Peat, Marwick, Main & Company, a member of the California Uniform Construction Cost Accounting Commission; he has 45 years of experience in public accounting, and 35 years specializing in construction companies.

He opposed continuing the Affirmative Action Program. It will significantly add to the $170,000,000 budget deficit: the ten percent bid preferences will increase costs by as much as 11.1%.

He said that the authors of the Program do not understand the construction industry. Section 5-J2 states that it is normal for at least 80% of the work on general building contracts to be contracted out; in his 35 years, he has never seen 80% subcontracts.

Mr. Regenburger noted that HRC 4 and 6, Item 16, requires joint ventures to submit copies of the last three years tax
Mr. Casey's firm specializes in contract bonding.

Mr. Casey stated that the Ordinance attempts to impose a social purpose upon the system of competitive bidding which had been perfected over 80 to 100 years. However, the administrators implementing this Ordinance demonstrate a complete lack of understanding of competitive bidding, including bonding.

Bonding requirements represent the most significant element of this process; Mr. Casey described it as absolutely the most foolproof guarantee that the public's money is spent effectively. It protects the government and must be a prerequisite to awarding the contract.

Bonding is difficult and complex to achieve, and one's race or sex has no relevance. Until HRC staff understand this, the Ordinance should not be extended.

The Ordinance should not be extended: it is costly and for the construction industry, it will never accomplish the intended purpose, and cost San Francisco millions of dollars annually. All of the efforts of HRC staff thus have been, and would continue to be, a waste of time.

Ms. Griffith stated that she also spoke on behalf of AGC. She noted that the intent of this Ordinance is honorable, but
50 to 60% of all major contractors get their business not by bidding, but by negotiating. He cited the State Contract Register as one proof, and said such factors inhibit the progress and development of minorities and women in the marketplace. In addition, he noted that set aside contracts are common for large Pentagon contractors.

Concerning bonding, he stated that in the 1930s and 40s, bonding became required because of shoddy public construction work, and minorities were not involved in that work. Now, he said, minorities are accused of doing shoddy work and thus are unable to get a bond.

Michael Willis
Minority Resources Committee
American Institute of Architects

Mr. Willis stated that his committee members faced problems in obtaining L/W/MBE contracts. They included the requirement for racial diversity, which is often unrealistic for minority-owned firms: there are presently too few minority professionals available to employ, and the numbers of minority students is declining.

Also, the 51% requirement to establish minority ownership eliminates two-partner minority firms with one minority partner; he asked a case-by-case evaluation when minorities have a significant role in operating that business.

He suggested that HRC could assist minority professionals when a firm is required to hire or subcontract minorities to execute that contract.
said that the Ordinance costs the City $150,000 per million dollars of contracting, plus administrative costs; the total waste cost was thus $45 million on $300 million in contracts annually.

Mr. Thompson read into the record three letters. The first letter was from the law firm Graham & James, on behalf of client Homer J. Olson, Inc., a non-minority owned construction company; it urged non-extension of the Ordinance.

The second letter was from C.W. Roen Construction Company, strongly opposing continuance of the Ordinance. It addressed the use of sham and fictitious businesses to gain the preference, and cited the $2,000,000 Sherry-Eleanor Pump Station project in 1985. Although it was the low bidder, the Ordinance caused the third bidder to receive the award.

This was a San Jose firm fronted in San Francisco and registered as a disadvantaged MBE. Besides costing taxpayers $50,000, Rowan’s own work to produce a low bid was wasted. Thus, the firm has no interest whatsoever in doing further business with San Francisco until the Ordinance is terminated.

The final letter was from the Pacific Legal Foundation Council for the AGC, objecting to the Ordinance, and cited the AGC lawsuit.

Mara Rosales, City Attorney’s Office, asked several questions. Inasmuch as the AGC never challenged the City on the fact that MBEs won less than one percent of construction dollars in 1981-82, despite making up over 30% of public construction contractors, what suggestions did AGC have to rectify that virtual
Court has approved the approach.

She traced the intellectual development of anti-discrimination rulings from the Supreme Court: first, in Brown v Board of Education, equal educational rights were acknowledged, then the Court acknowledged equal employment opportunities. Now, the issue is ownership, not just subcontracting.

Ms. Patterson contradicted AGC’s interpretation of the current litigation. Instead of being settled Constitutional law, Ms. Patterson stated that the law is in flux, citing City of Richmond v Crosen, and the likelihood that the Supreme Court will decide the issue within six months. She stated that the guiding legal principal is having a compelling interest in remedying discrimination.

Also in flux, Ms. Patterson said, is the issue whether a City may, like the Federal government, institute race and gender conscious Affirmative Action contracting program. The program will self-destruct when equality has been achieved.

The HRC program is flexible: its provisions may be waived if there are no qualified MBEs or WBEs. The last requirement she cited is that the Ordinance must have a minimal impact upon non-minorities. Citing Mr. Thompson’s remarks that AGC contractors receive 70 to 80% of contracts, she noted that they aren’t 70 to 80% of the population.

Ms. Patterson contradicted Mr. Casey’s remarks that the present system has been perfected: she said that it was perfected to perpetuate the interests of white men, and gave them 97% of the contracting dollars.
denied them.

He also charged that many AGC contractors have set up local addresses and gone into joint ventures.

He stated his belief that current statistical procedures created inaccurate counts of minority participation, a factor in minorities not getting their fair share of contracts. He also recommended better monitoring of firms that move into San Francisco. Mr. Ramirez concluded by asking AGC to work with the minority community.

Phyllis Wesson
Principal
A-Plus Roofing

Ms. Wesson identified her commercial roofing company as a local minority firm certified with the HRC and Public Utilities Commission, and a competitor for City Public Works Projects. She characterized her firm as a pioneer, and often the only MBE or LBE bidding on a job.

Ms. Wesson characterized the issue as how to improve the Ordinance to better meet the established goals.

Her first recommendation was to make it easier for women to become certified, while acknowledging that historically and currently women-owned construction firms have been regarded as fronts, and that the "good old boy" network is alive and prevalent.

Countering opponents’ views that the Ordinance represents reverse discrimination against them, she stated her belief that their true concern is competition.
Carol Kingsley, Esq.  
Member, Board of Directors  
San Francisco Women Lawyers Alliance

Ms. Kingsley stated that her organization wholeheartedly supported extension of Ordinance 139-84. Her organization is an affiliate of California Women Lawyers, and has over 200 members in the legal profession in the Bay Area, including WBES and MBES.

By its own terms, the Ordinance has not met its mandate and must be extended. She discussed several issues to address subsequently: why has WBE participation been so low, relative to the more substantial increase in MBE contracting? How can more WBES be certified, and how can they be assisted to obtain City contracts? How can bonding and insurance obstacles be overcome?

The Alliance offered assistance in seeking solutions and acting to overcome problems of the Ordinance's attainment.

Don Loorz  
Stolte, Inc.

Stolte, Inc., is a general contractor located in Oakland. Mr. Loorz spoke on his own and the company's behalf to oppose extending the Ordinance.

He supports the concept of equal opportunity, and takes pleasure when a contract is won to award subcontracts to a MBE or WBE. In deciding the firms to receive subcontracts, he stated that this process must be rational, i.e. their bids must be competitive, and they must be capable of financing and performing the work they propose to do.

While supporting affirmative action, good faith efforts, reasonable requirements and goals, he opposed using
awarded to a MBE/WBE/LBE.

James W. Lowrie
President
Lowrie Paving Company

Mr. Lowrie's company has been in business in San Francisco since 1922. He supported the concept of MBE and WBE and that it is a good goal to strive for.

However, he said that the Ordinance has brought competition to a virtual standstill. The numbers of bidders is now a half or a third or less than before. It is expensive in that it cuts down competition.

He criticized that there is no way to evaluate its cost, because there is no baseline from which to calculate costs. Nor is there a way to evaluate its effectiveness. He contradicted speakers who said that "one percent of minority contractors are women owned businesses...against 35 or 40 or 50% of the population.... That doesn't make sense, it isn't a true comparison."

In the street work business, only two MBEs exist and are getting all the work. In the past four or or five years, no new MBE contractor has entered the field. His company calls and begs subcontractors to give them subcontractor bids when they assemble bids. There are no women in street construction or general engineering.

Thus, he concluded that the Ordinance has accomplished nothing in four years. On the other hand, it has forced reputable companies such as his to lose work to fronts.
Pete Lapid
Pete Lapid and Associates, and
Filipino Society of American Architects and Engineers

Mr. Lapid spoke to support extending and strengthening the Ordinance.

His firm, electrical consulting and engineering services, was established in 1983. Due to the Ordinance, his firm has been able to participate in projects which their size would otherwise have prevented, and given them a chance to demonstrate their ability to do larger and complex work. In turn, the prosperity of small firms contributes to the City’s economy.

He recommended greater efforts by and accountability of department heads for the enforcement of the Ordinance; HRC authority for regulating and monitoring must be permitted. Also, the City’s contracting opportunities should be distributed according to its population make-up because Asians, and Filipinos in particular, are a large and fast-growing group.

Greg Rojas
AIA and Associates, and
Filipino American Republican Council of California

If not for the Ordinance, Mr. Rojas said, it is unlikely that his firm would exist. Because of the Program, he is now the landscape consultant to the Marriott Hotel at Yerba Buena, but perceives skepticism over his ability to do the job. His firm also does "the dirty work," such as reconstruction work on the downtown high school.

Mr. Rojas commended HRC for doing its job despite limited resources and limited power, noting that many departments failed
must be ended.

Jonathan Mayes  
Charles Houston Bar Association

The Charles Houston Bar Association is comprised of black attorneys practicing in Northern California, and is an affiliate of the National Bar Association. Mr. Mayes said that his organization strongly recommends that the Ordinance continue.

Referring to the preceding speaker's reiterated comments that the Ordinance was unconstitutional, he noted that the question is still unresolved. Furthermore, that speaker spoke of discrimination against himself as a white person; for thirty years, Mr. Mayes has felt this as a black person - seeking a job, admission to schools, going to meetings - knowing people were predisposed against him due to his race.

Accordingly, any inability of minorities to compete with white contractors before this Ordinance was not due to their character, it was not due to the quality of their work, but due to the color of their skin or their sex.

As the Ordinance has not yet its goals, his organization supports it as the right step to end discrimination.

John Raiser  
General Contractor

Mr. Raiser has been a Bay Area general contractor for 31 years, and served the AGC as a board member and chairman. Pointing out that he came to America as a penniless, Greek, 17 year old student speaking no English, he credited the opportunity
extending the Ordinance for three years, with improvements.

He listed problems as: City Departments failing to accurately report "eligible contract dollars;" low rate of meeting the 30%-10% goals; bonding and insurance requirements; and the requirement that contractors be signatories to "a recognized apprenticeship and/or training program" discriminates against the small, minority contractors.

T. Peter Lam
President
Asian American Architects and Engineers

(similar to oral remarks)

Eddy T. Lau
Chairman, Issues Committee
Council of Asian American Business Associations

Mr. Lau said CAABA represents over 400 firms, and formally requested extension of the Ordinance because its past performance has been dismal, with ineffective enforcement. On the basis of CAABA experience, they believe the goals have not been accomplished.

CAABA had recommendations in three areas. To discourage fronts, "local businesses" should be required to pay payroll taxes; the ordinance should be applied to all professional service contracts, concessions, and leases; a technical committee be formed for each discipline to advise HRC staff on granting waivers.

On A/E contracts, MBE primes should be required to hire MBE subcontractors other than themselves, except for small contracts.
David Chavez  
David Chavez & Associates  
Cultural Resources Consultants

Mr. Chavez supported extending the Ordinance; as a certified MBE, he has secured City contracts which he otherwise might not be able to obtain, as a smaller, lesser-known cultural resources consultant.

Lucinda A. Schlaffer  
ARQ Architects

Ms. Schlaffer stated that the Ordinance should not be continued in its present form because (1) the rules are misleading, vaguely administered, and make applying for certification expensive, and (2) the 51% ownership requirement is almost impossible to prove.

She stated that she was denied WBE status after over 100 hours of time, interviews, and trips to HRC, and compared her experience with accounts she has heard of other architectural firms fraudulently obtaining WBE status by expensive legal strategems. She recommended federal, state, and University of California MBE/WBE programs.

If these problems cannot be solved, she recommended eliminating the program.

Eugene Lew  
Principal  
Eugene Lew & Associates  
(same as oral)
Mr. Del Campo stated his belief that San Francisco’s Ordinance was superior to other cities, county, state, and Federal ordinances, and that it should be extended.

J.P. Dariotes  
Assistant Controller  
Tamaras Supply, Inc.

Mr. Dariotes stated that it is unfair and more costly to give a 5% preference for being an MBE or WBE; instead, consideration should be given for LBEs, price, and reliability.

Jose L. Villalobos  
Villalobos & Associates, Consulting Engineers

(same as oral)

Eric Jue  
Senior Recruiter/Counselor  
Chinese for Affirmative Action

(same as oral)

Paul D. Banks  
President  
Banks Dental Supply

Mr. Banks stated that the Ordinance must be extended for at least five years. From his perspective as a Black-owned company certified in 1984, he said that the first two years appeared oriented towards "fairs" but not sales opportunities. Over the years, the selling has been slow, but without the Ordinance, the opportunities for MBEs would be nonexistent.
cannot suffice.

Bruce A. Roen
President
C. W. Roen Construction Co.

(previously read into the record by Mr. Thompson)

Evelyn R. Phillips
Administrator
The Workshop

Ms. Phillips favors continuance of the Ordinance, although her company has not received any City contracts in five years. One problem was stipulations and requirements that prevent a company from participating as either a prime or subcontractor. She suggested that HRC also develop ways of encouraging WBEs to stay in business.

Carol Kingsley
Member, Board of Directors and Co-Chair, Economic Equity Committee
San Francisco Women Lawyers Alliance

(same as oral)

Kenneth G. McCormick
Vice President
Fisk, Firenze, McLean, Inc.

(read into the record by Ms. Faughender)
Richard P. Crociani  
*Crociani Construction Company*  
(same as oral)

James W. Lowrie  
President  
*Lowrie Paving Company, Inc.*  
(same as oral)

John A. Raiser  
The Raiser Organization  
(same as oral)

Gwen Kaplan  
Owner/Operator  
*Ace Mailing*  
(same as oral)

Honorable Milton Marks  
*California Senate*  

Senator Marks, a member of the Business and Professions Committee and the Senate Select Committee on Small Business Enterprises, heartily endorsed the Ordinance's extension as proper social policy and in the best interest of San Francisco's economy.

James D. Jefferson  
President  
*Black Chamber of Commerce*  

Mr. Jefferson, in a memorandum to Chamber members, stated that the Ordinance should be extended.
Elinor Sue Coates, CPCM
San Francisco Businesswoman
(same as oral)

Harry W. Brooks, Jr., MG, USA-Ret.
Chairman & CEO
Western Computer Group

MG Brooks wrote to support continuation of the Ordinance, with the addition of incentives or punitive measures.

His firm is a certified MBE and the largest Black company in the Bay Area. However, he has done very little business with the City, giving up two years ago after a series of frustrating attempts.

Michael Willis
Minority Resources Committee, San Francisco Chapter
American Institute of Architects

Mr. Willis said his committee members suffered from (1) unrealistic HRC requirements for racial diversity as there are too few minority professionals; and (2) the 51% ownership requirement is too high, as many firms are half-owned by minority partners, so they cannot obtain the benefits of the Ordinance.

He suggested a requirement that nonminority contractors be required to assign minority employees so that they can develop the needed expertise.

The following summarizes responses to the question "Should the Minority/Women/Local Business Enterprise program be continued?" on the form distributed by HRC, with summaries of any
participate in economic development.

Earl H. White  
President  
E. H. White & Co.

Yes - the program affords the possibility to create more jobs in the City for minorities and women; otherwise, outside firms would bring in their people and not hire locals.

UPL  
San Francisco

Yes - overall, a good program, but annual renewal should be followed up more closely.

Thomas Raines  
President  
Precision Keypunch Service, Inc.

Yes - the program is necessary to nurture MBEs.

Statewide Private Patrol and Guard Services

Yes - because minorities face extraordinary hardships due to racism.

Alice Carey & Associates  
Architects

Yes - MBEs and WBEs need an opportunity to participate.

Fontaine, Quintanilla & Assoc.

Yes - Equal participation goals have not been met.
Jesse C. Peterson
President
JESBET Enterprises

Yes - most of our income comes from procurement, and we could fail without the program.

Rejwan Architects
Architects and Planners

Yes - as a WBE, an important part of my work depends on associating with other architects on Federal and state jobs.

Walter Moy Consulting Group
Information Resources Management

Yes - There is still progress to be made. We need to do a better job of marketing ourselves and our work must be of excellent quality in the eyes of the buyer.

Lisa Jackson
Omni Office Environments

Yes - a wonderful opportunity for small businesses to work with large companies.

Anselmo Revelo
District Attorney, Family Support

Yes - the program should have a chance to prove itself.

Unsigned

No - spending up to 15% extra per item purchased is too much. M/W/LBEs are taking unfair advantage without giving support or service.
Conley Services

Yes — small business wouldn’t have a chance without the Ordinance.

Etta Allen
President
Allen Heating & Sheet Metal

Yes — minorities and women need as much assistance as possible to compete. As a M/WBE, the program has been valuable to my company.

OAO, Sacramento

Yes. It facilities distribution of City procurement funds to disadvantaged businesses and prevents unfair practices. While OAO has not received a contract, it appreciates the advice and counseling. OAO is a large firm ($85 million gross sales) in Northern California only 14 months, but recognizes the Program is important for small firms.

R.L. Bains
Compu-clerical

Yes — Minorities and women still are not treated equally, but without the Program, the situation would be much worse.

K.J. Iwagaki
Allied Engineering

Yes — The program allows MBEs and WBEs to prove their qualifications and capability, and seems to be the only way they can break into professional and construction ranks.
Harry Bharuchi, Ltd.

No - the cost of insurance does not justify the amount of business that can be generated from the City; the program is too costly for the City and businesses and should be eliminated altogether.

Cornely Company

Yes - Contractors in San Francisco pay dearly to be in business here through taxes, etc.; it is only reasonable to give some consideration to businesses loyal enough to stay. This company has been in San Francisco since 1918.

Roger Genereux
King Bearing, Inc.

Yes - the continuance of this Program will encourage business to stay in S.F.; why should outside businesses grab the business? We have to support those that are here to serve.

Coast Geo-Constructors, Inc.

Yes - without the Program no new MBE/WBE/LBE can compete.

Ace Legal Assistance

Yes - without the Program companies like mine would be unable to be in business.

TRS Consultants, Inc.

Yes - The MBE/WBE/LBE program should be continued to foster
less than large firms with enormous overhead."

Pacific Bolt Co., Inc.
Yes.

Fu-Lien Chang
STRUCTUS
Yes - the program benefits all business.

Marsha Givens
A.B.C. Cigar Co.
Yes. ABC Cigar operates a news/gift concession and candy flower shop at the Airport. It is a local, WBE since the 1930s.

Under the present Principal Concessionaire bidding process, ABC Cigar may lose its leases because they, as a prime contractor, are too small to have subcontractors if that is required.

ABC Cigar is too small to bid as a prime contractor because it cannot afford bonding and remodelling costs, but too large to be considered a small business contractor.

ABC Cigar recommended that there be space setaside for WBEs and MBES as independent operators. Also, airport rents and sales are higher and the $2 million ceiling was chosen years ago and thus fails to account for inflation; thus, the ceiling should be $5 million.

Brian T. Chun-Hoon
Yes - The MBE/WBE/LBE Program will have to carve out a
marketplace.

Michael Pearson
Department of Social Services

No - the program is cumbersome and time consuming for all city departments, wastes millions of dollars; award contracts to the lowest bidder regardless of color.

Unsigned

No - the program is discriminatory!

Unsigned

Yes - to reach parity; racism keeps whites from contracting with Black businesses.

Christine E. Davis
President
Columbia Communications International, Inc.

Yes - Participation allowed her MBE company to bid competitively and more widely on City goods.

Bing W. Jew
Link International Co.

Yes - better competition with established businesses; competition without the Program would be impossible for MBE/WBE/LBEs.

Taylor & Associates

No - in view of the City's financial situation, this is an
Elina K. Chung  
Merritt Uniform Center  
Yes - to allow WBEs a chance to do business; while in business for ourselves, we are creating jobs for others.

Chacon Steel Co., Inc., Manteca  
Yes - without the MBE program, Chacon could not compete in bidding on construction projects; some general contractors would not give them a chance without the program.

Mara Feeney & Associates  
Yes - the Program forces large engineering firms and other prime contractors to seek out talented MBEs and WBEs which they are unlikely to do otherwise. This experience helps establish a track record.

Unsigned  
Yes - The Ordinance’s goals have not yet been completely achieved. HRC has much work to do, especially for MBEs and WBEs at the prime contracting level.

Hennie Wisniewski  
Transitions  
Yes - to help small business gain access to City contracts; to help keep the City honest.
2. **Departmental Response**

   A. **Public Hearing Departmental Testimony**

   Ed Walera  
   San Francisco General Hospital

   Mr. Walera strongly recommended on behalf of San Francisco General Hospital that the M/W/LBE Ordinance be extended. He said that they have worked diligently, and have had successes and setbacks.

   He recommended that HRC have a special panel or subcommittee to develop new ideas and solve problems; its membership would include the City Attorney, Mayor, Purchaser, and other major department representatives.

   He recommended that the Administrative Code be reviewed to resolve conflicts with the Ordinance, identify rules that stifle the program and cause excessive work and lost profits for small vendors.

   Without setasides expressly for minority and women businesses, there is no way to guarantee success of the Ordinance.

   Mr. Walera suggested accelerated payment schedules, which would help cash flows and overall fiscal health of small minority and women businesses with minimal capitalization. It would also be a better incentive to participate.

   Guidelines for joint ventures should be formalized and distributed to all departments to further encourage them. Creative pilot projects should be allowed to develop ways of encouraging minority and women business.
them from requiring subleasing, if a tenant decides to sublease, this is not reported.

She recommended that each department be allowed to develop a small business enterprise definition and program geared to that department's needs and resources. She also asked that setaside procedures be reviewed.

Audrey Oliver
Administrator of Business and Employment
Chief Administrative Officer

Speaking on behalf of the Chief Administrative Officer, Ms. Oliver said he supports the intended objectives of the Ordinance and recommended its extension. As a result of the legislation, city officials are more sensitive to issues and concerns of MBEs and WBEs attempting to contract with the City.

The program should be terminated only when the goals have been reached.

Cliff Gerard
Port of San Francisco

Mr. Gerard stated that the staff of the Port recommended to its Commission that it recommend extension of the Ordinance for another three years.

The Port's MBE contracts increased from 13% in 1985-86 to over 35% at mid-year 1987-88; he said the staff attributed the increase to the program. WBE participation went from one percent to five percent.

Referring to other testimony that five percent preference
knew of no available appropriation.

Adelbert Campbell
Minority Business Development Program
San Francisco Purchasing Department

Mr. Campbell described the Purchasing Department’s responsibility to procure most of the goods and services of the government; its policy to vigorously enforce Chapter 12D.

Prior to passage of the Ordinance, the Purchasing Department and HRC applied (with technical assistance from the CAO) for a Federal grant to do outreach and education to bring minority vendors into the City procurement system. This was approved in late 1984.

Then-Director of HRC, Grant Mickins, cooperated with Purchasing to implement the program, including compiling and distributing the first directory, and creating the initial system to implement the Ordinance when it became effective in August 1984. Purchasing has refined the system since then.

Mr. Campbell said that the Ordinance should be extended because the goals have not been met.

Sandra Crumpler
Outreach Officer
San Francisco Airport

Ms. Crumpler submitted a copy of her oral testimony and a memorandum of ideas and suggestions from Airport staff.

The memorandum commented on twelve areas. First, pointing out that the dollar amounts of construction and professional services to Blacks and women have dropped significantly and that
departments, evaluate progress and remedial actions at mid-year, and recommend and approve program revisions and.

Ninth, conduct mid-year evaluations which include requesting HRC approval for setasides or DBE procedures.

Tenth, allow departments to develop HRC-approved programs and definitions meeting their particular needs.

Eleventh, clearly define "joint ventures" for concession leases.

Finally, clarification is desired on applying and reporting subcontracting data; and minority prime contractors shouldn’t be required to subcontract or sublease.

San Francisco Port Commission

The Port Commission, upon recommendation of Arthur M. Osborne, Director, Engineering and Maintenance, voted to recommend to the HRC that it recommend an extension of the Ordinance. Mr. Osborne pointed out that the Port has received good services from MBE/WBE/LBE contractors, the Program has increased their participation, and those contractors have received work due the Program’s influence.

Rudy Nothenberg
Chief Administrative Officer

Mr. Nothenberg wrote to support the Ordinance, noting that legislation in its embryonic stage is often difficult to implement, requires involvement of many parties, and can be terminated only when its goals are conclusively achieved.
CHAPTER THREE: FINDINGS AND RECOMMENDATIONS

1. Findings

WHEREAS, the Board of Supervisors in April 1984 adopted the Minority/Women/Local Business Utilization Ordinance ("the ordinance") to address discriminatory practices inherent in the City's procurement process which resulted in the virtual exclusion of minority and women business enterprises as prime contractors on City contracts and leases and whereas the Board of Supervisors also sought to offset economic disadvantages faced by local businesses that are not shared by nonlocal businesses; and

WHEREAS, the ordinance expires May 11, 1989 unless the Human Rights Commission ("the Commission"), after conducting public hearings, finds that the objectives of the ordinance have not been met in whole or in part and certifies this finding to the Board of Supervisors no later than October 23, 1988; and

WHEREAS, the Commission, having conducted public hearings in June and July of 1988 to determine whether the objectives of the ordinance have been met in whole or in part; and

WHEREAS, the Commission heard the testimony of 42 witnesses and business representatives and whereas the Commission reviewed the transcripts and written submittals of 127 minority, women and local business representatives; and

WHEREAS, the Commission has studied the testimonial and statistical evidence presented by the public, City departments, the Commission's staff and whereas the Commission also relies upon
claim the bid preference is anti-competitive, discriminatory, wasteful of taxpayers' monies and discourages businesses to compete for City contracts, the weight of the evidence supports a conclusion that the bid preference invites participation by formerly excluded businesses and hence promotes more competition, resulting in more competitive bids submitted to the City.

4. The contract set aside mechanism, where competition for selected contracts are limited to MBE/WBEs or joint ventures with MBE/WBEs, has not been authorized by the Director on a frequent or extensive basis over the past four years. On the advice of the City Attorney, the HRC Director has regarded the contract set aside mechanism as a measure to be used in last resort type cases where a department, despite its good faith efforts and the application of the bid preference, has failed to substantially meet the minimum goals for MBE/WBE participation. Despite the claim by several departments that the contract set aside mechanism is essential to ensure participation by MBE/WBEs, the City has made steady progress City-wide toward the MBE/WBE goals while only making sparing use of the contract set aside mechanism.

5. Bonding, insurance and fee-related requirements imposed on contracts and leases continue to have the effect of limiting the number of newly established or small businesses that can compete for prime awards.

6. The certification process for minority, women and local business enterprises is time-consuming, burdensome, and expensive.

7. Without the ordinance many small MBE/WBEs would be unable
services; noncommercial research organizations; accounting, auditing and bookkeeping services; miscellaneous services

San Francisco based MBEs and WBEs make up 41.23% and 40.13%, respectively, of the total businesses in this contract area.

11. A majority of the MBE/WBE businesses that do or wish to do business with the City are located in San Francisco and the Bay Area.

12. In a recent audit of City departments' compliance with the ordinance, the Budget Analyst estimated that the total dollar value of all agreements and contracts awarded by the City is $800 million. MBEs were awarded $36,038,416 of this amount or 4.54%; WBEs were awarded $3,818,357, or 0.48%. In 1984 the Commission adopted a regulation that defined the base figure from which MBE/WBE goals are calculated as "eligible contract dollars." The definition of "eligible contract dollars" is: "the total dollar value of contracts to be awarded by a department during a fiscal year excluding contracts with non-profit agencies, contracts awarded according to federal or State of California requirements that conflict with or preempt the Ordinance, and contracts for which waivers were granted by the Director." In 1987 the total dollar value of "eligible contract dollars" was approximately $152 million. For fiscal year 1986-87, "eligible contract dollars" as reported to HRC amounted to $151,671,120. MBEs were awarded $36,038,416 - 23.7% participation. WBEs received $3,818,357 - 2.5 percent.

13. The most recent complete data available reflect that for
lar base. However, when compared to the total dollar value of all prime construction awards MBEs received only ___%. WBES have made only modest progress in the construction contract area: 1987 WBES received only .02% of the prime construction contract awards (eligible contract dollar base). In the services contract area the progress of MBEs and WBES is difficult to assess because the available data do not reflect the availability of MBEs and WBES in the various services area.

17. The majority of MBEs and WBES, approximately ___%, which did not benefit from the remedial provisions of the ordinance over the past four years meets the Commission's definition of "small MBE/WBE."

18. Subcontractor or sublessee goals for MBE/WBES are necessary to assist MBEs and WBES develop entrepreneurial skills as prime contractors with the City in the industries where they are underrepresented. However, these goals should be imposed only on a contract by contract basis.

19. The Commission's ability to report on and verify the extent of MBE/WBE participation in City prime contracts and the availability of MBE/WBES in various industries from which the City draws contractors has been hampered by inadequate resources and the failure of several City departments' timely and accurately to report their progress toward meeting the MBE/WBE goals.

2. Recommendations

In view of the Findings of Fact the Commission concludes that the objectives of the ordinance have not been met in whole.
ments.

7. Authorize the Commission director to grant a contract set aside only in last resort type cases where a department, despite its good faith efforts and the application of the bid preference, has failed substantially to meet the minimum goals for MBE/WBE participation. Before a contract set aside request is granted by the Director, at least 3 certified MBE/WBEs must be available to bid on the contract or lease.

8. Authorize City departments, with the approval of the Commission’s Director and the review of the City Attorney, to impose on a contract by contract basis MBE/WBE subcontracting or subleasing goals on contracts and leases in those cases where: (1) these goals are necessary to assist MBE/WBEs develop entrepreneurial skills in industries where they are underrepresented; (2) the necessary and reasonable requirements of the contract/lease render subcontracting/subleasing feasible; and (3) sufficient qualified MBE/WBEs capable of providing the goods/services required by the contract/lease are available.

9. Provide for administrative procedures which allow businesses to establish that the ordinance’s remedial measures should not be applied to their industries because MBE/WBE participation in City contracts have already achieved parity with their numbers in the business community and MBE/WBEs no longer suffer from a competitive disadvantage in the applicable industry.

10. Require City departments timely and accurately to report annually on their progress toward achievement of their MBE/WBE goals. Also require City departments to monitor the extent of
APPENDICES
Announcement of Public Hearing to Extend
The Minority/Women/Local Business Enterprise Program

For Information Contact:
Clemente Obregon or
Pansy Waller, 558-4901

Testimony Invited for HRC Public Hearing

The San Francisco Human Rights Commission (HRC) will hold public hearings on June 30 and July 14, 1988, to determine whether to extend the MBE/WBE/LBE (Minority, Women and Local Business Enterprise) Program beyond 1989.

City Ordinance 139-84 provides that in the program's fifth year, HRC shall recommend to the Board of Supervisors whether the program should be extended for a three year period.

The June 30 hearing will provide minority, women and local business owners, and other interested parties an opportunity to communicate their experiences in contracting with the City and County of San Francisco. The July 14 hearing will be primarily (but not exclusively) for representatives of City departments and other organizations.

The public is invited to attend and testify. As time for oral testimony is limited, persons wishing to speak should contact HRC to reserve a time. Others without a confirmed time may testify on a first-come, first-served basis for remaining time slots, as available.

The hearings will be held in the State Building, Room 1194, 350 McAllister Street. Each will commence promptly at 6:00 p.m. and adjourn at 9:00. Representatives of organizations will receive eight minutes to speak. Business owners and individuals will each receive four minutes.

Written testimony from organizations and individuals should be submitted on the date of their testimony. Other written statements should be submitted directly to HRC not later than June 30, 1988 – in any event received by HRC not later than July 14. Persons whose intended oral testimony exceeds their allotted time should summarize their oral remarks, and submit a full written text to HRC by the same date.

(over)
APPENDIX B

City and County of San Francisco

Human Rights Commission
Office of Minority/Women Business Enterprise
Office of Contract Compliance
Office of Dispute Resolution

July 1, 1988

Re: PUBLIC HEARING TO EXTEND THE MBE/WBE/LBE ORDINANCE

Dear Representative:

You are invited to participate in a public hearing sponsored by the Human Rights Commission (HRC) to extend the Minority/Women/Local Business Enterprises Ordinance by determining whether or not the goals of this Ordinance have been met.

This public hearing will be held as follows:

DATE: Thursday, July 14, 1988
TIME: 6:00 P.M.
PLACE: State Building, Room 1194 (Auditorium)
        350 McAllister Street
        San Francisco, CA

Three hours have been set aside for this hearing.

At the hearing, organizations will be given eight minutes and individuals four minutes for testimony. If you intend to testify, we invite you also to submit your testimony in writing if at all possible. This would allow Commissioners the opportunity to review the testimony in order that the greatest amount of benefit may be obtained from all information gathered. If you cannot attend this hearing, you are encouraged to submit written testimony by July 14th.

Enclosed is general background on the MBE/WBE/LBE Ordinance and the objectives of the hearing.

Please contact this office to let us know of your intent to attend the hearing and make a statement and/or submit written testimony. Although this is not a prerequisite for testifying, it will help us in planning the hearing. Clemente Obregon and Pansy Waller of the HRC staff are coordinating this undertaking. You may reach them at the HRC offices or by telephone at 558-4901. Please contact them with any questions you may have.

Please testify on July 14th!

Sincerely,

Frank Anderson
Interim Director

FA:PPW:np
Encl.
APPENDIX C

Public Hearings Rules of Procedures

Minority/Women/Local Business Enterprise

The Human Rights Commission has established the following guidelines for the public hearings. This has been done in an effort to obtain relevant information in an orderly, meaningful and expeditious manner. Your cooperation is sought in achieving this objective.

Date: June 30, 1988 and July 14, 1988
Time: 6:00 to 9:00 p.m.
Location: 350 McAllister Street, Room 1194
San Francisco, CA

Objective: Testimony will be taken from organizations, businesses and individuals who wish to comment on the status of the City and County of San Francisco MBE/WBE/LBE legislation and program. Specific testimony is sought on the pros and cons of renewing the legislation and continuing the scope of the program.

Reservation: All persons who wish to speak must sign up beforehand in person with HRC staff prior to testifying at the hearing. Specific time slots may be arranged earlier on a first come first served basis by 12 noon the day of the hearing by telephoning HRC and making a reservation. Contact Mr. Clemente Obregon or Ms. Pansy Waller at 558-4901.

Timeframe: Because of the large number of people who have already indicated that would like to participate in the hearing, oral testimony by both individuals and organizations will be limited. The following maximum timeframe will be allowed for testimony:

A: Organizations - 8 minutes
B: Businesses - 4 minutes
C: Individuals - 4 minutes

Written Statements:

If at all possible, we would appreciate your testimony in writing. Written statements may be longer than oral presentation, as you may wish to include more detailed information you would have included in your original, longer allotted testimony. These written statements will be part of the official record.
APPENDIX D

WE WANT TO HEAR FROM YOU!

PUBLIC HEARINGS TO EXTEND THE
MINORITY/WOMEN/LOCAL BUSINESS ENTERPRISE PROGRAM

San Francisco Human Rights Commission

Pursuant to the San Francisco Administrative Code Chapter 12D - Ordinance 139-84 public hearings will be held by the Human Rights Commission to evaluate the Minority/Women/Local Business Enterprise legislation and program. All interested persons are urged to attend and testify. The Human Rights Commission needs information to develop recommendations regarding the future of the program. Under the provisions of the legislation, the MBE/WBE/LBE program will go out of existence in 1989, unless extended. Public hearings are required to establish a need to continue or end the program. Please let us hear from you; preferably in person at the hearings. However, written statements will also be accepted by the HRC.

Should the Minority/Women/Local Business Enterprise program be continued?

[ ] Yes

[ ] No

Explain

________________________

________________________

________________________

TIME IS RUNNING OUT!

Public Hearings

Thursday: July 14, 1988; 6:00 p.m.
State of California Building
350 McAllister Street, Room 1194
San Francisco, CA

July 14, 1988 Hearing-City Departmental Representatives

The July 14, 1988 public hearing has been designated primarily but not exclusively for City department personnel and other governmental and organizational representatives. The general public will also be invited to testify. As a professional courtesy, a specific time slot will be assigned to City government personnel and other governmental representatives on a first come, first served basis by reservation only. Please call 558-4901 and ask for Mr. Clemente Obregon or Ms. Pansy Waller to arrange scheduling for a time appointment for the hearing. Please reserve by 12 noon, July 14, 1988, only if you are a City department of governmental representative. Otherwise all persons will be allowed to testify as time slots become available in order of the requests to speak.
<table>
<thead>
<tr>
<th>Name</th>
<th>Address</th>
<th>Phone</th>
<th>Organization Representing</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sara Little</td>
<td>1095 Market St</td>
<td>864-3255</td>
<td>Women's Appren.</td>
</tr>
<tr>
<td>Norm Harmsen</td>
<td>1906 10th Ave.</td>
<td>563-3261</td>
<td>KI Associates</td>
</tr>
<tr>
<td>Randy Walter</td>
<td>1095 Market St</td>
<td>333-3333</td>
<td>ACP</td>
</tr>
<tr>
<td>Sally Ripari</td>
<td>3000 Sutter Ave.</td>
<td>654-4131</td>
<td>San Francisco</td>
</tr>
<tr>
<td>Del McLean</td>
<td>1095 Market St</td>
<td>333-3333</td>
<td>General Hospital</td>
</tr>
<tr>
<td>Sandie Crumplin</td>
<td>Airport Club</td>
<td>876-3355</td>
<td>S.F. Airport</td>
</tr>
<tr>
<td>Andrea Clark</td>
<td>40 - 27th Ave.</td>
<td>581-4141</td>
<td>AIA</td>
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<tr>
<td>Ciffe Tarrand</td>
<td>Ferry Building</td>
<td>333-3333</td>
<td>Port of SF</td>
</tr>
<tr>
<td>Maurice B. Regenstein</td>
<td>975-201 Ave. S.F.</td>
<td>333-3333</td>
<td>A.P.E.</td>
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<tr>
<td>Pen Frankowski</td>
<td>Room 100 City Hall</td>
<td>554-6740</td>
<td>Purchasing</td>
</tr>
<tr>
<td>Michael Burton</td>
<td>Golden Gate Park</td>
<td>730-3333</td>
<td>Cal Academy of Science</td>
</tr>
<tr>
<td>Ron Brown</td>
<td>1600 Sutter Ave.</td>
<td>554-3232</td>
<td>Newsletters Unlimited</td>
</tr>
<tr>
<td>Gertrude Adams</td>
<td>1675 Pine St.</td>
<td>645-3213</td>
<td>SPCE</td>
</tr>
<tr>
<td>Elizabeth Adams</td>
<td>838-15th St.</td>
<td>636-2354</td>
<td>SFUL</td>
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<tr>
<td>Elmer Sue Coates</td>
<td>35 Grove St.</td>
<td>444-3323</td>
<td>Pals of OAK</td>
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<tr>
<td>Cheryl Terry Douglas</td>
<td>230 Cole St.</td>
<td>444-3355</td>
<td>N.G.C.</td>
</tr>
<tr>
<td>B.P.C. W.A.</td>
<td>136-18th Ave.</td>
<td>941-1414</td>
<td>N.G.C.</td>
</tr>
<tr>
<td>Alphonse Mahaffey</td>
<td>284 City Hall St.</td>
<td>991-2222</td>
<td>N.G.C.</td>
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<tr>
<td>James Tolle</td>
<td>H.C.</td>
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</tr>
<tr>
<td>Thomas Thompson</td>
<td>AGCC</td>
<td>767-2343</td>
<td>AGCC</td>
</tr>
<tr>
<td>John Wight</td>
<td>411 10th St.</td>
<td>561-5611</td>
<td>ABC</td>
</tr>
<tr>
<td>Marie Jerny</td>
<td>1670 Pine St.</td>
<td>573-3340</td>
<td>AIA</td>
</tr>
<tr>
<td>Stanley Jerny</td>
<td>601 Van Ness Ave.</td>
<td>928-0600</td>
<td>Budget Analyst</td>
</tr>
<tr>
<td>Samuel Shores</td>
<td>1321 Lowry Ave.</td>
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<td>C. R., Kiser</td>
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<td>Michael F. de Silva</td>
<td>324 Washington St.</td>
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<td>Wayne Voelke</td>
<td>931 13th Ave.</td>
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**APPENDIX E**

**ROSTER**

**MEETING**

**Public Hearing on Extension of Ordinance**

**DATE AND TIME**

**July 14, 1988**

**6 p.m.**

**PLACE**

**350 McAllister St.**
### Roster

**Meeting:** Public Hearing on Extension of Ordinance Chp. 12 D  
**Date and Time:** July 14, 1988 6 p.m.  
**Place:** 350 M & C Building, 12th Floor

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<tr>
<td>Hillel Kaplan</td>
<td>2757 16 St</td>
<td>863-4223</td>
<td>Ace Mailings</td>
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<tr>
<td>William</td>
<td>439 Arch St 94133</td>
<td>525-4240</td>
<td>HRC</td>
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<tr>
<td>John Kaas</td>
<td>2339-41st Ave</td>
<td>581-0711</td>
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<td>Kay Chen</td>
<td>12345 5th Ave</td>
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<td>John Hamilton</td>
<td>8777 San Leandro</td>
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<td>Albert Campbell</td>
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<td>Sandra Guzman</td>
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<td>5717 Market</td>
<td>843-5220</td>
<td>Group Architecture, Research and Planning Coalition of Bay Area Women Owned Bus</td>
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<td>Tara Lee-Smith</td>
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<td>Frank S. Fung</td>
<td>360 Pacific Ave</td>
<td>776-7281</td>
<td>Council of Asian American Businesses Assoc.</td>
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<td>Joseph Villalobos</td>
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<td>Kevin Williams</td>
<td>170 Broadway</td>
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CHAPTER 12D

MINORITY/WOMEN/LOCAL BUSINESS ENTERPRISES

Sec. 12D.1. Short Title.
Sec. 12D.2. Findings.
Sec. 12D.3. Declaration of Policy.
Sec. 12D.4. Scope.
Sec. 12D.5. Definitions.
Sec. 12D.6. Powers and Duties.
Sec. 12D.7. Utilization Goals.
Sec. 12D.8. Utilization Requirements—General.
Sec. 12D.10. Utilization Requirements—Purchasing Contracts.
Sec. 12D.11. Utilization Requirements—Concession, Franchise and Lease.
Sec. 12D.12. Utilization Requirements—Consultants, Professional Services and Other Contracts.
Sec. 12D.13. Exceptions and Waivers.
Sec. 12D.15. Review.
Sec. 12D.16. Severability.

SEC. 12D.1. SHORT TITLE. This ordinance shall be entitled "Minority/Women/Local Business Utilization Ordinance" and may be cited as the "MBE/WBE/LBE Ordinance." (Added by Ord. 139-84, App. 4/11/84)

SEC. 12D.2. FINDINGS. The Human Rights Commission, having conducted public hearings pursuant to Resolution 932-82, adopted by the Board of Supervisors on December 13, 1982, to determine the extent of minority and women business participation in City and County contracts;

And the Human Rights Commission, having, in February, March and April of 1983, heard the testimony of 42 witnesses and reviewed the transcript and written submittals of 16 minority, women and small business representatives;

And this Board, having conducted additional hearings, taken additional testimony and written submittals, and reviewed the report of the Human Rights Commission (all of which shall be incorporated herein by reference), hereby makes the following findings:

1. That historic discrimination against minorities and women, often officially sanctioned and enforced by government from the inception of our Republic to the present has had a serious, negative impact on their ability to participate fully and equitably in our society; and

2. That because of centuries of limited access to the marketplace, as workers and as entrepreneurs, and because of the failure of local governmental agencies to take affirmative steps to remedy overt and subtle discrimination, women and minorities have suffered severe economic harm; and

3. That, in a city which has a minority population of nearly 50 percent, a female population of nearly 60 percent, and a civilian workforce which is 45 percent female, the public interest will best be served by our enactment of an Ordinance mandating policies and programs which will enhance the opportunities for women-owned and minority-owned businesses to become prime contractors in the provision of goods and services to the City and County of San Francisco; and the Board further finds:

4. That local businesses which seek to enter into contracts with the City and County of San Francisco are at a competitive disadvantage with businesses from other areas because of the higher administrative costs of doing business in the City (e.g., higher taxes, higher rents, higher wages and benefits for labor, higher insurance rates, etc.); and

5. That the public interest would best be served by encouraging business to locate and remain in San Francisco through the provision of a minimal "good faith" preference to local businesses in the awarding of City contracts; and

6. That policies and programs which enhance the viability of minority-owned, women-owned, and local businesses will best serve the public interest because the growth and development of such businesses will have a significant positive impact on the economic health of the City; and

7. That the findings of the Human Rights Commission, as detailed in their report, offer clear and persuasive reasons for the Board of Supervisors to take the actions proposed by this Ordinance to correct the practices which have resulted in the virtual exclusion of minority-owned and women-owned businesses from prime contracts with the City, and in the competitive disadvantages faced by local businesses in providing goods and services to the City. These findings include:

(a) That the departments and awarding authorities of the City and County of San Francisco are functioning without specific uniform standards and criteria in the award of contracts and leases of the City and County;

(b) That the award of nonconstruction contracts is mainly at the discretion of the awarding authority staff, resulting in the award process being available to a very limited portion of the business community;

(c) That minority-owned and women-owned businesses and other small local businesses are particularly disadvantaged by the lack of uniform standards and criteria in the processes by which City contracts are awarded;

(d) That the in-depth review conducted by the Human Rights Commission of prime contracts, leases, and other agreements awarded by City and County departments reveals that Minority Business Enterprises (MBEs) and Women Business Enterprises (WBEs) combined received less than 2.5 percent of all prime contracts (exclusive of subcontracts) awarded during a base period of 1981 and 1982, which represented approximately $25,000,000 of a total amount in excess of $869,000,000 awarded for the years cited;

(e) That this virtual exclusion of minority-owned and women-owned businesses from City contracts has occurred notwithstanding the fact that MBEs represent in excess of 53 percent, and WBEs 25 percent, of all San Francisco based firms;

(f) That the results of the survey by the San Francisco Human Rights Commission (HRC) provide an objective standard for holding that there is de facto exclusion of minority-owned and women-owned business from the City and County prime contract award process;
“Contractor” shall mean any person or persons, firm, partnership, corporation, or combination thereof, who submits a bid and/or enters into a contract with department heads and officers empowered by law to enter into contracts on the part of the City and County for public works or improvements to be performed, or for a franchise, concession or lease of property, or for goods and services or supplies to be purchased at the expense of the City and County or to be paid out of monies deposited in the treasury or out of trust monies under the control of or collected by the City and County.

“Contract Awarding Authority” shall mean the City and County officer, department, commission, employee or board authorized to enter into contracts on behalf of the City and County.

“Controlled” for the purpose of determining whether a business is a Minority Business Enterprise, or Women Business Enterprise, shall mean the minority(ies), the women or combination of minorities and women, as the context requires, shall (1) possess legal authority and power to manage business assets, good will and daily operations of the business; and (2) actively and continuously exercise such authority and power in determining the policies and directing the operations of the business.

“Director” shall mean the Director of the Human Rights Commission of San Francisco.

“Franchise” shall mean and include a right or privilege conferred by grant from the City and County of San Francisco, or any contracting agency thereof, and vested in and authorizing a person to conduct such business or engage in such activity as is specified in said grant.

“Franchisee” shall mean and include a person who is the grantee or beneficiary of a franchise as herein defined.

“Human Rights Commission” shall mean the Human Rights Commission of San Francisco, consisting of Commissioners appointed by the Mayor; hereinafter it shall be referred to as the Commission.

“Lease” shall mean and include a contract by which the City and County of San Francisco or any contracting agency thereof, grants to a person the temporary possession and use or property for reward, and the latter agrees to return the same to the former at a future time.

“Lessee” shall mean and include a person or tenant taking possession of property under a lease as herein provided, and further includes a bailee under a bailment agreement providing a rental for personal property.

“Local Business” shall mean a business firm with fixed offices or distribution points located within the boundaries of the City and County of San Francisco and listed in the Permits and License Tax Paid File with a San Francisco business street address. The Post Office box numbers or residential addresses may not be used solely to establish status as a “Local Business.”

“Lower tier subcontracting” shall mean any agreement or other arrangement between a subcontractor and a person as defined herein where it is agreed that said person shall perform any term, condition or obligation imposed by the subcontract upon the subcontractor.
San Francisco Administrative Code

Section 12D.8

(a) Refusal to certify the award of a contract;
(b) Order the suspension of a contract;
(c) Order the withholding of funds;
(d) Order the revision of a contract based upon a material breach of contract provisions pertaining to MBE and WBE utilization;
(e) Disqualification of a bidder, contractor, subcontractor, or other business from eligibility for providing goods or services to the City and County for a period not to exceed five years, with a right to review and reconsideration by the HRC after two years upon a showing of corrective action indicating violations are not likely to reoccur;

10. Not award any contract to a person or business which is disqualified from doing business with the City and County under the provisions of this ordinance, nor shall any contract be awarded to any person or business which is disqualified from doing business with any governmental agency based on failure to comply with Minority or Women Business Enterprise or contract compliance requirements which are substantially the same as those of this ordinance.

11. Each department of the City and County of San Francisco shall designate a staff person to be responsible for responding to the HRC and to the requirements of this ordinance.

(C) All contracts awarded by the City and County shall include the following requirements, in addition to such other requirements as may be set forth elsewhere:

1. Bid conditions, requests for proposals and all other specifications for contracts awarded by the City and County shall require, where subcontracting is utilized in performing the contract, that the bidder or proposer, prior to the submission of bids or proposals, demonstrate every good faith effort to subcontract or to purchase from MBEs and WBEs. Such specifications shall require the bidder to keep records of such efforts adequate to permit a determination of compliance with the specifications;

2. Bidders, contractors, and subcontractors on all contracts shall be required to sign before a notary an affidavit prepared by the City Attorney, declaring their intention fully to comply with the provisions of this ordinance;

3. Contracts shall incorporate this ordinance by reference and shall provide that the failure of any bidder, contractor or subcontractor to comply with any of the requirements shall be deemed a material breach of contract;

4. Contracts shall provide that in the event any bidder, contractor or subcontractor fails to comply in good faith with any of the provisions of this ordinance, the bidder, contractor or subcontractor shall be liable for liquidated damages for each violation in an amount equal to the bidder’s, contractor’s or subcontractor’s net profit on the contract, or 10 percent of the total amount of the contract or $1,000, whichever is greater, said amount to be determined by the Director of the HRC pursuant to Section 12D.14(A)(2). All contracts shall contain a provision that in the event of a successful action under this section, the costs of such action shall be apportioned between the City and County and the unsuccessful bidder, contractor or subcontractor in such amounts as the court shall determine;

5. Contracts shall require the contractor during the term of the contract to:

(a) Fulfill the MBE and WBE participation commitments submitted with their bid or proposal;

(b) Continue to make efforts to utilize MBEs and WBEs;
(c) Require that their subcontractors make every effort to utilize MBEs and WBEs, and;
(d) Maintain records reasonably necessary for monitoring their compliance with the provisions of this ordinance.

6. Whenever contract supplements, amendments or other orders are made which cumulatively increase the total dollar value of the contract by more than 10 percent of the dollar value of the original contract, the contractor shall comply with those provisions of this ordinance which applied to the original contract with respect to the supplement, amendment or change order.

7. All contracts where subcontracting is utilized shall prohibit back subcontracting to the prime contractor or lower tier subcontracting for any purpose inconsistent with the provisions of this ordinance, rules and regulations adopted pursuant to this ordinance, or contract provisions pertaining to MBE or WBE utilization. If the Director of the HRC has reasons to believe that any bidder, contractor, or subcontractor has failed to comply, in good faith, with the provisions of this subsection, Section 12D.9(C), the Director shall be empowered to conduct an investigation and to impose sanctions as set forth in Section 12D.14(A)(2) of this ordinance.

(D) All contracts or other agreements between the City and County of San Francisco and other governmental or quasi-governmental agencies, or public corporations, where such agencies receive money from or through the City and County for the purpose of contracting with businesses to perform public improvements, shall require such agencies to comply with the provisions of this ordinance in awarding and administering such contracts.

(E) For the purpose of determining Minority and Women Business Enterprise participation:

Contracts or subcontracts awarded to joint ventures in which one or more MBEs or WBEs are combined with one or more businesses which are not Minority Women Business Enterprises shall be deemed to be awarded to Minority Women Business Enterprises only to the extent of the Minority or Women Business Enterprises participation in the joint venture. (Amended by Ord. 402-83, App. 8/29/83)

SEC. 12D.9. UTILIZATION REQUIREMENTS — PUBLIC WORKS.

(A) For all public works contracts for construction and for architectural and engineering services, the contracting awarding authority shall furnish the Director with an informational copy of all bid conditions and requests for proposals, along with a statement identifying all funds provided by any other governmental agency which will be used in payment of the contract. Prior to solicitation of bids or proposals, the Director may make recommendations to the contracting awarding authority with respect to provisions pertaining to MBE and WBE utilization.

(B) Contracts for construction, the estimated cost of which exceeds $15,000, and contracts for architects and engineers, the estimated cost of which is $30,000 or greater, shall be awarded and administered in accordance with the following standards and procedures:

1. In addition to the requirements set forth in Section 12D.8(B) and elsewhere, bid conditions and requests for proposals shall require bidders and proposers of prime contracts to include in their bid or proposal both MBE and WBE participation commitments submitted with their bid or proposal.
Concession proposers shall be required to submit their projected utilization of MBEs and WBEs along with a description of the efforts made to utilize such businesses.

(C) All requests for or extensions of or amendments to franchises shall require franchisees to make every good faith effort to utilize MBEs and WBEs as suppliers. Franchisees shall be required to submit their projected utilization of Minority and Women Business Enterprises.

(D) The following clause shall be contained in all concessions, franchises, and leases:

Contractor agrees that he/she shall actively solicit the employment of minority group members and women. Contractor further agrees that he/she shall actively solicit bids for the subcontracting of goods or services from qualified minority and women businesses. Contractor shall furnish evidence of compliance with these requirements of minority and women employment and solicitation. Contractor further agrees to consider the grant of subcontractors to said minority and women bidders on the basis of substantially equal proposals in the light most favorable to said minority and women businesses. The contractor shall be required to submit evidence of compliance with this Section as part of the bid.

(Added by Ord. 139-84, App. 4/11/84)

SEC. 12D.12. UTILIZATION REQUIREMENTS — CONSULTANTS, PROFESSIONAL SERVICES AND OTHER CONTRACTS. (A) For all contracts for consultants or other services, the contract awarding authority shall furnish the Director with an informational copy of all bid conditions and requests for proposals, along with a statement identifying all funds provided by any other governmental agency which will be used in payment of the contract. Prior to solicitation of bids or proposals, the Director may make recommendations to the contract awarding authority with respect to provisions pertaining to MBE and WBE utilization.

(B) Contracts for consultant or other services, the estimated cost of which exceeds $10,000, shall be awarded and administered in accordance with the following standards and procedures:

1. The contract awarding agency shall solicit bids or proposals from MBEs and WBEs certified to provide the specified services. MBEs and WBEs shall be provided every practical opportunity to submit bids or proposals.

2. Bids and proposals shall identify the particular MBEs and WBEs to be utilized in performing the contract, specifying for each the dollar value of the participation, the type of work to be performed and such information as may reasonably be required to determine the responsiveness of the bid or proposal.

3. During the term of the contract any failure to comply with the levels of MBE and WBE participation identified in the bid or proposal shall be deemed a material breach of contract.

(C) All consultant selection panels and awarding officers shall give appropriate consideration to the utilization goals of the contract awarding authority in evaluating, recommending and selecting contractors. The Director may assist such panels and the department staff in evaluating the impact of their recommendation or selection on achievement of the contract awarding authority's utilization goals.

AD-343

SEC. 12D.13. EXCEPTIONS AND WAIVERS. (A) The Director may waive the utilization requirements of this ordinance for specific contracts under the following circumstances:

1. Whenever the Director finds, with the advice of the contract awarding authority, that needed goods or services are available only from a sole source, and the prospective contractor is not currently disqualified from doing business with the City and County under provisions of Section 12D.8(B)(10) of this ordinance, or from doing business with any governmental agency based on a failure to comply with minority or Women Business Enterprise or contract compliance requirements.

2. If the contract awarding authority certifies in writing to the Director that the contract is necessary to respond to an emergency which endangers the public health or safety; provided, that such certificates shall be made prior to the contract award.

(B) The Mayor, using the definition of emergency specified in the Charter, may waive the requirements of this ordinance for the duration of that emergency.

(Added by Ord. 139-84, App. 4/11/84)

SEC. 12D.14. MONITORING, REPORTING AND COMPLIANCE. (A) The Commission is empowered to adopt rules and regulations necessary and appropriate to implement this ordinance. The Director shall monitor compliance with these requirements during the term of the contract.

1. Noncompliance. If the Director determines that there is cause to believe that a contractor or subcontractor has failed to comply with any of the requirements of this ordinance, rules and regulations adopted pursuant to this ordinance, or contract provisions pertaining to MBE or WBE utilization, the Director shall notify the contractor awarding authority and shall attempt to resolve the noncompliance through conciliation. If the noncompliance cannot be resolved, the Director shall submit to the Human Rights Commission the contractor a written Finding of Noncompliance. The Human Rights Commission shall give the contractor an opportunity to appeal the finding, and if the Commission concurs with the finding of the Director, it shall impose such sanctions or take such other action as will effectuate the purposes of this ordinance.
SEC. 12D.16. SEVERABILITY. The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this ordinance, or the invalidity of the application thereof to any person or circumstances shall not affect the validity of the remainder of this ordinance, or the validity of its application to other persons or circumstances. (Added by Ord. 139-84, App. 4/11/84)
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<td>23.6%</td>
<td>4.3%</td>
<td>1.4%</td>
<td>g</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

* does not include contracts awarded by Housing Authority or Redevelopment Agency.
### APPENDIX H

**CITY AND COUNTY OF SAN FRANCISCO**  
**COMPARATIVE ANALYSIS OF MBE/WBE PARTICIPATION DATA**  
**FY 84-85/85-86/86-87**

<table>
<thead>
<tr>
<th>1. Total Number of Contracts awarded</th>
<th>FY 84-85</th>
<th>FY 85-86</th>
<th>FY 86-87</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>18,075</td>
<td>23,873</td>
<td>16,136</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>2. Total Eligible Contract Dollars</th>
<th>$151,487,810</th>
<th>$216,762,023</th>
<th>$151,671,120</th>
</tr>
</thead>
</table>

| 3. Total MBE Amount                  | 20,702,353   | 55,108,159   | 36,038,416   |
| 4. Percentage of MBE                | 13.6%        | 25.4%        | 23.7%        |
| 5. Total WBE Amount                  | 5,651,391    | 3,971,382    | 3,818,357    |
| 6. Percentage of WBE                | 3.7%         | 1.8%         | 2.5%         |
| 7. Total Certified and Noncertified Firms |             |             |             |

### A. Minority Business Enterprises (MBEs)

| 1. HRC Certified MBEs | 55,108,159 | 36,038,416 |
| 2. Non-certified Firms reported by departments for MBE status/credit (not certified by HRC) | 4,742,491 | 4,677,065 |

### B. Women Business Enterprises (WBEs)

| 1. HRC certified WBEs | 3,971,382 | 3,818,357 |
| 2. Non-certified Firms Reported by departments for WBE status/credit (not certified by HRC) | 2,354,427 | 2,682,135 |

### Participation by Group Breakdown:

<table>
<thead>
<tr>
<th>Group</th>
<th>FY 84-85</th>
<th>FY 85-86</th>
<th>FY 86-87</th>
</tr>
</thead>
<tbody>
<tr>
<td>White</td>
<td>$125,134,066</td>
<td>150,585,564</td>
<td>104,455,117</td>
</tr>
<tr>
<td>% of total</td>
<td>82.6%</td>
<td>69.5%</td>
<td>68.8%</td>
</tr>
<tr>
<td>Black</td>
<td>$4,717,577</td>
<td>5,196,262</td>
<td>11,211,042</td>
</tr>
<tr>
<td>% of total</td>
<td>2.9%</td>
<td>2.4%</td>
<td>7.3%</td>
</tr>
<tr>
<td>Hispanic</td>
<td>$3,184,564</td>
<td>20,794,712</td>
<td>16,669,478</td>
</tr>
<tr>
<td>% of total</td>
<td>2.1%</td>
<td>9.6%</td>
<td>10.97%</td>
</tr>
<tr>
<td>Asian/Pacific Islander</td>
<td>$9,030,217</td>
<td>28,802,017</td>
<td>6,876,382</td>
</tr>
<tr>
<td>% of total</td>
<td>5.9%</td>
<td>13.2%</td>
<td>4.5%</td>
</tr>
<tr>
<td>Filipino</td>
<td>$6,877</td>
<td>315,168</td>
<td>1,281,544</td>
</tr>
<tr>
<td>% of total</td>
<td>.004%</td>
<td>.1%</td>
<td>.8%</td>
</tr>
<tr>
<td>American Indian/Alaskan Native</td>
<td>12,000</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>% of total</td>
<td>.007%</td>
<td>0%</td>
<td>0%</td>
</tr>
</tbody>
</table>